NCDENR
North Carolina Department of Environment and Natural Resources
Division of Waste Management

Beverly Eaves Perdue
Governor

Dexter R. Matthews
Director

Dee Freeman
Secretary

SOLID WASTE SECTION

June 30, 2010

Mr. Ed Sullivan
Duke Energy Corporation
EC13K/ Post Office Box 1006
Charlotte, North Carolina 28201-1006

Subject: Permit to Operate (PTO) – Financial Assurance Request
Duke Energy – Marshall Steam Station
Industrial Landfill No. 1, Permit No. 18-12
Catawba County, DIN 11000

Dear Mr. Sullivan:

The Division of Waste Management will soon be processing the Facility's PTO for Phase 1 of the Marshall Industrial Landfill No. 1 in Catawba County. In association with the permitting process North Carolina General Statue NCGS 130A-295.2 requires a permit holder to establish and maintain a financial assurance mechanism with sufficient funds to provide for the closure costs of all permitted portions of the landfill and thirty (30) years of post-closure maintenance. Additionally, NCGS 130A-295.2 requires the permit holder to establish financial assurance sufficient to cover a minimum of three million dollars ($3,000,000) for potential assessment and corrective action at the Facility.

In order to establish financial assurance the Division requests;

1. The Facility reviews, updates and submits, closure plans for Phase 1 of the landfill. Landfills designed and constructed in accordance with North Carolina Administrative Code 15A NCAC 13B .0503(d)(ii)(B), lined industrial landfills with leachate collection systems such as Industrial Landfill No. 1, are expected to have a designed cap system which will minimize infiltration, minimize erosion and have a permeability less than or equal to the landfill liner system.
2. The Facility gathers and submits closure and post-closure cost estimates. The cost estimates should reflect third party prices.
3. The Facility submits an estimate related to potential assessment and corrective action costs. The Division requires a cost estimate for any ongoing corrective action plan, as well as cost estimates for landfill gas monitoring, groundwater monitoring, and maintenance. If these cost estimates are below $3,000,000 the Division requires the Facility to post the minimum amount of $3,000,000.
   Note: On the one year anniversary of the potential assessment and corrective action cost financial assurance mechanism, the cost estimate will be reviewed by the Division to determine if this facility needs to provide more financial assurance than the minimum $3,000,000.

NCDENR

Upon receipt, the Facility's submission will be reviewed by the permitting engineer for accuracy and presentation of a reasonable dollar amount. Once the amount is established and approved by the Division, the Facility will be expected to provide the appropriate financial assurance mechanism in the approved amount. The Division's compliance staff will ensure that the mechanism is received, is appropriate, and is regularly updated. Note: 15A NCAC 13B .1628(e) describes the allowable mechanisms which may be used to establish financial assurance, unlike other States, North Carolina does not accept the corporate financial test for utility companies as an appropriate financial assurance mechanism.

Finally, the Division requests you provide the requested information prior to issuance of the Facility's PTO. All information should be sent to me at the address on the bottom of the previous page. Should you have any questions regarding this matter you may contact me at (828) 296-4704 or Larry.Frost@ncdenr.gov.

Sincerely,

Larry Frost
Environmental Engineer

cc: Andy Tinsley – Duke Energy
Ken Daly – S&ME
Donald Herndon – SWS/CO