



PAT MCCRORY

Governor

DONALD R. VAN DER VAART

Secretary

S. JAY ZIMMERMAN

Director

MEMORANDUM

April 22, 2016

To: Secretary Donald R. van der Vaart

From: David May
Division of Water Resources
Washington Regional Office

Subject: Meeting Officer's Report and Recommendations
Coal Ash Impoundment Classification(s)
H. F. Lee Energy Complex

On March 10, 2016, I served as meeting officer for a public meeting held at Wayne County Community College in Goldsboro, NC. The purpose of the public meeting was to allow the public to comment on the proposed risk classification for coal combustion residuals impoundments at the H. F. Lee Energy Complex.

In addition to listening to oral comments at the public meeting, I have reviewed all written comments received during the public comment period. In preparing this report I have considered all of the public comments in making a recommendation on the proposed risk classification for the H. F. Lee Energy Complex.

This report has been prepared using the following outline:

- I. History/Background
- II. March 10, 2016 Public Meeting and Oral Comments Summary
- III. Written Public Comments Summary
- IV. Attachments

I. History/Background

Under the historic Coal Ash Management Act (CAMA) of 2014, all coal ash impoundments in North Carolina are required to be closed. The deadlines for closure depend on the classification of each impoundment as low, intermediate, or high. CAMA requires the Department of Environmental Quality, or DEQ, to make available to the public the initial draft proposed classifications no later than Dec. 31, 2015. These draft proposed classifications are based on the information available to the department as of December 2015. They are of critical importance because of the environmental impact and closure costs associated with each classification. Impoundments classified as intermediate or high must be excavated at a potential cost of up to \$10 billion for all impoundments, while environmentally protective, less costly options are available for low priority impoundments. Closure costs could be passed on to the ratepayer. It is also important to note that these are not the final proposed classifications. After the release of the draft proposed classifications, CAMA requires the following process:

- DEQ must make available a written declaration that provides the documentation to support the draft proposed classifications within 30 days, which will be made available on the DEQ website. The written declaration will provide the technical and scientific background data and analyses and describe in detail how each impoundment was evaluated.
- DEQ will publish a summary of the declaration weekly for three consecutive weeks in a newspaper in each county where a coal ash facility is located.
- The declaration will be provided to each local health director and made available in a library in each county where a coal ash facility is located.
- The summary of the declaration will be provided to each person who makes a request.
- A public meeting will be held in each county where a coal ash facility is located.
- Following completion of the public meetings and the submission of comments, the department will consider the comments and develop final proposed classifications.

Subsequent to the issuance of DEQ's initial draft proposed classifications, fourteen public meetings were held across the state to receive oral comments from the public in addition to the open public comment period that ended on April 18, 2016. Meetings were held in each County in which a site is located. DEQ will consider all public comments received and issue its final classification for each impoundment by May 18, 2016.

II. March 10, 2016 Public Meeting and Oral Comments Summary

Approximately 100 people attended the public hearing, including staff members of the DEQ and the meeting officer. A total of 93 individuals completed sign-in forms at the meeting (Attachment I). As meeting officer, I provided opening comments and Steve Lanter, hydrogeologist from the Central Office, provided a brief presentation on the proposed risk classification for the H. F. Lee Energy Complex.

Nineteen individuals registered before the meeting to make comments and six additional individuals made comments after the 19 that registered were finished speaking. Speakers were

given five minutes for initial presentations and additional time was provided after everyone that registered to speak was finished. The list of speakers is included as Attachment II. The following is a summary of oral comments received at the public meeting by topic (in no particular order):

- **Agriculture**– One citizen commented about how poultry and agriculture are prevalent in the local area. Poultry and agricultural crops utilize groundwater sources to meet water demands. These poultry and crops may be impacted by the Lee facility and are being distributed across a large area.
- **Air Quality** – Citizens were concerned about air quality issues such as fugitive dust and odor.
- **Beneficial Reuse** – One person commented that coal ash from the facility has been used as fill material at numerous locations in the Rosewood community. They also stated that their personal driveway contains coal ash.
- **Costs** – A citizen suggested that Duke give a portion of their fees and fines to the community. Another citizen stated that expenses incurred by Duke Energy to address environmental issues shouldn't be passed on to customers.
- **Dam Safety** – One citizen referenced a letter from DEMLR about dam hazard classifications that rank the site as high risk.
- **Environmental Justice** – One citizen suggested that the level of response to environmental issues has been low and is attributed to demographics of surrounding communities.
- **Excavation** – Citizens suggested that source should be eliminated.
- **Groundwater Assessments** – One citizen inquired why the one basin was called the “active” basin when the plant is retired. One citizen stated that the groundwater is contaminated with mercury and iron. It was also implicated that DEQ had knowledge of the pollution yet allowed it continue.
- **Health Issues** – Many citizens spoke of their own personal health issues and/or health issues of others in the area that they suggest may be a result of their drinking water.
- **Private Well Issues** – Citizens were concerned that not enough private wells were tested in the area. Some concerns were about the letters from the Department of Health and Human Services that retracted the “do not drink” recommendations. Several citizens were expressing displeasure with having to drink bottled water and one comment referenced the amount of plastic bottles being used is excessive.
- **Risk Classification** – A majority of the comments were about changing the ranking for Lee from intermediate to high.
- **Surface Water** – Several citizens asked about the potential for flooding to spread the contamination from the site around the area. One citizen commented about the fish from the Neuse River being unsafe to consume. One citizen noted that they saw seeps from the facility that were orange and yellow when they were floating down the river.
- **Not Applicable** – A Duke Energy representative gave an update of the H. F. Lee Energy Complex and the on-going ash removal. The remainder of the comments were not relevant to the risk classification for the site.

III. Written Public Comment Summary

In addition to the public meeting, DEQ received written comments during the public comment period. DEQ received one comment hand-submitted during the public meeting, 27 letters sent via United States Postal Service mail, and 273 comments received via email. The following is a summary of the written comments received during the comment period (in no particular order):

- **Beneficial Reuse** – A member of the National Ash Management Advisory Board presented information that suggests that the aggressive closure schedules preclude the pursuit of beneficial reuse opportunities.
- **Costs** – Requests were made that Duke not pass on their cost to the consumers.
- **Dam Safety** – A comment asked why the entire site was not ranked as high risk when the dam was ranked as high risk due to potential loss of life if a breach were to occur.
- **Environmental Justice** – A research assistant at Duke University submitted their report on the impact of the coal ash ponds on low-income and communities of color, as well as cumulative impacts from nearby emitting facilities. A representative from the Southern Alliance for Clean Energy provided a petition that asks that Duke Energy be required to remove all of the coal ash at each of its 14 power plants sites to dry, lined storage away from our waterways and groundwater, and from our most vulnerable communities such as low-income communities or communities of color.
- **Excavation** – The National Ash Management Advisory Board suggested other alternatives to excavation such as capping-in-place, monitored natural attenuation, slurry cutoff walls, in-place stabilization/fixation, pumping wells, permeable reactive barriers and volume reduction of impounded ash through escalation of beneficial use. They also suggested that the additional risk imposed by excavating and transporting ash from one location to another can exceed the potential risk posed by leaving the ash in place. Many comments from citizens asked that public have access to all plans made for excavation and movement of the ash, including details about the transportation of the ash via trucks or rail. Both the local community, communities along the transport route, and those near the final proposed storage location should have opportunities for input on Duke's plans for permanent safe storage of the coal ash. A signed petition from the North Carolina Conservation Network asked that State government leaders and state regulators take appropriate action to require the removal of coal ash out of all unlined pits and into safer lined storage away from waterways and ensure that coal ash ponds and landfills do not put at risk the safety, health, and economic well-being of downstream communities, receiving communities, and communities along transportation routes.
- **Groundwater Assessments** – The National Ash Management Advisory Board stated that licensed engineers and geologists, with support from health and environmental risk assessors, have determined that there is no imminent hazard and that those same professionals have determined that existing conditions at these sites do not present a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment will occur. Many commenters stated that arsenic, chromium, and other pollutants have been detected in groundwater near the leaking, unlined coal ash pits at Duke Energy's Lee site. For example, arsenic has been detected at levels 6,550% above the state standard and chromium at levels 403% above the state standard in nearby groundwater. Other citizens were upset to learn that toxic chemicals have been detected above standards in wells around the Lee facility. One

comment suggested that capping the ash will not protect against seeps and leaks getting into the groundwater and private wells.

- **Health Issues** – Many citizens spoke of their own personal health issues and/or health issues of others in the area that they suggest may be a result of their drinking water.
- **Private Well Issues** – Many citizens commented about the number of residents being informed not to drink their water due to exceedances of several constituents including hexavalent chromium and cobalt.
- **Risk Classification** – A majority of the comments supported the ranking of intermediate or high. The Southern Environmental Law Center sent a large report on their comments regarding the risk classification. The report touched on elements of dam safety, groundwater, and surface water. Duke supplied a massive report for consideration in the risk classification for all of their sites.
- **Surface Water** – A majority of the citizens were concerned about the 128,000 people that rely on drinking water intakes downstream from the facility.

IV. Attachments

1. Public Notice of March 10, 2016 Meeting
2. Public Meeting Sign-in Forms
3. Public Meeting Speaker List
4. Audio File of Public Meeting
5. Written Public Comments Received
6. Supporting documentation received during public hearing
7. Emails
8. Meeting Notes
9. Public Comment Summary Spreadsheet
10. Meeting Agenda
11. Presentation