NC Governor Briefed On Coal Ash Settlement

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RALEIGH, N.C. (AP) — North Carolina's top environmental official said Monday that he briefed Gov. Pat McCrory before intervening in lawsuits against Duke Energy, resulting in a negotiated settlement that fined the $50 billion corporation $99,111 to resolve violations over groundwater contamination leaching from two huge coal ash dumps.

Environmentalists criticized the modest fines as a sweetheart deal that included no requirement to force the nation's largest electricity provider to actually clean up its pollution.

The state has now put its proposed settlement on hold following the massive Feb. 2 spill triggered by a pipe collapse at one of Duke's coal ash dumps adjacent to the Dan River, which turned cloudy and gray for miles.

State Department of Environment and Natural Resources Secretary John Skvarla told lawmakers at an oversight hearing that he spoke with the governor before his agency used its regulatory authority to intervene in lawsuits filed by a coalition of environmental groups under the federal Clean Water Act.

"When I went to brief Gov. McCrory about the initiation of those suits, he said two things," Skvarla recounted. "He said protect the environment, and do the right thing."

But Skvarla maintains he never told McCrory, a Republican who worked for Duke for 28 years, about the proposed terms of the settlement negotiated by his agency.

The citizens groups that originally tried to sue Duke opposed the state's deal, saying it shielded the company from far harsher penalties it might have faced in federal court had the state not intervened.

Skvarla bristled at coverage of the issue by The Associated Press and other news media outlets for suggesting his agency's intervention "blocked" the environmental groups from holding Duke accountable. He said those advocates are still free to voice their concerns in court, if a judge allows.

Skvarla, who previously declined an interview request from The AP, complained that reporters contacting his agency for comment weren't interested in getting "the rest of the story."

"Nobody has called and asked sufficient questions," Skvarla lamented. "There were lots of calls, but all they were asking for was quotes."

Skvarla declined to say what he considers sufficient questions or why he feels his agency, which has issued numerous news releases in the two weeks since the spill, is unable to convey its perspective to the public.

Asked if he thought a $99,111 fine with no requirement that Duke clean up its coal ash dumps was a settlement in the best interests of the people of North Carolina, Skvarla suggested the now-scuttled deal was better than getting caught in a protracted legal fight against the energy giant.

"We are not dictators, we are not pharaohs," said Skvarla, who questioned whether Duke would have ever agreed to tougher terms.

Federal prosecutors served Skvarla's agency and Duke Energy with grand jury subpoenas demanding records as part of a federal investigation into the spill, which contaminated the river so badly public health officials advised against prolonged contact with the water or eating fish.

The state announced Monday that it will begin testing for contaminates in John H. Kerr Reservoir in Virginia, roughly 80 miles downstream from the spill site, after a sheen of gray ash was seen on the surface.

McCrory has maintained close ties to Duke since leaving the company to launch his first campaign for governor in 2008.

Campaign finance reports show Duke Energy, its political action committee, executives and their immediate families have donated at least $1.1 million to McCrory's campaign and affiliated groups that spent money on TV ads, mailings and events to support him.

After becoming governor on his second try in 2012, McCrory gained authority to make numerous decisions that could affect Duke's bottom line, including making appointments at the state commission that approves utility rates.

On a state ethics form last year, the governor indicated that his investment portfolio includes holdings of Duke stock valued in excess of $10,000, though he is under no legal obligation to disclose the specific amount and refused to do so as recently as last week.

McCrory has said he sees no conflict of interest in his role as elected official and corporate shareholder.

George Everett, Duke's director of environmental and legislative affairs, told state lawmakers Monday that the company is sorry about the spill and will be accountable for the cleanup. But beyond scooping out a big pile of coal ash from the Dan at its plant, it is unclear how the tens of thousands of tons of toxic material can be removed now that it has settled to the bottom of the river for miles downstream.

Tom Reeder, the state's director of water quality, said testing shows the levels of arsenic, lead and other contaminates that spiked in the immediate wake of

the spill are returning to levels considered safe for humans. However he conceded it may be too late for some aquatic species living in the river and worried about the long-term effects of the coal ash in the Dan.

"If you're a mollusk and covered with ash then, yeah, you're gonna die," Reeder said.

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