

EPA & Duke Reach A Deal Over Coal Ash Cleanup

MICHAEL BIESECKER, MITCH WEISS, Associated Press

RALEIGH, N.C. (AP) — Federal environmental officials said Thursday that they have reached a deal with Duke Energy to clean up its mess from a massive coal ash spill into the Dan River that coated 70 miles of the waterway in North Carolina and Virginia with toxic gray sludge.

The U.S. Environmental Protection Agency announced it had finalized an enforceable agreement with the nation's largest electricity company over the Feb. 2 spill that was triggered when a pipe collapsed at Duke's Dan River Steam Station.

EPA will oversee the cleanup in consultation with federal wildlife officials under provisions in the Superfund law. Duke will reimburse the federal government for its oversight costs, including those incurred in the emergency response to the spill.

"EPA will work with Duke Energy to ensure that cleanup at the site, and affected areas, is comprehensive based on sound scientific and ecological principles, complies with all Federal and State environmental standards, and moves as quickly as possible," said Heather McTeer Toney, the EPA's regional administrator based in Atlanta. "Protection of public health and safety remains a primary concern, along with the long-term ecological health of the Dan River."

The agreement makes no mention of any fines imposed against Duke, which has its headquarters in Charlotte. EPA did not immediately respond to questions Thursday about whether any civil penalties could still be forthcoming.

Duke called the agreement "a significant milestone" in the company's "ongoing efforts to restore and monitor the Dan River and surrounding environment. "

"Duke Energy is fully committed to the river's long-term health and well-being. River water quality has returned to normal and drinking water has remained safe," spokesman Dave Scanzoni said Thursday in an email.

Scanzoni didn't immediately respond to questions about the EPA's statement in the agreement, which said that without the cleanup, the spill would continue to pose a "substantial threat to public health" and the environment.

Frank Holleman, senior attorney for the Southern Environmental Law Center, said Duke has tried to downplay the effects of the spill, acting like "it was no big deal." But he said the EPA doesn't enter into a Superfund agreement "when there is nothing to be concerned about."

Superfund is the name given to the environmental program established to address abandoned hazardous waste sites.

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"The Superfund statute isn't involved unless it's something serious. Superfund isn't invoked when someone just spills sand and dirt into the river. The very fact that the EPA is using the Superfund statute underscores the serious nature of what happened," he said

Recent testing of water samples from the river show the level of contamination decreased quickly after the spill as the ash and the toxic heavy metals it contains sank to the bottom. Duke has already begun vacuuming out three large deposits of ash found in the river, including a pocket that collected at the bottom of a dam in Danville, Va.

The byproduct left behind when coal is burned to generate electricity, the ash contains numerous toxic substances, including arsenic, selenium, chromium, thallium, mercury and lead. Wildlife officials will be collecting tissue samples from fish in the Dan to monitor whether the contamination works its way up the food chain. Public health officials in both states have advised residents not to eat fish caught downstream of the spill site.

"Conditions resulting from the coal ash release at the Dan River Steam Station present a substantial threat to public health or welfare and the environment if not properly managed," the agency states in the agreement signed Thursday. "The coal ash contains hazardous substances, which may be re-suspended in the water column, and can have impact on the aquatic environment. Human exposure may occur should large deposits of ash accumulate on areas used for recreation."

The agreement warns that any delay in the cleanup could cause serious problems.

"Actual or threatened releases of hazardous substances from this site, if not addressed by implementing the response action selected in this Action Memorandum, may present an imminent and substantial endangerment to the public health, welfare or the environment," the agreement says.

The agreement does not appear to resolve a criminal investigation into the spill and the company's close relationships with North Carolina politicians and regulators. Federal prosecutors issued at least 23 grand jury subpoenas after the spill to Duke executives and state officials.

Separately, North Carolina lawmakers are debating a measure about what to do with Duke's 33 ash dumps at 14 power plants in North Carolina, which are located along rivers and lakes that cities and towns rely on for drinking water. State environmental officials say all of Duke's unlined waste pits, which contain more than 100 million tons of ash, are contaminating groundwater.

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