

Judge Rules On Ash Dump Cleanup

MITCH WEISS, Associated Press

CHARLOTTE, N.C. (AP) — Duke Energy must take immediate action to eliminate sources of groundwater contamination at its coal ash dumps, a judge said Thursday in a ruling that came from a complaint filed before a massive spill from one of the utility's plants coated 70 miles of a North Carolina river in toxic gray sludge.

North Carolina has 14 coal-fired plants and at least 32 ash dumps spread across the state - all stored in unlined, leaky pits near public waterways. Environmental groups said in a complaint that despite repeated calls - and monitoring wells that showed contaminated groundwater at the ash dumps - regulators failed to take enforcement action.

Wake County Superior Court Judge Paul Ridgeway said state regulators have failed to properly apply state law to the toxic ash pits.

Environmental groups praised the ruling.

"This ruling enforces a common-sense requirement in existing law - before you can clean up contaminated groundwater, you first must stop the source of the contamination," said D.J. Gerken, a senior attorney with the Southern Environmental Law Center, which filed an action in October, 2012, to force regulators to enforce the state's groundwater protection laws.

Duke spokesman Dave Scanzoni said the company would examine the judge's ruling.

"We're considering this ruling as we take another look at our management of coal ash basins," he said in an email.

The state Department of Environment and Natural Resources said in an email that it also would review the court's decision.

This case began in October, 2012, when the environmental law center on behalf of several groups asked the state Environment Management Commission for a ruling to clarify how the state was applying rules for groundwater contamination at waste dumps. The 15-member commission - which is part of DENR - is responsible for adopting rules to protect the state's air and water resources.

For years, environmental groups pushed the department to enforce state water-quality standards to halt groundwater contamination at coal-ash dumps. But they say that coordination and cooperation has become even more overt since the January 2013 inauguration of Gov. Pat McCrory, a pro-business Republican who worked at Duke for 28 years.

Judge Rules On Ash Dump Cleanup

Published on Chem.Info (<http://www.chem.info>)

The SELC wanted the commission to order regulators to force Duke to take immediate corrective action when toxic chemicals in the groundwater exceeded water quality standards "at or beyond the compliance boundary."

In its Dec. 20, 2012 decision, the commission interpreted state rules to mean contaminated groundwater didn't have to be cleaned up until they assessed the problem.

But Ridgeway's order reversed that decision. He said that violators "must take immediate action to eliminate sources of contamination that cause a concentration of a substance in excess of groundwater quality standards."

Gerken said Duke - and regulators - will have to follow the judge's ruling.

"This is now the standard that Duke must meet at all of these ash ponds...We will certainly be using this ruling as the metric by which we measure any attempt at remediation at these facilities," he said.

Over the last week, state regulators have cited Duke power plants for lacking required storm water permits.

State regulators indicated they had been aware since at least 2010 that some Duke Energy facilities lacked the required storm water permits, yet took no enforcement action until after last month's disaster.

Such a permit may have required testing and inspections that could have given early warning something was wrong with the pipe running under the huge coal ash dump at Eden before it collapsed, sending sludge into the Dan River. Tests performed on the water draining from a nearby pipe after the spill showed high concentrations of arsenic, an indicator that contaminated groundwater was leaking in from the dump above.

The violations were issued just days after The Associated Press filed a public records request for a copy of Duke's storm water permit for the Dan River plant. The agency responded that no such permit existed.

On Thursday, DENR announced more action against Duke -this time for problems at dams at two ash dumps at the Cliffside Steam Station in Rutherford County.

DENR said it wants Duke to provide plans for repairing the dangerous dams.

Source URL (retrieved on 07/22/2014 - 4:52pm):

<http://www.chem.info/news/2014/03/judge-rules-ash-dump-cleanup>