

# Tar Heel Turmoil



In early February, a failed storm water pipe running under a Duke Energy coal ash pond sent up to 39,000 tons of ash mixed with 27 million gal of

contaminated water into the Dan River, which stretches more than 200 miles from North Carolina, through Virginia and into the Atlantic Ocean. The pipe gushed toxic ash and wastewater for days before the flow was quelled.

The news of the spill itself, however, was just the first revelation to come out of the Dan River disaster. Environmentalists and regulators had been saying for years that Duke's 33 ash ponds in North Carolina could eventually cause problems, and in recent weeks there have been reports hinting at skulduggery.

Shortly after the spill, the Associated Press reported that, over the past year, the North Carolina Department of Environment and Natural Resources (DENR) has halted three different Clean Water Act (CWA) lawsuits aimed at forcing Duke Energy to clean up the coal ash pits. The state agency asserted its own authority in enforcing the CWA and took control of environmental enforcement at each of Duke's remaining North Carolina coal ash ponds; that enforcement came in the form of modest fines, but no actual cleanup of the ponds.

Clean water advocates charged that North Carolina Gov. Pat McCrory, who worked for Duke for 28 years, cooperated with his former employer to ensure minor environmental penalties; McCrory defended his administration by saying that it was the first in North Carolina history to take legal action against the utility regarding coal ash ponds and would continue to do so.

More recent news, however, has the DENR abruptly cracking down on Duke. In early March, the DENR filed two "notices of violation" to the Dan River Steam Station, which threatened \$25,000-per-day fines for discharging water into the river without a permit and undisclosed fines for other water quality violations. The state issued similar notices to five other Duke plants because the company never applied for or received storm water permits.

Environmental advocates said the state has known for years that the sites in question lacked storm water permits. When asked why the state was suddenly cracking the regulatory whip, DENR spokeswoman Bridget Munger said the Dan River spill had focused the state's attention on the issue of ash ponds, according to WRAL.com.

This is likely not the last we'll hear of the intrigue surrounding the Dan River spill, but perhaps something good can come out of this if a brighter light is shined on regulatory activity across the nation. Anyone who has to pay for environmental regulations generally is not a fan of them; they create extra expenses and extra work, and some argue that they give too much power to those enforcing them—or, conversely, that the regulators are not powerful enough to face down lobbies and political juggernauts. But they are there for a reason: Despite our best intentions, it's not always clear how much harm we might be doing to natural habitats and watersheds in the process of industry. We need to find a middle ground to allow for industry and innovation while ensuring that the natural world is not harmed along the way. **SWS**

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