



VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

September 17, 2019

Jonathan Pruitt
Vice Chancellor for Finance and Operations
The University of North Carolina at Chapel Hill
350 South Building
Campus Box 100
Chapel Hill, NC 27599-1000

William Lowery II, PE
Manager, UNC Cogeneration Systems
501 W. Cameron Ave.
Chapel Hill, NC 27599-1858

Re: Clean Air Act Notice of Intent to Sue pursuant to 42 U.S.C.
§ 7604(b)(1)(A) for repeated violation

Dear Vice Chancellor Pruitt and Mr. Lowery:

On behalf of the Center for Biological Diversity, Sierra Club, and their members, and as required by 42 U.S.C. § 7604(b)(1) and 40 C.F.R. §§ 54.1–54.3, we write to provide notice of our intent to file suit against University of North Carolina at Chapel Hill (UNC) for repeatedly violating, and for being in violation of, emission standards or limitations as detailed below.¹ 42 U.S.C. § 7604(a)(1). Any standard, limitation, schedule, permit term or condition in a Title V permit is an “emission standard or limitation” which is enforceable through a Clean Air Act “citizen suit.” 42 U.S.C. 7604(f)(4).

A. Violations of Heat Input Limit²

Section 2 of UNC’s Title V permit is entitled “Specific Limitations and Conditions”. Section 2.1 provides:

¹ Between June 16, 2016 and March 21, 2018, UNC’s Title V permit was identified as Air Quality Permit No. 03069T34. Since March 22, 2018, the permit has been identified as Air Quality Permit No. 03069T35. References to UNC’s Title V permit includes both these permits.

² Headings are for the convenience of the reader and in no way limit the scope of the alleged violation.

The emission source(s) and associated air pollution control device(s) and appurtenances listed below are subject to the following specific terms, conditions, and limitations, including the testing, monitoring, recordkeeping, and reporting requirements as specified herein:

The following section, Section 2.1.A, establishes a limit of 323.17 million British Thermal Units per hour (“mmBtu/hr”) heat input capacity for each of UNC’s two coal/natural gas/No. 2 fuel oil/wood fired circulating fluidized combustion boilers, ID Nos. ES-001-Boiler #6 and ES-002-Boiler #7. In a July 28, 2015 memorandum from the North Carolina Division of Air Quality (DAQ), DAQ confirmed that “[p]ermitted heat input is 323.17 mmBtu/hr for each boiler.” See attachment 1.

Boiler #6 exceeded the 323.17-mmBtu/hr limit by operating at approximately 332 mmBtu/hr on December 17, 2014. *Id.* Similarly, Boiler #7 exceeded its 323.17-mmBtu/hr limit by operating at approximately 342 mmBtu/hr on December 18, 2014. *Id.* Upon information and belief, UNC has repeatedly exceeded the 323.17 mmBtu/hr limit for Boilers #6 and #7 on numerous other occasions since 2014 in violation of Section 2.1.A of UNC’s Title V permit and will continue to do so.

B. Violations of Readiness Testing Limitation

Permit condition 2.2.A of UNC’s Title V permit requires:

In order to ensure that combustion sources (emergency generators (ID Nos. ES-EG#21, ES-Gen-12, ESGen-13, ES-Gen-43, ES-Gen-48, ES-Gen-49, and fire water pump ES-FP-3)) do not contribute to an exceedance of the 1-hour N02 National Ambient Air Quality Standard (NAAQS); the Permittee may only operate these generators (ID Nos. ES-EG#21, ES-Gen-12, ES-Gen-13, ES-Gen-43, ES-Gen-48 and ES-Gen-49) for readiness testing when generators (ID Nos. ES-006 and ES-007) are not operating and when readiness testing is not being performed for any other emergency generator, except ES-EG#21, ESGen- 12, ES-Gen-13, ES-Gen-43, ES-Gcn-48, ES-Gen-49, and fire water pump ES-FP-3. . .

The Permittee shall maintain operational records sufficient to demonstrate that combustion sources (emergency generators (ID Nos. ES-EG#2 I, ES-Gen-12, ES-Gen-13, ES-Gen-43, ES-Gen-48, ESGen-49, and fire water pump ES-FP-3) have not operated for readiness testing during the concurrent operation of generators (ID Nos. ES-006 and ES-007) and the performance of readiness testing of any other emergency generator, except ES-EG#2 I, ES-Gen-12, ES-Gen-13, ES-Gen-43, ES-Gen-48, ES-Gen-49, and fire water pump ES-FP-3. The Permittee shall make these records available to a DAQ authorized representative upon request.

The Permittee shall be deemed in noncompliance with 15A NCAC 02D .050I(c) if the above records are not maintained.

From March 22, 2018 through the present day, UNC has continuously failed to maintain operational records sufficient to demonstrate that combustion sources

(emergency generators (ID Nos. ES-EG#2 I, ES-Gen-12, ES-Gen-13, ES-Gen-43, ES-Gen-48, ES-Gen-49, and fire water pump ES-FP-3) have not operated for readiness testing during the concurrent operation of generators (ID Nos. ES-006 and ES-007) and the performance of readiness testing of any other emergency generator, except ES-EG#2 I, ES-Gen-12, ES-Gen-13, ES-Gen-43, ES-Gen-48, ES-Gen-49, and fire water pump ES-FP-3. Therefore, UNC is in violation of 15A NCAC 02D.0501(c) and permit condition 2.2.A.1.

C. Violations of Air Cleaner Inspection Requirements

Permit condition 2.1.G.3.k of UNC's Title V permit requires UNC to, every 1000 hours of operation or annually, whichever comes first, inspect the air cleaner of each of the eighty-two diesel-fired, compression ignition, emergency generators listed in permit section 2.1.G. The Permittee is deemed to be in noncompliance with 15A NCAC 2D.1111 if the above records are not maintained.

UNC has failed to inspect the air cleaner of the Davis Library fire water pump (ID No. ES-FP-3), and of all 81 other diesel-fired, compression ignition emergency generators listed in permit section 2.1.G., from June 16, 2016 to December 31, 2016 as well as each day in 2017, and 2018. Thus, UNC is in noncompliance with 15A NCAC 2D.1111 and permit condition 2.1.G.3.l.

D. Violations of Continuous Emissions Opacity Monitoring Requirements

Permit condition 2.1.A.2.f of UNC's Title V permit requires UNC to install, calibrate, maintain, test and operate a continuous emission monitor for opacity on Boilers 6 and 7 (ID Nos. ES-001 and ES-002). The permittee is deemed to be in noncompliance with 15A NCAC 02D.0524 if the monitoring requirement is not complied with.

UNC did not calibrate, maintain, test or operate a continuous emission monitor for opacity on Boilers 6 or 7 during for every day from June 16, 2016 to December 31, 2018. Therefore, UNC is in noncompliance with 15A NCAC 02D.0524 and permit condition 2.1.A.2.f.

E. Violations of Monthly Particulate Matter Inspections Requirements

Permit condition 2.1.D.1.c.i. requires that UNC assure compliance with particulate matter emission controls from the coal handling, conveying, and storage system via monthly external visual inspection of the system ductwork and material collection unit for leaks. The permittee is deemed to be in noncompliance with 15A NCAC 02D.0515 if the inspection requirement is not satisfied.

UNC failed to perform monthly external visual inspections of the system ductwork and material collection unit for Coal Silo #1 Bin Vent Filter (ID No. CD-011) from June through December of 2016. Furthermore, UNC failed to perform monthly external visual

inspections of the system ductwork and material collection unit for Coal Silo #2 Bin Vent Filter (ID No. CD-012) during March and October of 2016. Therefore, UNC is in noncompliance with 15A NCAC 02D.0515 and permit condition 2.1.D.1.c.i.

F. Violations of Reporting Requirements to DAQ and EPA

Permit condition 3.I.A.3.a. of UNC's Title V permit requires UNC to notify DAQ of any deviations from permit requirements other than emissions and malfunction deviations in a written, certified, quarterly report. This report must detail the likely cause of the deviation and any preventative or corrective actions taken. UNC has failed to notify DAQ of the non-emissions and non-malfunction permit deviations described in Sections A–E, and G–I of this letter via written, certified, quarterly reports. These failures are violations of 15A NCAC 02D.0515 and permit condition 3.I.A.3.a.

Further, permit condition 3.P. requires UNC to notify DAQ and the Environmental Protection Agency (EPA) annually of any deviations from permit terms and conditions during the prior calendar year via UNC's annual compliance certification. UNC has failed to notify DAQ and EPA of deviations from permit terms and conditions described in Sections A–E, and G–I of this letter via UNC's annual compliance certification.

G. Violations of Coal Ash Visible Emissions Inspections Requirements

Permit Condition 2.1.E.2.c of UNC's Title V permit requires that UNC once a day observe the emission points for the coal ash handling, storage, and loading system (ID No. ES-030 and ES-0303A). Condition 2.1.E.2.d requires UNC to maintain a logbook for these observations. The Permittee shall be deemed in noncompliance with 15A NCAC 02D.0521 if these records are not maintained.

UNC did not maintain a logbook of these observations from 1/1/2018 to 11/29/2018. Thus, UNC is in violation of 15A NCAC 02D.0521 and Permit Condition 2.1.E.2.c.

Furthermore, on 11/1/2017, 11/2/2017, 11/3/2017 and 11/4/2017, UNC claimed in its logbook that they did the required visual observation at 7 am. However, twilight was at 7:13 am on 11/1/2017 and sunrise was at 7:39 am. On 11/2/2017, twilight was at 7:14 am and sunrise was at 7:40 am. On 11/3/17, twilight was at 7:15 am and sunrise was at 7:41 am. On 11/4/2017, twilight was at 7:16 am and sunrise was at 7:42 am. Thus, UNC did not maintain accurate records for these days in violation of 15A NCAC 02D.0521 and Permit Condition 2.1.E.2.c.

H. Violations of Coal Ash Silo Bagfilter Inspections Requirements

Permit condition 2.1.E.c of UNC's Title V permit requires monthly inspections of the system ductwork and material collection unit for leaks and annual internal inspection of the bagfilters structural integrity during the period of seasonal down time for the bagfilter for the coal ash storage silo (ID No. CD-031). Permit condition 2.1.E.d requires a logbook be maintained for these inspections as well as any maintenance

performed. The Permittee is deemed in noncompliance with 15A NCAC 02D.0515 if the ductwork and bagfilters are not inspected and maintained or if the logbook is not maintained.

There was no log of an inspection for October 2016. Thus, UNC failed to conduct this monthly inspection and/or failed to conduct this monthly inspection for October, 2016. Therefore, UNC is in violation of 15A NCAC 02D.0515 and Permit condition 2.1.E.d and/or Permit condition 2.1.E.c.

I. Violations of Carbon Monoxide Emission Requirements

Permit condition 2.1.A.4.b. of UNC's Title V permit limits carbon monoxide emissions from Boilers 6 and 7 (ID Nos. ES-001 and ES-002) based on carbon monoxide levels corrected to 7% oxygen. However, UNC's December 2014 Emissions Test Report for ES-001 and ES-002 reports carbon monoxide emissions from Boilers 6 and 7 corrected to 15% oxygen. Thus, UNC is in violation of permit condition 2.1.A.4.b.

J. Violations of Daily Calibration Drift Assessment Requirements

Permit conditions 2.1.B.1.c, 2.1.B.2.e and 40 CFR Part 60 Appendix F Quality Assurance Procedures (Procedure 1) require UNC to conduct and report a daily Calibration Drift Assessment for the continuous emissions monitoring system for Boiler #8 (ES-003). On 6/22/2019, for Boiler #8 (ES-003) UNC failed to perform a daily Calibration Drift Assessment in violation of 40 CFR Part 60 Appendix F Quality Assurance Procedures (Procedure 1). See Deviation report ES-003-01-0619 attached to 2019 H1 Title V semi-annual report. Therefore, UNC is in violation of 15A NCAC 02D .0524, Permit conditions 2.1.B.1.c, 2.1.B.2.e and 40 CFR Part 60 Appendix F Quality Assurance Procedures (Procedure 1).

As required by 40 C.F.R. § 54.3, the person providing this notice is:

Perrin de Jong
Staff Attorney
Center for Biological Diversity
P.O. Box 6414
Asheville, NC 28816

Sierra Club
North Carolina Chapter
19 W. Hargett Street
Raleigh, NC 27601

If you believe any of the factual information or legal requirements stated in this notice of intent to sue letter are incorrect, please contact Mr. de Jong to correct this information.

The Center for Biological Diversity and Sierra Club would prefer to resolve this matter without the need for litigation. Therefore, we look forward to you contacting us within 60 days about coming into compliance. If you do not do so, however, we will have to file a complaint.

Sincerely,



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*Counsel for Center for Biological Diversity and
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CC: Via certified mail, return receipt requested

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