

# SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 919-967-1450

601 WEST ROSEMARY STREET, SUITE 220  
CHAPEL HILL, NC 27516-2356

Facsimile 919-929-9421

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***VIA E-MAIL***

Attn: Louise Hughes  
North Carolina Department of Environmental Quality  
1601 Mail Service Center  
Raleigh, N.C. 27699-1601  
Comments.SABReport@ncdenr.gov

**Re: GenX Report**

Dear Science Advisory Board:

On behalf of Cape Fear River Watch, North Carolina Conservation Network, North Carolina Coastal Federation, Sound Rivers, Haw River Assembly, Catawba Riverkeeper Foundation, the French Broad Riverkeeper, and the North Carolina Chapter of the Sierra Club, please accept these comments on the North Carolina Secretaries' Science Advisory Board's August 29, 2018 Draft Review of the North Carolina Drinking Water Provisional Health Goal for GenX.

I. The GenX health goal of 140 ppt cannot be used as the protective standard for those living around, and downstream of, Chemours' facility.

First, the SAB must be more explicit about what the GenX health goal should and should not be used for. The report states that the 140 ppt level "is not a boundary line between a 'safe' and 'dangerous' level of [GenX]," and that it is instead "the concentration of GenX in drinking water at which no adverse non-cancer health effects would be anticipated over an entire lifetime of exposure." According to the SAB's report, therefore, the 140 ppt health goal is insufficient to protect people who have been exposed to levels of GenX much higher than 140 ppt throughout their lifetime.

Communities around and downstream of Chemours' Fayetteville Works Facility (1) have had GenX in their drinking water for four decades at levels far higher than 140 ppt, (2) have had dozens of other perfluoroalkyl and polyfluoroalkyl substances (PFAS) in their drinking water at high levels, and (3) have been exposed to PFAS through their air, soil, fish, vegetables, and even honey. When DEQ began investigating the facility in June 2016, GenX levels at Chemours' outfall into the Cape Fear River reached levels of up to 39,000 ppt, and GenX levels in the finished drinking water from the Cape Fear Public Utility Authority's Sweeney Water Treatment Plant reached levels of up to 1,100 ppt.<sup>1</sup> Since then, DEQ has found GenX in private drinking

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<sup>1</sup> June 19 to July 25, 2017 GenX Surface Water Sampling Results, included as Attachment 1.

water wells at levels as high as 4,000 ppt—28 times the state’s health goal of 140 ppt.<sup>2</sup> GenX and other PFAS have been released in high concentrations from the Fayetteville Works Facility into the Cape Fear River since 1980.<sup>3</sup> Not only have communities been exposed to GenX at extremely high levels, they have lived with dozens of other PFAS in their air, water, and soil. From September to December of 2017, DEQ found at least 33 different PFAS in private drinking water wells, some at concentrations of 299 ppt and 209 ppt.<sup>4</sup> As the SAB’s report states, PFAS has also been found in fish and sediment around the facility, and in garden crops in similarly PFAS-contaminated sites.

Yet DEQ and Chemours have both misused the 140 ppt health goal. In DEQ’s June 11, 2018 proposed order in *N.C. Dept. of Environmental Quality v. Chemours* in Bladen County Superior Court, DEQ suggests that Chemours should establish permanent water supplies only for households with wells contaminated “in exceedance of a health goal established by DHHS.”<sup>5</sup> In Chemours’ plans for cleaning up its on-site contamination, the company states that its goal “is to ensure concentrations in the Cape Fear River do not exceed 140 ppt of [GenX] downstream of the river water intake.”<sup>6</sup> But the communities that have been exposed to GenX and other PFAS in thousands of parts per trillion for decades cannot be protected by a health goal that (1) only considers exposure to one out of dozens, if not hundreds, of PFAS, and (2) does not account for prior exposure to extremely high levels of GenX.

The SAB should explicitly warn DEQ against using—and DEQ must not use—the GenX 140 ppt health goal as the level to protect communities that have already been exposed to Chemours’ highly toxic pollution for decades. Rather, a health goal that accounts for prior long-term exposure to high levels of multiple PFAS must apply to those communities.

## II. PFAS must be regulated as a class.

The SAB should advise the Environmental Management Commission and DEQ that any regulation of PFAS must apply to the entire class of compounds. The SAB has taken nearly a full year to assess the health goal for GenX, which is only one compound within a family of over 3,000 PFAS on the global market.<sup>7</sup> A regulatory process which addresses one PFAS at a time will not effectively protect the health of the public and the environment.

The duties of the SAB include: “advis[ing] the [Environmental Management Commission],” “recommend[ing] the necessity and/or urgency for controlling the releases” of PFAS, and “act[ing] as consultants regarding the DEQ’s determinations to regulate releases of contaminants.” The SAB should be explicit about the protective limits of the GenX health goal

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<sup>2</sup> NC DEQ Presentation to the House Select Committee on North Carolina River Quality, slides 9-10, Apr. 26, 2018, included as Attachment 2.

<sup>3</sup> “Notes from Chemours meeting with local, state officials,” *StarNews*, Jun. 15, 2017, included as Attachment 3.

<sup>4</sup> NC DEQ, Expanded PFAS Analysis on DEQ Collected Private Wells Associated with Chemours-Fayetteville, included as Attachment 4.

<sup>5</sup> Draft Proposed Order for Preliminary Injunctive Relief, *N.C. Dept. of Environmental Quality v. Chemours*, 17 CVS 580, 25 (N.C. Super. 2018), included as Attachment 5.

<sup>6</sup> Chemours, “Focused Remedial Action Plan for PFAS in Groundwater,” 1, Mar. 28, 2018, included as Attachment 6.

<sup>7</sup> KEMI, Swedish Chemicals Agency, Occurrence and use of highly fluorinated substances and alternatives 6 (2015), included as Attachment 7.

for impacted communities, and advise the Environmental Management Commission and DEQ on how to feasibly regulate the thousands of existing PFAS.

Thank you for considering these comments. Please contact us at [ggisler@selcnc.org](mailto:ggisler@selcnc.org), [jzhuang@selcnc.org](mailto:jzhuang@selcnc.org), or 919-967-1450 if you have any questions regarding this letter.

Sincerely,



Geoffrey R. Gisler  
Senior Attorney



Jean Zhuang  
Associate Attorney

GRG/rgd  
Cc (via email):  
Kemp Burdette, CFRW