



N.C. Department of Environment and Natural Resources

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Contact: Susan Massengale; Jamie Kritzer
Phone: 919-810-5996; 919-247-6633

State agency issues violation notices, enforcement recommendations to Duke Energy for coal ash spill

RALEIGH – State regulators issued notices of violation to Duke Energy Friday with the possibility of fines for state environmental laws related to the coal ash spill at the company’s Dan River power plant in Eden.

The N.C. Department of Environment and Natural Resources, or DENR, issued the notices of violation Friday afternoon by electronic and regular mail to John Velte, Duke Energy’s environmental manager. The two separate notices of violation relate to violations of wastewater and stormwater regulations at the Dan River power plant in Eden.

“These are violations of state and federal law, and we are holding the utility accountable,” said John Skvarla, secretary of the N.C. Department of Environment and Natural Resources.

Duke Energy discovered the coal ash spill Feb. 2 after a 48-inch stormwater pipe beneath a coal ash pond at the Dan River power plant ruptured. Before it could be stopped, the spill sent between 24 million and 27 million gallons of wastewater and as much as 39,000 tons of coal combustion residuals from the ash pond to the Dan River. Officials say coal combustion residuals from the spill have been identified, in varying depths of the river, as far as 70 miles downstream from the coal ash spill.

One notice of violation DENR issued Friday states that Duke Energy did not apply for or obtain a National Pollutant Discharge Elimination System, or NPDES, stormwater permit required for stormwater discharges from the Dan River site. By state law, an NPDES permit is required to discharge stormwater from steam electric power generating facilities to state waters. DENR directed Duke Energy to respond in writing within 30 calendar days of receiving the notice. Further enforcement actions, including a fine, could be taken for these violations, the notice states.

DENR’s second notice of violation comes with a recommendation for fines. The second notice of violation related to the Dan River Steam Station cites Duke Energy for the following violations of water quality laws, rules and permit conditions in association with the management of the coal ash pond and the spill:

- Making outlets to waters of the state without a permit via the 48-inch stormwater pipe and a separate, 36-inch concrete stormwater pipe that also runs beneath the same coal ash pond. Wastewater from the coal ash pond discharged from both pipes to the Dan River.
- Failure to operate and maintain the ash pond such that any discharge from it was controlled and conveyed to the river in compliance with the company’s NPDES wastewater permit. The NPDES permit allows the utility to discharge coal ash basin water from storage ponds at the Eden facility. On Tuesday, DENR announced its plans to modify the company’s NPDES permit, which could require Duke Energy to move coal ash from the basins at the Dan River power plant to a lined landfill.
- Failure to use or dispose of solids removed from the treatment process to prevent pollutants from entering waters of the state.
- Failure to take all reasonable steps to prevent any discharge in violation of the NPDES permit with the reasonable likelihood of affecting human health or the environment.

Jamie Kritzer, Public Information Officer
Phone: (919) 707-8602

<http://www.facebook.com/ncdenr>

1601 Mail Service Center, Raleigh, NC 27699-1601
[RSS](#)

Jamie.Kritzer@ncdenr.gov

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- Violations of the water quality standards for class C waters, the most common classification of surface waters in North Carolina. Class C waters are considered to support swimming and fishing.

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DENR's investigation of the spill continues, and the results of the state's investigation may carry other penalties.

As part of its investigation and assessment of the spill's impacts, the state environmental agency continues to conduct water quality, sediment and fish sampling upstream and downstream of the spill. Those results are publicized as soon as they are available. DENR's updates on the spill, including water quality sampling results, news releases and information about coal ash, can be found on its website on the "Dan River Spill" page:

<http://portal.ncdenr.org/web/guest/dan-river-spill>.

All of DENR's notices of violation issued Friday can be found on the top part of the "Dan River Spill" web page.

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