

Conservation Groups Obtain Agreement Requiring Coal Ash Removal from Duke Energy's Buck Plant

Press Release

October 5, 2016

Yadkin Riverkeeper and Waterkeeper Alliance, represented by the Southern Environmental Law Center, have reached a [settlement](#) with Duke Energy that requires the removal of all the coal ash from the unlined, leaking coal ash pits at Duke Energy's Buck facility on the Yadkin River in Salisbury, North Carolina. Under the settlement agreement, Duke Energy must remove all the coal ash and either recycle it into concrete or put it in a modern lined landfill away from the Yadkin River and separated from groundwater and drinking water sources. Duke Energy plans to set up a concrete recycling facility at the Buck site much like the ones serving South Carolina utilities which entered into similar settlements with conservation groups represented by the Southern Environmental Law Center in 2012 and 2013.

"After two years of fighting the largest utility in the country, the Dukeville community will finally be assured of the two things we have been fighting for: a long-term supply of clean drinking water and meaningful ash clean up," said Yadkin Riverkeeper, Will Scott. "After years of litigation and controversy, Duke Energy has finally entered into a binding agreement that requires them to do what the community and Riverkeepers have been asking all along -- remove their ash from unlined pits sitting deep in groundwater."

This settlement was reached in federal litigation brought by the Southern Environmental Law Center in the U.S. District Court for the Middle District of North Carolina against Duke Energy on behalf of the Riverkeeper and Waterkeeper Alliance. North Carolina's Department of Environmental Quality is not a party to that litigation and is not a party to the settlement. In response to litigation and advocacy by conservation groups in North and South Carolina, Duke Energy is now required to excavate the coal ash from 10 of its 16 coal ash storage locations in the two states. Litigation continues as to Duke Energy's unlined and polluting coal ash storage at its Mayo and Roxboro facilities in

Person County, North Carolina; its Cliffside facility on the Broad River in North Carolina; its Allen and Marshall facilities on the Catawba River near Charlotte; and its Belews Creek facility in Stokes County, North Carolina.

“This settlement is the latest in a long line of agreements we’ve obtained from utilities to abandon dangerous, unlined storage of coal ash for safe, dry lined storage or recycling for concrete,” said Frank Holleman, senior attorney at the Southern Environmental Law Center who argued the case before the federal court. “Duke Energy’s finally done the right thing for this community by entering into a binding agreement that requires the coal ash to be removed and recycled, just as has been done in South Carolina. We hope that Duke Energy and other utilities will take the same steps to protect other communities and rivers from coal ash pollution. Southeastern utilities are now excavating 60 million tons of coal ash from leaking, unlined pits throughout the region.”

Duke Energy stores approximately 5 million tons of coal ash at the Buck facility. The site has been polluting groundwater and the Yadkin River for years. The conservation groups have been pressing litigation against Duke Energy for its coal ash storage at the Buck site since 2013, and the federal suit was filed in 2014. The conservation groups were able to bring a federal court enforcement action because the North Carolina Department of Environmental Quality had not taken action against all of Duke Energy’s coal ash pollution violations at Buck. In 2015, the federal court found that it could not conclude that DEQ was diligently prosecuting Duke Energy in good faith for its Buck pollution.

“Coal ash pollution is hurting rivers across the country, and we are fighting to require Duke Energy and other utilities to take responsibility for their dangerous storage of coal ash,” said Pete Harrison, staff attorney for Waterkeeper Alliance. “At Buck, we have fought hand-in-hand with local citizens, and finally Duke Energy is required to recycle this ash for concrete or remove it to safe storage. There was a Riverkeeper working at every one of the eight sites across North Carolina that Duke Energy has agreed to clean up. Waterkeeper Alliance and Yadkin Riverkeeper were the first ones to sample wells around Buck and show that there were dangerous levels of metals associated with coal ash. Buck is an example of what we expect to see utilities across the countries doing in the coming years: moving their ash to avoid being sanctioned by their own investors.”

For years, South Carolina utilities have been pursuing similar solutions to unlined coal ash storage pits in that state. This settlement agreement is very similar to others that have reached with South Carolina utilities. Today, a concrete reprocessing facility is

being operated to recycle the ash from Santee Cooper's unlined coal ash pits in South Carolina. Santee Cooper settled with conservation groups in 2013.

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About the Yadkin Riverkeeper®:

Yadkin Riverkeeper's mission is to respect, protect and improve the Yadkin Pee Dee River Basin through education, advocacy and action. It is aimed at creating a clean and healthy river that sustains life and is cherished by its people. For more information, visit YadkinRiverkeeper.org or call 336-722-4949.

About Waterkeeper Alliance

Waterkeeper Alliance strengthens and grows a global network of grassroots leaders protecting everyone's right to clean water. We're a global movement uniting over 300 Waterkeeper Organizations and Affiliates around the world and focusing citizen advocacy on issues that affect our waterways, from pollution to climate change. Waterkeepers patrol and protect more than 2.4 million square miles of rivers, streams and coastlines across 34 countries in the Americas, Europe, Australia, Asia and Africa. We preserve and protect water by connecting local Waterkeeper organizations worldwide. Our goal is drinkable, fishable, swimmable water everywhere.

About the Southern Environmental Law Center

The Southern Environmental Law Center is a regional nonprofit using the power of the law to protect the health and environment of the Southeast (Virginia, Tennessee, North and South Carolina, Georgia, and Alabama). Founded in 1986, SELC's team of nearly 60 legal and policy experts represent more than 100 partner groups on issues of climate change and energy, air and water quality, forests, the coast and wetlands, transportation, and land use. www.SouthernEnvironment.org