



DENR – Coal Ash Update

House Environment Committee

March 26, 2015

Overview

- Implementation of EO 62 & Coal Ash Management Act
- Enforcement Actions
- Litigation
- Challenges

Implementation of EO 62 & CAMA

Actions Completed:

- Quantification of all coal combustion residuals in NC
- Identification & location of all water supply wells within ½ mile of compliance boundaries for all 14 facilities
- Ongoing sampling of wells within 1000 feet
 - Health Risk Evaluations prepared by DHHS
- Approval of groundwater assessment plans for all 14 facilities
- Identification & location of all unauthorized surface discharges
- Draft NPDES Wastewater and Stormwater Permits noticed for Allen, Riverbend, and Marshall facilities
 - Public hearing scheduled for April 8 in Lincolnton

Implementation of EO 62 & CAMA

Actions Completed:

- Draft NPDES Wastewater and Stormwater Permits for Sutton, Dan River, and Asheville to be noticed by April 30
- Draft Structural Fill Permits, Mine Reclamation Permits, and 401 Certifications for Brickhaven and Colon Mines noticed for public comment and hearing.
 - Hearings scheduled for April 13 and 16
- Comprehensive inspections of all dams and camera inspections of all associated piping
- All deadlines within EO 62 & CAMA have been met
- All documents posted on webpage / public process

Enforcement Activities

- Criminal action US DOJ v. Duke
- Holding Duke Accountable for violations of Clean Water Act - Joint NC DENR -EPA civil action for surface water violations to proceed after conclusion of criminal charges
- Holding Duke Accountable for Groundwater violations
 - State Only
 - NOVs issued for Sutton and Asheville
 - Penalty assessment of \$25,100,000 for Sutton groundwater
 - Further groundwater NOVs are possible

Litigation Activities

- Current State Civil Lawsuit
- All 14 Sites
- Lawsuits Requested
 - Elimination of Unauthorized Seeps
 - Assessment of Groundwater Contamination
- Impact of CAMA and Federal Coal Ash Rule currently being considered

Challenges

- Decanting Issue with US EPA
- CAMA Clarifications
 - New Law
 - Comprehensive and Fitting Into Existing Regulatory Structure
 - Need AG Clarification on several issues

Decanting Issue

- NC DENR tried to initiate decanting activities in August 2014
 - Within existing permit limits/no violation of water quality standards
 - Would reduce pressure on dams and hydraulic head on groundwater
 - Would allow for more expeditious excavation of ash
- EPA objected in September & required NPDES permit mods
 - No treatment of decant water required beyond existing permits
- Decanting of coal ash ponds delayed 6 to 9 months
- Will delay excavation activities by 6 to 9 months

AG's Office Clarifications

- CAMA: comprehensive, multi-disciplinary and inter-divisional
- Working into current regulatory/statutory structure
- Ensuring expediting coal ash removal

Looking Forward

- Public notice and comment on permits necessary to begin ash excavation at Riverbend, Asheville, Sutton, and Dan River
 - Decanting / dewatering of ponds
 - Initial ash excavation in Summer of 2015
- Public notice and comment on NPDES discharge and stormwater permits for remaining facilities
- Continued implementation and analysis of groundwater assessment plans
 - Prioritization of all facilities by December 2015