



North Carolina General Assembly
Senate Chamber
State Legislative Building
Raleigh, NC 27601-2808
August 9, 2017

Governor Roy Cooper
20301 Mail Service Center
Raleigh, NC 27699

Dear Governor Cooper:

We are writing to acknowledge receipt of an August 8 letter from your Department of Environmental Quality (DEQ) and Department of Health and Human Services (DHHS) secretaries. We are deeply concerned by recent news reports about the discharge of GenX in the Cape Fear River and share your commitment to ensuring our neighbors in the lower Cape Fear region have clean, safe drinking water.

While we review your administration's request for a roughly \$2.58 million additional appropriation, we also want to address recent news reports that have called attention to multiple inconsistencies in your administration's handling of this crisis. In order to better understand the timing and rationale for what looks like a reversal of course on several fronts, we request answers to the following questions:

- When was the first instance anyone from your administration discussed GenX in the Cape Fear River with Chemours or anyone else?
- At any time did DEQ know about and/or approve the discharge of GenX? If not, please explain the information related in a June 29 news report stating, "*state regulators said Chemours informed them in its most recent discharge permit application and 'all previous applications' that it was releasing GenX and other related substances from the Fayetteville Works plant into the Cape Fear River, a process that has occurred since 1980.*"
- DEQ Secretary Michael Regan has publicly said Chemours did not break the law. In light of this, why are you requesting an investigation from the State Bureau of Investigation? What exactly is the SBI investigating?
- Your administration said in June that the safe level of GenX in drinking water was 70,909 parts per trillion. Then, just one month later, your department revised the safe level to 140 parts per trillion – 500 times less than the original projection. What is the explanation for this change? Are there scientific studies or reports that support this change? Please identify those reports.
- In June, DEQ said all discharges of GenX at the Chemours plant had stopped. But water sampling in July found concentrations of GenX – concentrations still above the

level deemed to be safe. Can the public have confidence in DEQ when it says this chemical is no longer being discharged in the water? What assurances can you give that it has stopped and when?

- Are you aware that your administration does not need to wait for the Environmental Protection Agency (EPA) to set regulatory standards for GenX or other constituents? Are you aware that DEQ already regulates a number of chemicals without federal standards?
- Are you aware that modifications made to G.S. 150B-19.3 in Session Law 2011-398 allow your administration to adopt any rule necessary to address "a serious and unforeseen threat to the public health, safety, or welfare?"
- We understand DEQ recently received a federal criminal subpoena from the U.S. Attorney's Office of the Eastern District of North Carolina. Have any other agencies or individuals in the Executive Branch received a similar subpoena? Has the governor's office received a subpoena in this matter? For the purposes of transparency, would your administration be willing to share all the public documents that will be submitted to the U.S. Attorney as a result of these subpoena(s)?

In addition, we need more information in order to make a well-informed decision on how any additional appropriations could make a meaningful difference in water quality and public safety in the lower Cape Fear region. We are hopeful that you intend to target resources to make a difference rather than simply improve public relations. To that end, we ask that you provide answers to the following questions:

- Given that Chemours previously announced it will voluntarily discontinue discharging GenX into the Cape Fear River, how will additional funding for DEQ and DHHS affect the dumping of GenX into the river?
- What specific use of the requested funds will be directed to improving water quality in areas already affected by GenX? How will that use of funds affect water quality in areas already affected?
- Why has DEQ not issued a Notice of Violation (NOV) under the Clean Water Act to Chemours? Regarding the costs for long-term water sampling for GenX, are you suggesting that Chemours should not be required to bear these costs as a result of the settlement of the NOV?
- Regarding the request for additional staff for DEQ, we know the department currently employs many individuals that perform non-regulatory functions not involving the implementation of federal or state environmental quality programs. An example of this is the "Office of Innovation" that was just created by Secretary Regan. Rather than using taxpayer funds to create additional government employees, could some of these individuals performing non-regulatory duties be shifted to assist with the permitting backlog and other regulatory functions that have been neglected?
- Regarding the request for additional staff for DHHS, we know both DEQ and DHHS currently employ accomplished and well-respected toxicologists that have been protecting North Carolinians for decades. Can you explain why these existing toxicologists are no longer able to satisfactorily perform this function under the supervision of your cabinet secretaries, and the need to create a new "Science Advisory Board" to supervise their work?

It is our belief the public should receive answers to these important questions. Given that the General Assembly will now be coming back into session within little more than a week, a swift response will help ensure we consider your answers as part of the review process. Please send answers to these questions to us by 5:00 p.m. on Monday, August 14.

Sincerely,



Sen. Bill Cook
Co-Chairman, Senate Committee on Agriculture / Environment / Natural Resources
Co-Chairman, Senate Appropriations Subcommittee on Agriculture, Natural, and Economic Resources



Sen. Rick Gunn
Co-Chairman, Senate Appropriations Subcommittee on Agriculture, Natural, and Economic Resources



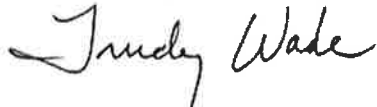
Sen. Michael Lee
Senator for District 9 (New Hanover County)



Sen. Bill Rabon
Senator for District 8 (Bladen, Brunswick, New Hanover, Pender Counties)



Sen. Norm Sanderson
Co-Chairman, Senate Committee on Agriculture / Environment / Natural Resources



Sen. Trudy Wade
Co-Chairman, Senate Appropriations Subcommittee on Agriculture, Natural, and Economic Resources



Sen. Andy Wells
Co-Chairman, Senate Committee on Agriculture / Environment / Natural Resources

CC: Secretary Michael Regan
Secretary Mandy Cohen
Senate Leader Phil Berger
Speaker Tim Moore