



# **NCDEQ Coal Ash Impoundment Closure Plan Decision**

## **W.H. Weatherspoon Power Plant**

**August 14, 2020**



# **NCDEQ Coal Ash Impoundment Closure Plan Decision – W. H. Weatherspoon Power Plant**

On December 31, 2019, Duke Energy submitted its proposed Closure Plan for the W. H. Weatherspoon Power Plant (“Weatherspoon”) as required by the Coal Ash Management Act (“CAMA”). The North Carolina Department of Environmental Quality (“NCDEQ”) conducted a thorough evaluation of this proposed Closure Plan. In addition to its own evaluation, NCDEQ held a public hearing, circulated the proposed closure plan for public comment, reviewed written public comments and analyzed site specific information provided by Duke Energy and the public.<sup>1</sup> Based on this evaluation, NCDEQ finds that the proposed Closure Plan is protective of public health, safety, and welfare; the environment; and natural resources and generally complies with the requirements of CAMA. Consequently, NCDEQ hereby approves the implementation of the proposed Closure Plan for Weatherspoon.

## **Background:**

CAMA, enacted in August 2014, required that NCDEQ develop proposed classifications for all coal combustion residuals (CCR) surface impoundments, including active and retired sites, for the purpose of closure and remediation based on these sites' risks to public health and the environment. Duke Energy (Duke Energy Progress, LLC) agreed to excavating the impoundment at Weatherspoon as part of a settlement agreement in September of 2015. Further, Duke Energy announced in August of 2017 that the coal ash located in the impoundment at Weatherspoon would be recycled into cement products and the ash would be taken by truck to two cement kilns located in South Carolina.

## **Public process for the proposed Closure Plan:**

CAMA required that NCDEQ put the proposed Closure Plan to public notice and conduct a public meeting to explain the Plan. NCDEQ held the public meeting for Weatherspoon on February 13, 2020 and provided a public comment period through March 5, 2020. No members of the public attended the hearing and NCDEQ received no comments during the comment period.

## **Evaluation of Closure Plan:**

CAMA establishes criteria for NCDEQ’s evaluation of Closure Plans. Specifically, CAMA provides that NCDEQ “shall disapprove a proposed Coal Combustion Residuals Surface Impoundment Closure Plan unless the Department finds that the Closure Plan is protective of public health, safety, and welfare; the environment; and natural resources and otherwise complies with the requirements of this Part.” N.C. Gen. Stat. § 130A-309-214(c). CAMA sets forth a list of required contents for Closure Plans, including engineering drawings, schematics, and specifications for the proposed Closure Plan, a description of the provisions for the final disposition of the coal combustion residuals, groundwater modeling, and a description of the plan for post-closure monitoring and care for an impoundment for a minimum of 30 years.

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<sup>1</sup> The Hearing Officer’s Report is attached as Attachment 1. Additional information reviewed by NCDEQ includes, among other things, environmental data contained in the comprehensive site assessment and proposed corrective action plan, permit requirements, the closure options analysis, ongoing groundwater monitoring, groundwater modeling provided by Duke Energy, NCDEQ’s Closure Determination for Weatherspoon, and other data relevant to the CAMA requirements.

NCDEQ finds that under CAMA, Duke Energy's proposed Closure Plan for Weatherspoon is protective of public health, safety, welfare, the environment, and natural resources. In the Closure Plan, Duke Energy proposes to excavate the coal ash in the CCR impoundments, which NCDEQ has determined is the most environmentally protective closure option. Because the coal ash will be excavated, there will not be any primary contaminant source remaining that can continue to leach contaminant into groundwater. Further, without the coal ash in place, there will be additional options available for remediating contaminated groundwater. As explained in the Weatherspoon Closure Determination, "removing the primary source of groundwater contamination will reduce uncertainty and allow for flexibility in the deployment of future remedial measures." Weatherspoon Closure Determination, p. 1.

NCDEQ further finds that Duke Energy's proposed Closure Plan for Weatherspoon complies with the other requirements of CAMA. Specifically, NCDEQ has determined that Duke Energy has generally included all required elements of a Closure Plan (either directly or through incorporation by reference of the proposed Corrective Action Plan for Weatherspoon),<sup>2</sup> including the following:

- site history and history of site operations;
- site maps;
- results of a hydrogeologic, geologic, and geotechnical investigation of the site;
- results of groundwater modeling at the site;
- engineering drawings, schematics, and specifications for the proposed Closure Plan;
- a description of the construction quality assurance and quality control program to be implemented in conjunction with the Closure Plan;
- a description of the provisions for disposal of wastewater and management of stormwater and the plan for obtaining all required permits;
- a list of required permits;
- a description of the provisions for the final disposition of the coal combustion residuals;
- a description of the plan for post-closure monitoring and care for an impoundment for a minimum of 30 years;
- an estimate of the milestone dates for all activities related to closure and post-closure;
- projected costs of assessment, corrective action, closure, and post-closure care; and
- a description of the anticipated future use of the site and the necessity for the implementation of institutional controls following closure.

N.C. Gen. Stat. § 130A-309.214(a)(4). However, NCDEQ noted that Duke Energy did not submit an updated Comprehensive Site Assessment (CSA) and CAP that would be sufficient to provide compliance with the applicable requirements under 130A-309.214(a)(4)(c) and (d) and Title 15A of the North Carolina Administrative Code Subchapter 02L. It should be noted that per NCDEQ's letter to Duke Energy dated February 26, 2020, the updated CSA is due August 3, 2020.

### **Conclusion:**

NCDEQ approves the implementation of the proposed Closure Plan for Weatherspoon based on its finding that this Plan "is protective of public health, safety, and welfare; the environment; and natural resources and generally complies with the requirements of CAMA" and the updated CSA submitted August 3, 2020 to be followed by an updated CAP.

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<sup>2</sup> Note that this document does not constitute an approval of the proposed corrective action plan for Weatherspoon or any element thereof, NCDEQ will review and take action on that proposal in a separate decisional document.