

STATE OF NORTH CAROLINA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS

COUNTY OF WAKE

COL. FRANCIS X. DE LUCA)
)
)
PETITIONER,)
)
v.)
)
NC ENVIRONMENTAL MANAGEMENT COMMISSION and NC)
DEPARTMENT OF ENVIRONMENTAL QUALITY)
)
RESPONDENTS.)
)

PETITION
FOR A
CONTESTED CASE HEARING

I hereby ask for a contested case hearing as provided for by North Carolina General Statute § 150B-23 because the Respondent has:

(Briefly state facts showing how you believe you have been harmed by the State agency or board.)

The Respondents failed to follow the requirements of NCGS Sections 143-215.2 and 143-215.110 and the Rules adopted pursuant thereto, including 15A NCAC .02H .1201, in executing the Partial Consent Order in State of NC v. The Chemours Company, 17 CVS 580, dated September 8, 2107. Respondents also violated North Carolina’s Memorandum (MOA) with the EPA (Section III.A.6) for the delegated NPDES program by failing to follow the Federal Clean Water Act (CWA) regulation, 40 CFR 123.27(d)(2)(iii). The North Carolina statutes and rules and the MOA and CWA regulation all require notice and a 30 day public comment period before Respondents can enter into the Partial Consent Order. The Respondents’ failure to follow the law has deprived Petitioner of his right to comment on the Partial Consent Order and have his comments considered in determining whether or not the Partial Consent Order is in the best interest of the public, which includes Petitioner.

(4) Amount in controversy \$ (if applicable)

(If more space is needed, attach additional pages.)

(5) Because of these facts, the State agency or board has: (check at least one from each column)

- deprived me of property;
ordered me to pay a fine or civil penalty; or
otherwise substantially prejudiced my rights;
AND
exceeded its authority or jurisdiction;
acted erroneously;
X failed to use proper procedure;
X acted arbitrarily or capriciously; or
X failed to act as required by law or rule.

(6) Date: September 20, 2017 (7) Your phone number: (919) 747-8080

(8) Print your full address: 805 Spring Forest Road, Raleigh, NC 27609

(9) Print your name: Francis X. De Luca (street address/p.o. box) (city) (state) (zip)

(10) Your signature:

You must mail or deliver a COPY of this Petition to the State agency or board named on line (3) of this form. You should contact the agency or board to determine the name of the person to be served.

CERTIFICATE OF SERVICE

I certify that this Petition has been served on the State agency or board named below by depositing a copy of it with the United States Postal Service with sufficient postage affixed **OR** by delivering it to the named agency or board:

(11) _____ Bill Lane _____ (12) NC Environmental Management Commission and _____
NC Department of Environmental Quality _____

(13) 1601 Mail Service Center, Raleigh NC 27699-1601

(14) This the _____ day of September, 2017.

(15) _____
(your signature)

When you have completed this form, you **MUST** mail or deliver the **ORIGINAL AND ONE COPY** to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714.

This box for OAH use only.

<p>Amount Paid \$ _____</p> <p>Cash – receipt number _____</p> <p>Money Order Certified Check Attorney Trust Account</p> <p>Check number _____</p>	<p>Indigent (must complete form HOI)</p> <p>Mandated federal cause of action</p> <p>Received by: _____</p>
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