



## N.C. Department of Environment and Natural Resources

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### **DENR taking action against Duke Energy for violations of wastewater permit at Cape Fear plant**

*State estimates 61 million gallons of wastewater was discharged from ash ponds over several months*

**RALEIGH** – State environmental regulators have cited Duke Energy for violating the conditions of a wastewater permit by pumping an estimated 61 million gallons of wastewater from two coal ash impoundments at the company’s Cape Fear Steam Electric Plant to a tributary of the Cape Fear River.

The N.C. Department of Environment and Natural Resources issued Duke Energy a notice of violation Thursday for the permit violations after state officials discovered during a March 11 inspection that the company had been pumping wastewater from two of its coal ash ponds into an on-site canal that flows to a tributary and then the Cape Fear River. The pumps and attached hoses were set up in the ash impoundments but were not operating when state officials visited the plant last week. The pumping equipment has since been removed.

The March 11 visit to the Cape Fear plant was part of DENR’s detailed inspections of all Duke Energy’s facilities with coal ash impoundments. The inspections came about in the wake of the Feb. 2 coal ash spill at the Dan River plant. The inspections and detailed information the state is gathering about each facility will help inform the state’s future decision-making with regard to all the state’s coal ash impoundments.

State officials have notified municipalities downstream of the findings at the Cape Fear plant. No downstream municipalities have reported problems meeting EPA drinking water standards. However, DENR officials are collecting water samples in the Cape Fear River downstream of the plant to determine if surface water meets state water quality standards.

Duke Energy is permitted by the state to discharge treated wastewater from the ash ponds into the canal through vertical spillway pipes, known as risers. The coal ash impoundments and risers at the Cape Fear plant provide physical treatment that allows heavier, more concentrated ash residuals to settle to the bottom of the impoundments over time. However, the state’s investigation revealed that the pumping activities bypassed the riser structures and accelerated the drawing down of the impoundments so much that the impoundments no longer properly function as treatment systems.

According to Duke Energy, the company was using a temporary pumping system to lower water levels in two basins at the Cape Fear plant to perform upcoming maintenance.

“We were notified by phone in August that Duke Energy intended to conduct routine maintenance work at these ash ponds,” said Tom Reeder, director of the N.C. Division of Water Resources. “The state’s investigation revealed that the pumping activities on-going at this plant far exceeded what would reasonably be considered routine maintenance.”

Coal ash is produced when coal is burned to generate electricity. One of the ways to manage the coal ash generated by the coal burning process is to mix it with water and store it in ash ponds. The Division of Water Resources, which is part of DENR, regulates wastewater that is discharged from coal ash ponds to state waters, stream and lakes. The state wastewater permit for the Cape Fear facility was issued in 2011 and expires in 2016.

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The state estimates that as much as 61 million gallons of wastewater was pumped from two coal ash impoundments constructed in 1978 and 1985 into the on-site canal that empties into an unnamed tributary and eventually into the Cape Fear River. The state agency calculated its estimate based on log books Duke Energy maintained for the pumping activities, and

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aerial photographs showing the size of the impoundments before water had been removed. The company's pumping log books indicate that Duke Energy pumped from the 1978 impoundment periodically in January, February and March of 2014. The wastewater was pumped periodically from the 1985 impoundment in September, October, November and December of 2013, and also in January, February and March of 2014.

The Division of Water Resources inspects coal ash facilities at least once every two years but tries to inspect them more frequently. Prior to the March 11 inspection, staff with the Division of Water Resources inspected the Cape Fear plant Dec. 6, 2013. During the Dec. 6 visit, the state inspector noticed parts of disconnected pumping equipment on the berm next to the 1985 impoundment and the levels of that impoundment did not appear to be lower. When asked about the pump, Duke Energy told the state inspector they would need to lower water levels in the ash impoundment to conduct maintenance on the riser in the 1985 impoundment. Duke Energy did not mention to the inspector during the Dec. 6 inspection that pumping had been on-going in the months prior to the inspection. According to the pumping log, pumping was not happening at the site on Dec. 6 and had not yet started at the 1978 impoundment.

By law, the state agency can issue civil penalties for violations of state environmental laws but is required to give the company time to respond to the notice of violation. DENR requested that Duke Energy provide the state with a written response within 30 days of the notice of violation.

A copy of the notice of violation issued Thursday and a copy of the National Pollutant Discharge Elimination System wastewater permit can be found at the Department of Environment and Natural Resources' Dan River spill webpage at the top of the following page: <http://portal.ncdenr.org/web/guest/dan-river-documents>.

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