DENR – Coal Ash Update

House Environment Committee
March 26, 2015
Overview

• Implementation of EO 62 & Coal Ash Management Act
• Enforcement Actions
• Litigation
• Challenges
Implementation of EO 62 & CAMA

Actions Completed:
• Quantification of all coal combustion residuals in NC
• Identification & location of all water supply wells within ½ mile of compliance boundaries for all 14 facilities
• Ongoing sampling of wells within 1000 feet
  — Health Risk Evaluations prepared by DHHS
• Approval of groundwater assessment plans for all 14 facilities
• Identification & location of all unauthorized surface discharges
• Draft NPDES Wastewater and Stormwater Permits noticed for Allen, Riverbend, and Marshall facilities
  — Public hearing scheduled for April 8 in Lincolnton
Implementation of EO 62 & CAMA

Actions Completed:

• Draft NPDES Wastewater and Stormwater Permits for Sutton, Dan River, and Asheville to be noticed by April 30

• Draft Structural Fill Permits, Mine Reclamation Permits, and 401 Certifications for Brickhaven and Colon Mines noticed for public comment and hearing.
  – Hearings scheduled for April 13 and 16

• Comprehensive inspections of all dams and camera inspections of all associated piping

• All deadlines within EO 62 & CAMA have been met

• All documents posted on webpage / public process
Enforcement Activities

• Criminal action US DOJ v. Duke

• Holding Duke Accountable for violations of Clean Water Act - Joint NC DENR -EPA civil action for surface water violations to proceed after conclusion of criminal charges

• Holding Duke Accountable for Groundwater violations
  – State Only
  – NOVs issued for Sutton and Asheville
  – Penalty assessment of $25,100,000 for Sutton groundwater
  – Further groundwater NOVs are possible
Litigation Activities

• Current State Civil Lawsuit
• All 14 Sites
• Lawsuits Requested
  – Elimination of Unauthorized Seeps
  – Assessment of Groundwater Contamination
• Impact of CAMA and Federal Coal Ash Rule currently being considered
Challenges

• Decanting Issue with US EPA
• CAMA Clarifications
  – New Law
  – Comprehensive and Fitting Into Existing Regulatory Structure
    • Need AG Clarification on several issues
Decanting Issue

• NC DENR tried to initiate decanting activities in August 2014
  – Within existing permit limits/no violation of water quality standards
  – Would reduce pressure on dams and hydraulic head on groundwater
  – Would allow for more expeditious excavation of ash
• EPA objected in September & required NPDES permit mods
  – No treatment of decant water required beyond existing permits
• Decanting of coal ash ponds delayed 6 to 9 months
• Will delay excavation activities by 6 to 9 months
AG’s Office Clarifications

• CAMA: comprehensive, multi-disciplinary and inter-divisional
• Working into current regulatory/statutory structure
• Ensuring expediting coal ash removal
Looking Forward

• Public notice and comment on permits necessary to begin ash excavation at Riverbend, Asheville, Sutton, and Dan River
  – Decanting / dewatering of ponds
  – Initial ash excavation in Summer of 2015
• Public notice and comment on NPDES discharge and stormwater permits for remaining facilities
• Continued implementation and analysis of groundwater assessment plans
  – Prioritization of all facilities by December 2015