



NORTH CAROLINA  
Environmental Quality

ROY COOPER  
Governor

MICHAEL S. REGAN  
Secretary

August 17, 2020

Paul Draovitch  
Senior Vice President  
Environmental, Health & Safety  
Duke Energy  
526 South Church Street  
Mail Code EC3XP  
Charlotte, North Carolina 28202

Subject: Coal Ash Impoundment Closure Plan – Determination of Compliance with General Statute 130A-309.214(a)(4) of Session Law 2016-95 of the Coal Ash Management Act – Cape Fear Steam Electric Plant

Dear Mr. Draovitch:

On December 31, 2019, the North Carolina Department of Environmental Quality (NCDEQ) received the proposed Coal Ash Impoundment Closure Plan for the Cape Fear Steam Electric Plant (Closure Plan); the deadline required under General Statute 130A-309.214(a)(3) of Session Law 2016-95 of the Coal Ash Management Act referred to hereafter as CAMA. On April 17, 2020, NCDEQ received a revised closure plan for this facility.

#### Closure Plan Review

Per 130A-309.214(b), NCDEQ has reviewed the proposed Closure Plan to determine compliance with the requirements of 130A-309.214(a)(4) and otherwise complies with the requirements of CAMA.

The following item was noted during the review of the proposed Closure Plan and will require the submittal of additional information from Duke Energy:

The Division of Waste Management (DWM) requests an Excavation Plan to be submitted for review and approval and to include, but not limited to the following: 1) site plan with annual phased excavation, 2) transportation plan for routes to off-site processing facilities, 3) dust control plan, 4) management of non-recyclable coal ash disposal both on-site and off-site, 5) all necessary permits 6) plan for stockpiling coal ash, and 7) health and safety plan for dewatering ash. The Division's expectation is that the Excavation Plan will be updated annually. If excavation is to be implemented within the 2020 calendar year, the Excavation Plan shall be submitted to the DWM



90 days from receipt of this letter. Otherwise, the Excavation Plan shall be submitted 90 days prior to the commencement of excavation.

Duke Energy shall provide an updated Comprehensive Site Assessment (CSA) and CAP sufficient to address the requirements of 130A-309.214(a)(4)(c) and (d) and Title 15A of the North Carolina Administrative Code Subchapter 02L. Per DEQ's letter to Duke Energy dated February 26, 2020, the updated CSA is due December 1, 2020.

#### Determination of Compliance with 130A-309.214(a)(4)

With the exception of the items listed above, NCDEQ has determined that the proposed Closure Plan does not fully comply with the requirements of CAMA. Specifically, DEQ has found that:

- The proposed Closure Plan complies with the following requirements of 130A-309.214(a)(4) with the exception of 130A-309.214(a)(4)(c) and (d).
- Duke Energy did not submit an updated CSA and CAP that would be sufficient to provide compliance with the applicable requirements under 130A-309.214(a)(4)(c) and (d).
- A review of the public comments provided under the requirement of 130A-309.214(b) yielded no additional information that suggests the proposed Closure Plan is in further non-compliance with the requirements of 130A-309.214(a)(4).
- The items noted during the review of the Closure Plan will require additional follow-up from Duke Energy.

Notwithstanding the additional information requested, NCDEQ believes that the Closure Plan is adequate for Duke Energy to proceed with its implementation.

#### Implementation and Modification of the Proposed Closure Plan

Unless otherwise indicated in this letter, the additional items that require follow-up from Duke Energy shall be provided in an addendum to the Closure Plan within 30 days of the date of this letter with the exception of the updated CSA shall be due December 1, 2020. Per 130A-309.214(e), as soon as practicable, but no later than 60 days from the date of this letter, Duke Energy shall begin implementation of the proposed Closure Plan. Modifications, both major and minor, to this Closure Plan shall be in conformance with 130A-309.214(e).

If you have any questions, please contact me at (919) 707-8619.

Sincerely,



Sheila C. Holman  
Assistant Secretary for Environment

Cc: DWM – Ed Mussler  
DWR – Rick Bolich  
DEMLR – George Eller  
RRO WQROS

