Duke Energy Forced To Move Away From River

MICHAEL BIESECKER, Associated Press

RALEIGH, N.C. (AP) — North Carolina regulators say they may force Duke Energy to move a pair of leaky coal ash dumps, more than three weeks after a massive spill coated 70 miles of the Dan River in toxic gray sludge.

The state Department of Environment and Natural Resources said Tuesday it plans to reopen Duke's wastewater discharge permit and consider changes that would require the company to remove its remaining coal ash from the site at Eden near the Virginia line to a lined landfill away from the river.

The agency's statement makes no indication whether similar permitting changes are under consideration for Duke's other 13 dumps in North Carolina.

"We are taking swift and appropriate action to address a catastrophic failure at the Dan River power plant," said Tom Reeder, director of the N.C. Division of Water Resources. "Based on our investigation of this spill, one option under consideration right now is to eliminate all coal ash waste discharges coming from this facility and require that Duke Energy move the coal ash waste stored onsite to a lined landfill away from any waterways."

The state agency is required by law to give Duke Energy 60 days to respond to the decision to reopen the discharge permit.

"We will respond to the state and work to determine the most appropriate resolution," said Duke spokeswoman Lisa Hoffmann. "As we have stated, we're taking another look at how we manage ash basins."

If the state does move to force Duke to relocate its coal ash pits in Eden, it would mark the first time state regulators have required the company to move its toxic waste away from rivers or lakes.

After regulators failed to act for years on evidence of groundwater contamination leeching from Duke's unlined ash dumps, a coalition of citizens groups tried in 2013 to use the U.S. Clean Water Act to sue Duke in federal court last year over the company's groundwater pollution.

The state agency then intervened three times to use its authority to issue violations and take the case to state court, where officials quickly negotiated a settlement that would have fined Duke $99,111 with no requirement that the $50 billion company actually clean up its pollution. The citizens groups opposed the deal, saying it shielded Duke from far harsher penalties it might have faced in federal court.

After The Associated Press reported on the proposed settlement two weeks ago, the state asked a judge to put the deal on hold. Federal prosecutors have opened a criminal investigation in the aftermath of the spill, issuing more than 20 subpoenas to Duke and state regulators.

As recently as last week, Gov. Pat McCrory and state environmental Sec. John Skvarla had suggested that requiring Duke to move its coal ash away from the state's waterways might actually do more harm than good. McCrory worked at Duke Energy 28 years before running for governor.

Pressed by the AP and others, Skvarla's agency was unable to provide a single real-world example or academic study showing that the removal of toxic coal ash was harmful to the environment.

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