



North Carolina Department of Environment and Natural Resources
Division of Air Quality

Michael F. Easley, Governor

William G. Ross, Jr., Secretary
B. Keith Overcash, P.E., Director

December 17, 2008

Mr. James L. Turner
President and CEO, U.S. Franchised Electric and Gas
Duke Energy Corporation
EC3XE / P.O. Box 1006
Charlotte, North Carolina 28201-1006

Re: § 112(g) case-by-case MACT for Cliffside Unit 6.

Dear Mr. Turner:

As you are aware, the Division of Air Quality (DAQ) has reviewed your December 4, 2008 submittal and provided you with a list of specific completeness requirements for this application. I understand that your staff has submitted all of these items except the requirements for zoning consistency. Although zoning consistency is important and is required to complete the application, it does not go to the substance of your submittal and so we have been able to review your application to determine whether or not to approve it.

Upon review of a §112(g) MACT application, federal regulations require the State to either approve the MACT or notify the applicant of the State's intent to disapprove pursuant to 40 C.F.R. §63.43(f)(2). In the latter case, the State issues a Notice of Intent to Disapprove and the applicant is provided time to address the reasons for the State's preliminary determination to disapprove. *Id.* §63.43(f)(3). In recognition of the timeline set forth by the Court, we are issuing this Notice of Intent to Disapprove now instead of awaiting the formal completion of the application. This Notice triggers your opportunity to address the issues below.

Based on the technical information submitted by Duke, the DAQ hereby notifies you of its intent to disapprove the application pursuant to 40 C.F.R. §63.43(f). The DAQ finds that the submittal does not adequately support Duke's conclusion regarding Duke's recommended MACT emission levels because it does not account for a number of items germane to the MACT determination, including items related to the control of mercury. These are treated separately below:

- (1) Your analysis assumes a "better than 90%" removal efficiency of mercury. However, there is no basis given in your application for this assumption. Please provide documentation regarding the basis for your assumption of a "better than 90%" removal efficiency. In particular, given the importance of chlorine (Cl) content in the

Permitting Section

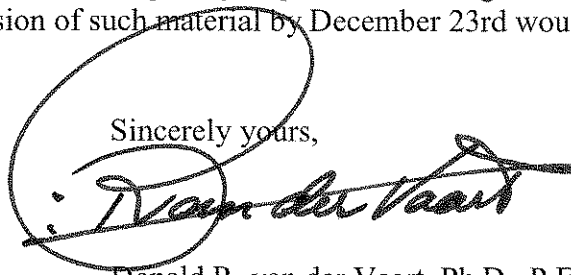
1641 Mail Service Center, Raleigh, North Carolina 27699-1641
2728 Capital Blvd., Raleigh, North Carolina 27604
Phone: 919-715-6235 / FAX 919-733-5317 / Internet: www.ncair.org

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North Carolina
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- coal with respect to mercury removal, please specify and document the level of Cl in the coals that are available for you to burn at Cliffside Unit 6 and any limitations on the burning of any specific coals.
- (2) Your calculations assumed a heat rate of 9,833 Btu/kW-hr. Your applications have, at times, indicated that a heat rate of approximately 8,900 Btu/kW-hr better describes Unit 6. In particular, your MACT application uses a different heat rate than your NSR application when normalized on a lb/GW-hr basis, the heat rate will affect the proposed HAP emission rate. Please remedy this inconsistency by specifying and providing documentation regarding the heat rate that the DAQ should use for the MACT application and explaining any inconsistencies, if any remain, with your previous submissions.
 - (3) You assumed the mercury content of your coal to be 14.3 lb/TBtu, which is the same value used by the EPA in their ICR analysis. Please explain and provide documentation of the relevance of that number to the coals currently burned at Cliffside or expected to be burned in Unit 6. Additionally, please specify and document the level of mercury in the coals that are available for you to burn at Cliffside Unit 6 and any limitations on the burning of any specific coals.

Pursuant to 15A N.C. Admin. Code 2D .0112, 2Q .0528, and 40 C.F.R. §63.43(f), this Notice will serve as DAQ's intent to disapprove your application. This is a preliminary finding. You may present in writing additional information or arguments pertaining to, or amendments to, this application. The DAQ will consider this information before taking further action on the application. Should you choose to submit this or any other additional information or amendment for DAQ's consideration, we ask that you do so as quickly as possible in recognition of the timeline set forth by the Court. Submission of such material by December 23rd would be consistent with this expedited process.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Donald R. van der Vaart", is written over a circular stamp or seal. The signature is fluid and cursive.

Donald R. van der Vaart, Ph.D., P.E.
Chief

cc: Asheville Regional Office
Central Files