



N.C. Department of Environment and Natural Resources

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State environmental agency asks to withdraw from consent order with Duke Energy, maintains lawsuit

RALEIGH – The N.C. Department of Environment and Natural Resources has asked a judge to allow the state agency to withdraw its support for a proposed consent order regarding two of Duke Energy’s facilities with coal ash impoundments.

“We intend for our lawsuits against Duke Energy to move forward,” said John Skvarla, secretary of the N.C. Department of Environment and Natural Resources. “We will continue to hold the utility accountable for the cleanup of its coal ash impoundments through the lawsuits, the reopening of the permits and our on-going investigation.”

DENR is requesting to withdraw from the proposed consent order with Duke Energy regarding lawsuits the state filed against the utility in 2013 addressing unpermitted wastewater discharges and groundwater violations at the company’s Asheville Steam Electric Generating Plant in Buncombe County and the Riverbend Steam Station in Gaston County.

The terms of the consent order were negotiated based on long-standing interpretation of the state’s groundwater rules. Those interpretations were based on advice given by the North Carolina Attorney General in a 2009 advisory memorandum and confirmed by the Environmental Management Commission, or EMC, in a 2012 ruling. DENR is required to follow EMC rules and the commission’s interpretation of those rules. On March 6, Wake County Superior Court Judge Paul Ridgeway found that interpretation to be in error.

In view of the court’s order, DENR believes the best course of action at this time is to withdraw its support for the current consent order.

DENR filed the lawsuits against Duke Energy regarding the two ash impoundments in the spring of 2013. In July, the state agency proposed the consent order for the Asheville and Riverbend facilities that recommended the company address the environmental compliance issues and pay fines. Then on Feb. 20, the state asked the judge to postpone his consideration of the consent order. If DENR’s withdrawal from the consent order is permitted by the court, the lawsuits against the utility will continue.

The state had also filed lawsuits in August against the utility for similar environmental violations at the company’s 12 other facilities in North Carolina with coal ash impoundments. The state is continuing to pursue its legal action against Duke Energy for those facilities as well.

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