

CAPE FEAR PUBLIC UTILITY AUTHORITY

RESOLUTION

Whereas Cape Fear Public Utility Authority (CFPUA) furnishes water for the City of Wilmington and sections of New Hanover County.

Whereas the Chemours Company ("Chemours") has informed the public that it is releasing fluorochemical compounds known as GenX into the Cape Fear River with its wastewater effluent at its manufacturing facility located in Fayetteville, North Carolina.

Whereas Chemours' renewal application for NPDES Permit NC0003573 dated April 27, 2016 did not disclose to the North Carolina Department of Environmental Quality ("DEQ") and the public that its effluent wastewater contained fluorochemical compounds and specifically those compounds known as GenX.

Whereas Chemours, the U.S. Environmental Protection Agency ("EPA") and the North Carolina Department of Health and Human Services ("DHHS") believe that there is some evidence that the fluorochemicals currently present in the Cape Fear River will not harm human health or the environment, none of these parties will say for certain.

Whereas CFPUA has reviewed the EPA's Consent Order ("Order") under the Toxic Substances Control Act signed January 26, 2009 allowing the manufacture of GenX in the United States.

Whereas the Order states: "EPA has concerns that these PMN substances will persist in the environment, could bio-accumulate, and be toxic ("PBT") to people, wild mammals and birds. EPA's concerns are based upon data on the PMN substances, analogy to other [] chemicals, and to perfluorooctanoic acid ("PFOA") and perfluorooctane sulfonate ("PFOS") which are both currently under review by EPA for PBT concerns." And further, "EPA has human health concerns for the PMN substances."

Whereas the Order requires Chemours to "recover and capture (destroy) or recycle the PMN substances at an overall efficiency of 99% from all effluent process streams and the air emissions (point source and fugitive.)"

Whereas the EPA request certain studies be completed by Chemours for EPA's review to allow the EPA to determine at what level the chemical compounds known as GenX can be safely consumed, if at all, by the public.

Whereas the EPA has advised CFPUA that it has not completed those studies.

Whereas under the North Carolina Administrative Code which was adopted to implement the General Statutes of North Carolina, a "Discharge is the addition of any man induced-waste effluent either directly or indirectly to state surface waters." And an "Industrial Discharge" is "the discharge of industrial process treated wastewater". 15A NCAC 2B .0202 (25 and 36).

Whereas "deleterious substances" or "other wastes" are permitted to occur in the Cape Fear River in "only such amounts as *shall not* render the waters injurious to public health." 15A NCAC 2B .0211(12). Any greater amount would be an unlawful violation of a North Carolina surface water quality standard.

Whereas North Carolina water quality standards prohibit the discharge into the Cape Fear River at the location of the Chemours facility of any industrial wastes that “have an adverse effect on human health or that are not treated to the satisfaction of the [Environmental Management] Commission and in accordance with the requirements of the Division [of Water Resources].” 15A NCAC 2B.0216(3)(a). And, “[a]ny dischargers or industrial users subject to pretreatment standards may be required by the Commission to disclose all chemical constituents present or potentially present in their wastes and chemicals that could be spilled or be present in runoff from their facility which may have an adverse impact on downstream water supplies. These facilities may be required to have spill and treatment failure control plans as well as perform special monitoring for toxic substances.” *Id.*

Whereas the current version of NPDES Permit NC0003573 issued to Chemours by DEQ on October 28, 2015 provides for the permit to be modified or revoked and reissued to incorporate additional toxicity limitations and monitoring requirements “in the event *toxicity testing or other studies* conducted on the effluent or *receiving stream* indicate that detrimental effects *may be expected* in the receiving waters as a result of this discharge.” NPDES Permit No. NC0003573 at A.(5).

Whereas GenX is clearly persistent enough to travel miles from the Chemours manufacturing facility to the CFPWA drinking water intake.

Whereas the CFPWA wants to protect and will take such actions as are necessary to protect its water users from any harm.

Whereas EPA and DEQ have authority to take actions to protect the CFPWA’s water users and should promptly take all such actions.

Now, therefore, be it resolved:

1. CFPWA requests DEQ:
 - a. To immediately modify NPDES Permit NC0003573 to require daily sampling and testing of all waste streams leaving the Chemours manufacturing facility (including any affiliates or tenants discharging through the Chemours wastewater treatment plant) for all fluorochemicals, including those known as GenX, being discharged into the Cape Fear River from outfalls 001 and 002 ; and
 - b. To immediately consult with DHHS and determine whether the concentrations of the GenX compounds in the wastewater discharge to the Cape Fear River from the Chemours manufacturing facility are protective of human health, taking into account all relevant factors including, without limitation, toxicity, persistence in the environment, and bioaccumulation; and
 - c. To immediately modify NPDES Permit NC0003573 to prevent any discharge of the GenX compounds from the Chemours manufacturing facility wastewater treatment plant until paragraphs 1.a. and b. have been completed.
2. The CFPWA requests EPA determine whether Chemours has:

- a. For each month in which Chemours has discharged any amount of GenX to the Cape Fear River, continuously captured/destroyed 99% of GenX from its wastewater treatment plant effluent streams; and
 - b. Has established at its Fayetteville facility the necessary processes and procedures to ensure that 99% of GenX is being and will continue to be captured/destroyed from its wastewater treatment plant effluent streams.
3. CFPUA requests EPA immediately review the studies it has received from Chemours and any sampling it is aware of and determine immediately whether the concentrations of the GenX compounds in the wastewaters from the Chemours manufacturing facility wastewater treatment plant being discharged to the Cape Fear River are protective of human health, taking into account all relevant factors including, without limitation, toxicity, persistence in the environment, and bioaccumulation and to immediately modify PMN P-08-508 and P-08-509 to prevent the discharge of any fluorochemical compounds into the Cape Fear River until these determinations can be made.
4. CFPUA requests Chemours act responsibly and cease all discharges that contain fluorochemical compounds until DHHS and EPA determine what levels of concentration for each such compound being discharged can be safely discharged to protect human health and the environment.

This 16th day of June, 2017.



Michael C. Brown, III
Chairman of the Board

Attest:



C. Lawrence Sneed, Secretary

