



N.C. Department of Environment and Natural Resources

Release: Immediate
Date: June 9, 2015

Contact: Sarah Young; Crystal Feldman
Phone: 919-707-9033; 919-707-8624

State orders utility to halt spread of coal ash contamination near Wilmington plant

RALEIGH – State officials are ordering Duke Energy to stop the continued spread of coal ash contamination in the groundwater near its Wilmington power plant.

The N.C. Department of Environment and Natural Resources issued Duke Energy a [notice of regulatory requirement](#) Tuesday after recent tests showed high levels of boron, a metal that is a recognized indicator of coal ash contamination, in monitoring wells at or beyond the facility's compliance boundary as well as three water supply wells within a half mile of the facility. The levels of boron in the water supply wells did not exceed state groundwater standards but were much higher than concentrations found in background wells in the area.

“The levels of boron in these wells are a clear indication that coal ash constituents from Duke Energy's coal ash impoundments have infiltrated the groundwater supply,” said Tom Reeder, an assistant secretary for DENR. “We are ordering Duke Energy to immediately take corrective actions to prevent further migration of coal ash contaminants.”

The utility has until July 9 to control and prevent further migration of coal ash contaminants and submit a plan to monitor for the effectiveness of its actions. Failure to meet the state's requirements may result in a fine.

The state fined Duke Energy \$25.1 million on March 10 for violations of groundwater standards at the plant; it is the state's largest-ever penalty for environmental damages. The order issued today is consistent with Governor Pat McCrory's Executive Order 62, which instructs DENR to take appropriate action to halt any violations of the law in order to protect groundwater and drinking water from the impacts of coal ash. The notice of regulatory requirement complements the \$25.1 million fine by ordering Duke Energy to stop the further spread of any groundwater contamination. DENR's groundwater assessments of all Duke Energy's coal ash facilities, including Sutton, are ongoing. The agency will take action, as needed, if other problems are detected.

DENR RETAINS SPECIAL COUNSEL

DENR has retained Kilpatrick Townsend & Stockton LLP for legal services related to Duke Energy's decision to contest the \$25.1 million fine DENR issued to the utility in March for groundwater contamination at its Sutton Plant near Wilmington (*Duke Energy Progress, Inc. v N.C. Department of Environment and Natural Resources, Division of Water Resources* (No. 15-HER-02581)). The law firm, together with the N.C. Attorney General's office, will represent DENR through all phases of the litigation.

“It is evident that Duke Energy is choosing to spend its virtually limitless legal resources to fight fines for clearly documented groundwater contamination stemming from its coal ash impoundments near the Sutton Plant,” said DENR's General Counsel Sam Hayes. “In addition to the Attorney General's office, the state has hired outside counsel to form the best legal team possible to make sure Duke Energy is held accountable for its assault on the environment.”

It is not uncommon for the state to retain special counsel for complex cases. The governor is authorized pursuant to N.C. Gen. Stat. § 147-17(a) to employ such special counsel as he deems necessary to represent the state's interests. Similarly, the Attorney General's Office retained Resolution Law Group in a suit the state brought against the Tennessee Valley Authority related to air pollution in 2006.

###

Jamie Kritzer, Public Information Officer
Phone: (919) 707-8602
1601 Mail Service Center, Raleigh, NC 27699-1601

Jamie.Kritzer@ncdenr.gov
Facebook: <http://www.facebook.com/ncdenr>
RSS feed: <http://portal.ncdenr.org/web/opa/news-releases-rss>
Twitter: <http://twitter.com/NCDENR>