



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

MICHAEL SCOTT
Acting Director

MEMORANDUM

April 28, 2016

To: Secretary Donald R. van der Vaart

From: Ed Mussler
Green Square Central Office
Division of Waste Management

Subject: Meeting Officer's Report
Coal Ash Impoundment Classification(s)
Duke Sutton Energy Complex

On March 1, 2016, I served as meeting officer for a public meeting held at Cape Fear Community College in Wilmington, 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 Duke Sutton Energy Complex. This report summarizes all of the public comments related to the proposed risk classification for the Duke Sutton Energy Complex.

This report has been prepared using the following outline:

- I. History/Background
- II. March 1, 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 1, 2016 Public Meeting and Oral Comments Summary

Approximately 60 people attended the public hearing, including staff members of the DEQ and the meeting officer. A total of 40 individuals completed sign-in forms at the meeting (Attachment I). As meeting officer, I provided opening comments and a brief presentation on the proposed risk classification for the Duke Sutton Energy Complex.

Three individuals registered before the meeting to make comments. 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 summarized by topic (in no particular order):

- **Dam Safety** – There was a concern about the history of structural failures in dams.
- **Excavation** – There was a comment that every single coal ash pond should have its contents dried and moved away from waterways.
- **Groundwater Assessments** – A speaker read a report detailing the contaminated groundwater plume located near the drinking water supply for the Flemington community. They were also concerned that a nearby soccer complex may be irrigated with contaminated groundwater.
- **Health Issues** – A speaker read a report detailing the impact of selenium on fish in Sutton Lake; he had consumed that fish in the past.
- **Landfills** – Speakers supported the decision to remove ash and place it in lined and capped landfills away from water bodies.
- **Risk Classification** – All comments supported the high-risk classification for the site.
- **Surface Water** – All comments mentioned contamination of Sutton Lake.

III. Written Public Comment Summary

In addition to the public meeting, DEQ received written comments during the public comment period. DEQ did not receive any comments that were hand-submitted during the public meeting and no letters were sent via United States Postal Service mail. There were 452 comments received via email. The following is a summary of the written comments received during the comment period (in no particular order):

- **Beneficial Reuse Areas** – 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.
- **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.
- **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.
- **Groundwater Assessments** – Comments pointed out the fact that harmful pollutants have been detected in groundwater wells around the coal ash ponds. 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.
- **Landfills** – Citizens encouraged Duke to avoid trucking the ash to landfills in other communities and want Duke to store the ash on Duke's property or away from other communities. Suggestions were also made that Duke should continue to research alternative storage options that will provide a permanent solution for coal ash storage which fully encapsulates it with a more permanent barrier than a synthetic liner.
- **Private Well Issues** – It was stated that no one should have to question the safety of their drinking water.
- **Risk Classification** – All citizen comments supported the high-risk classification for the site. The National Ash Management Advisory Board stated that it may be appropriate for legislation to define the initiation of closure activities, but it should not stipulate a prescriptive approach with specific completion dates.
- **Surface Water** – All comments were concerned about seeps and leaks from the site flowing into the lake which serves as the drinking water supply for the area.

Note: The majority of the emails received appear to have been electronically generated with most messages being one of three form letters repeated.

IV. Attachments

- I. Public Notice of March 1, 2016 Meeting
- II. Public Meeting Sign-in Forms
- III. Public Meeting Speaker List
- IV. Audio File of Public Meeting
- V. Written Public Comments Received
- VI. Supporting documentation received during public hearing
- VII. Meeting Notes (NA)
- VIII. Public Comment Summary Spreadsheet
- IX. File of Public Meeting

Note: The email record is available from OITS.