

Irresponsible Coal Ash Bill is Bad for the Environment and Delays Alternate Water Access for Citizens

Raleigh, N.C.
May 25, 2016

Governor Pat McCrory reiterated his intent to veto legislation that undermines environmental protections, bypasses the state's ability to enforce the law, and is unconstitutional. Senate Bill 71, which was written in secret and rushed to a vote by House lawmakers, would undermine the environmental protections contained in the state's coal ash management law.

"It's disappointing to see legislation of this magnitude drafted behind closed doors," said Governor McCrory. **"This bill is a blatant attempt to bypass state regulators and seek more favorable treatment from an unaccountable and unneeded bureaucracy that further delays the cleanup process."**

After extensive scientific review and a robust public participation process, the state environmental department established classifications that protect public health and the environment by ensuring the safe cleanup and closure of every coal ash pond in North Carolina. In addition, any new landfills will be subject to an environmental justice review.

The department also recommended that the classifications be reevaluated provided that Duke Energy makes a permanent alternate water supply available to those at risk and completes required dam repairs. The schedule the department established would have required the work to be done in 18 months.

In addition, Senate Bill 71 is unconstitutional and ignores the decisive 6-1 North Carolina Supreme Court ruling in *McCrory v. Berger* that said that governors must have enough control over commissions to perform their constitutional duties. The Court also found that governors must have the ability to appoint commissioners, to supervise their day-to-day activities, and to remove them from office. Contrary to misrepresentations by legislators and legislative staff, *McCrory v. Berger* was not just about appointments. If it were, the Supreme Court would not have addressed removal and supervision in the opinion.