

Michael T. Jacobs, Chairman

Natalie K. Birdwell, Executive Director

December 10, 2014

MEMORANDUM

TO: ENVIRONMENTAL REVIEW COMMISSION
The Honorable Brent Jackson, Chairman
The Honorable Ruth Samuelson, Co-Chairman
The Honorable Mike Hager, Co-Chairman

FROM: Michael Jacobs, Chairman, Coal Ash Management Commission
Natalie Birdwell, Executive Director

SUBJECT: North Carolina Coal Ash Management Commission Quarterly Report Q2 2014

DATE: December 10, 2014

Pursuant to Session Law 2014-122, Senate Bill 729 (§130A-309.202 Section (m) Reports), the North Carolina Coal Ash Management Commission (Commission) shall submit quarterly written reports as to its operation, activities, programs, and progress to the Environmental Review Commission. The attached report satisfies this reporting requirement.

If you have questions or need additional information, please contact me at 919.703.7116 or via email at Michael.Jacobs@CAMC.NC.gov.

cc: Michael A. Sprayberry, Director, NC Division of Emergency Management
Lisa Schneider, CAMC Legal Advisor

MAILING ADDRESS
4218 Mail Service Center
Raleigh NC 27699-4218
www.readync.org
www.ncdps.gov

OFFICE LOCATION
4105 Reedy Creek Road
Raleigh, NC 27607
Telephone: (919) 825-2500
Fax: (919) 825-2685

North Carolina Coal Ash Management Commission

Quarterly Report

to the Environmental Review Commission
on the North Carolina Coal Ash Management Commission
operation, activities, programs and progress.

December 10, 2014

This report is submitted to meet the requirements of Session Law 2014-122, Senate Bill 729 (§130A-309.202 Section (m) Reports) which requires quarterly reporting on the NC Coal Ash Management Commission operation, activities, programs and progress. This report covers actions taken by the NC Coal Ash Management Commission during Quarter 2 of the 2014-2015 fiscal year.

Commission Membership

The 8 individuals listed in Exhibit A were sworn in by Supreme Court Justice Paul Newby at the first CAMC meeting, which was held on November 14. One of the commissioners appointed by the Senate, Scott Flanagan, submitted his resignation on October 31 prior to the first meeting. That seat is currently vacant.

On November 13, Governor McCrory and two former governors, James Martin and James Hunt, filed a lawsuit to have the commissioners appointed by the General Assembly removed from the Commission, citing the nature of their appointment as a breach in the separation of powers between the executive and legislative branches of government. The Commission plans to continue to conduct business in accordance with Senate Bill 729 unless/until notified otherwise.

Staffing

In order to conduct its operations, the Commission needs to retain staff members. This has been the first priority of the Chairman. Due to the lengthy process for hiring government employees, only two staff members have been retained to date. One was retained on a contractor basis, and the other was just retained as a full-time Commission employee two days ago. The philosophy for staff recruitment is to bring on board the most talented people possible, with the most relevant backgrounds. We are confident that this objective will be achieved; however, we will likely use contractors to fill our legal and engineering/scientific staff needs due to the multiple skill sets required in each of those disciplines.

Lisa Schneider was retained on a contract basis to work two days a week as the legal advisor to the CAMC. Ms. Schneider has extensive experience in public policy and government, having worked in the N.C. Attorney General's Office (Environmental Division) as well as serving as general counsel to the N.C. Treasurer. She worked extensively on policy in dealing with the environmental issues and beneficial reuse of hog waste while in the Attorney General's office.

Within the past week, we have hired Natalie Birdwell as the executive director of the CAMC. Ms. Birdwell is experienced in the energy sector, in managing government staff, highly knowledgeable of the DENR organization and the individuals there who the CAMC will coordinate with, and has not served in the environmental regulatory area.

We have determined that there is not likely to be a single engineer that will have the requisite skill sets to serve as our sole advisor on technical matters. The Commission needs access to independent expertise in at least two areas that do not overlap frequently in the engineering world: groundwater and dams. Therefore, we anticipate contracting with two or more engineers to serve, as appropriate, as subject matter experts as needed.

The other two position job descriptions will be completed this week now that the executive director is on board. One will be an administrative assistant, and the other will interface with communities and NGOs on coal ash matters.

Office Locations

The CAMC will have staff in two locations. The Chairman's office, legal advisor and administrative assistant will be housed in the Division of Emergency Management at DPS. The executive director, technical advisor(s) and coordinator of community relations will be housed in office space located in the Museum of Natural History on Jones Street.

Meetings

The first CAMC meeting was held on November 14, 2014 in the Friday Center adjacent to the UNC Chapel Hill campus. The purpose of the meeting was to provide orientation for the new commissioners on topics of interest relating to serving on a government commission and understanding coal ash subject matter. The agenda for that meeting is attached as Exhibit B.

The Commission is charged with meeting bi-monthly. The first six meetings will be held at public university campuses across the state to allow citizens impacted by coal ash impoundments in their communities and the local media to easily attend.

The focus of the Commission will be science, economics and safety, not politics, as articulated in the Chairman's statement made at the first CAMC meeting and attached hereto as Exhibit C. Therefore, university sites were chosen over government buildings to hold the initial year's meetings.

Attached in Exhibit D is a tentative schedule for future meetings.

Finances

Duke Energy has been invoiced in accordance with Senate Bill 729 and has submitted payments in a timely manner. A budget has been developed for the CAMC which assumes annual expenses of approximately \$630,000, the amount estimated in the fiscal note provided by the legislature to remain for the CAMC after allocations to DENR. DPS and DENR are working on the policies and procedures for transferring funds from the CAMC account to DENR.

Site Visits

The chairman has toured the coal ash impoundments at four Duke locations: Sutton, Cape Fear (Moncure), Roxboro, and Asheville. All commissioners have been asked to tour at least one coal ash site prior to the January meeting.

Web Site

The Commission launched its web site www.CAMC.NC.gov the day of the first meeting. We intend for this site to become a portal for information on all aspects of coal ash including details of the 14 sites in North Carolina. One of the responsibilities of the community relations staff person will be to maintain the web site.

Deliverables

Senate Bill 729 requires the CAMC to complete a report on the beneficial uses of coal ash, intended to cover both the science and economics of the subject. That report was due two weeks ago. With no staff, and commissioners who were not sworn in until two weeks before

the deadline, this deadline was not practical. The CAMC has been working in cooperation with the Environmental Management Commission, which also has been charged to produce a report on the beneficial uses of coal ash, on the scientific feasibility of alternative uses. However, to produce an independent report that also covers the economic considerations and other topics the CAMC has been asked to cover in its report, we will need adequate time and resources to examine the topic. Therefore, we request an extension for our report deadline until six months after we have an executive director and technical/engineering advisor retained. The difference in the report of the EMC and the CAMC is that the EMC report will focus on aggregating existing literature of what is *possible*, while our report will focus more on what is *practical*. There is less existing literature on the economics of beneficial uses; therefore, we will need to independently develop some of the content, and this will take time and staff resources.



Exhibit A

MICHAEL JACOBS

Chapel Hill & Wilmington

Michael Jacobs is a professor at UNC's MBA school where he teaches the courses on Corporate Governance and Business & Government. He is the CEO and founder of Jacobs Capital, a merger advisory business based in Chapel Hill. Professor Jacobs serves on several for-profit and non-profit boards, including Biscuitville, K2 Solutions, and the \$90 billion state pension fund. He was formerly Director of Corporate Finance and Corporate Governance Policy at the U.S. Treasury Department, and is a graduate of UNC and Harvard Business School. He resides in Wilmington and Chapel Hill.

Michael.Jacobs@camc.nc.gov

HARREL JAMISON AUTEN III

Mecklenburg County

Auten is the retired vice president of sales and marketing for Waste Industries. With over 40 years of experience in the solid waste industry, he is in the seat requiring experience in waste management.

Jim.Auten@camc.nc.gov

TIM BENNETT

Wake/Durham County

Bennett is vice president for wholesale rates, billing and settlement for the N.C. Electric Membership Corporation. Prior to joining NCEMC, he was VP of Business Operations for GreenCo Solutions. He also was the East Regional Director of Marketing for ACES Power Marketing. He is a graduate of West Virginia University Institute of Technology.

Tim.Bennett@camc.nc.gov

LARRY COBB

Chapel Hill

Cobb is of counsel with Nexsen Pruet, where he practices in the area of utility regulatory law. He was formerly the minority leader of both the North Carolina State House and Senate. He has also served on the North Carolina Utilities Commission. Cobb is in the seat requiring expertise in determining and evaluating the costs associated with electricity generation and establishing the rates associated with electricity consumption.

Larry.Cobb@camc.nc.gov

HERBERT M. ECKERLIN

Wake County

Eckerlin is a professor and senior extension specialist at the Department of Mechanical & Aerospace Engineering at N.C. State. He designed and built the NCSU Solar House on the N.C. State campus, founded the North Carolina Solar Center, and is a member and former treasurer of the North Carolina Sustainable Energy Association. He is in the seat requiring experience in science or engineering in the manufacturing sector.

Herbert.Eckerlin@camc.nc.gov



Exhibit A

DR. D. ALLEN HAYES

Wake County

Hayes is a pulmonologist for Duke Raleigh and Rex Hospitals. He received his medical degree from University of Virginia School of Medicine and has been in practice for 42 years. He has extensive experience in occupational lung disease and coal worker pneumoconiosis. He fills the seat requiring a physician or public health professional.

Allen.Hayes@camc.nc.gov

RAJARAM JANARDHANAM, PH.D.

Mecklenburg County

Janardhanam is a Civil Engineering professor at UNC-Charlotte. He has done research on geotechnical and geoenvironmental engineering; liquefaction of soils; pollution migration through soils, and flowable flyash. He earned his Ph.D. in Civil Engineering at Virginia Polytechnic Institute & State University and his master's in Civil Engineering at Annamalai University in India.

Rajaram.Janardhanam@camc.nc.gov

LISA DIAZ RIEGEL

Wake County

Riegel most recently served as executive director of the Natural Heritage Trust Fund (grant program for conservation of lands with significant natural and/or cultural heritage value) and currently advocates for better promotion and support of our state's trails and greenways. A hydrogeologist, she has over 15 years of experience managing the investigation, closure and remediation of waste management units primarily for DuPont. Riegel is in the seat for a member of a nongovernmental conservation interest.

Lisa.Riegel@camc.nc.gov

Exhibit B



North Carolina Department of Public Safety
Emergency Management – Coal Ash Management Commission

Pat McCrory, Governor
Frank L. Perry, Secretary

Michael T. Jacobs, Chairman
Kenneth W. Ashe, P.E., Interim Executive Director

Coal Ash Management Commission Meeting Agenda

November 14, 2014 9:00 a.m. to 3:30 p.m.

9:00 a.m.	Welcome and Introductions of Commissioners & Staff	Michael Jacobs, <i>CAMC Chair</i>
9:15 a.m.	Ethics Requirements, Open Meeting Law & Public Records	Will Polk, <i>NCDPS Legal Counsel</i>
9:35 a.m.	Update on Office Operations	Ken Ashe, <i>NCEM</i>
9:45 a.m.	Communications & Media	Pamela Walker, <i>NCDPS Communications Director</i>
10:00 a.m.	Overview of Coal Ash Legislation Requirements & Responsibilities of the Commission	Lisa Schneider, <i>CAMC Legal Counsel</i>
11:00 a.m.	Break	
11:15 a.m.	Swearing In of Commissioners	Justice Newby
11:30 a.m.	Overview of Coal Ash Production & Storage; Coal Ash Storage Facilities – location and status	Richard Baker, <i>Director of Water & Natural Resources, Duke-Energy</i>
12:30 p.m.	Working Lunch	
12:45 p.m.	State and Federal Roles & Regulation regarding Coal Ash Tom Reeder, <i>Director, Division of Water Quality</i> Linda Culpepper, <i>Director, Division of Waste Management</i> Toby Vinson, <i>Chief of DEMLR Land Quality Section</i>	Mitch Gillespie, <i>Assistant Secretary, DENR</i>
1:30 p.m.	Dam Safety and Risks	Steve McEvoy, <i>Dam Safety Engineer, DENR</i>
2:00 p.m.	Risks to groundwater near sites	Jay Zimmerman, <i>Section Chief, Water Quality Regional Operations, DENR</i>
2:30 p.m.	Unauthorized Surface Water Discharges	Jeff Poupart, <i>Section Chief Division of Water Resources Water Quality Permitting</i>
3:00 p.m.	Disposal options	Richard Baker
3:30 p.m.	Adjourn	

Statement of Michael Jacobs, Chair, Coal Ash Management Commission

November 14, 2014

North Carolina recently enacted the first comprehensive legislation in the nation to clean up coal ash. Our state's leadership has taken decisive action to protect the water supply in areas where the 32 coal ash impoundments are located throughout the state.

This Commission was established to:

1. Review and approve the classification of coal ash impoundments
2. Review and approve the closure plans for coal ash sites
3. And to review and make recommendations on statutes and rules related to the management of coal ash

My goal for this Commission is to establish the most effective *and* most efficient management of coal ash in America. When other states look across the country for best practices, we hope they will look to North Carolina.

This commission will focus on science, safety and economics, not politics. We report to the citizens of North Carolina, not a government entity. Our first six meetings will be held throughout the state at public university sites accessible to communities impacted by coal ash storage facilities and to the media. The commission will be staffed with professionals tasked with securing favorable outcomes for the residents of North Carolina.

We will strive to find the most cost effective way to implement scientifically-grounded solutions. The Commission will operate under three guiding principles. First, *accountability*. Utilities need to be held accountable for eliminating potential damage to our state's water resources and economy from the storage of coal ash.

Second, *transparency*. Proceedings that are fact-based do not need to be shielded from the public. The public needs to know that politics are not driving outcomes.

Third, and most importantly, *stewardship*. We have been blessed with one of the nation's most beautiful states, one which also is among the most affordable for its residents and employers. We need to be conscientious stewards of the water resources in our state, and do so in a way that protects citizens and businesses economically.

Regardless of how the Utilities Commission allocates the cost of the clean-up, North Carolina citizens will be impacted. To the extent that cleanup costs are passed on to the residents and businesses of North Carolina through higher power rates, everyone who uses power will share the expense. The citizens who will suffer most from higher electricity bills are the poor. The most important metric to low-income households is not their gross income, but how much money is left over after paying for life's necessities such as water and power.

Moreover, to the extent that cleanup costs are built into the rate base, every business in the state, especially those involved in manufacturing, will see a decrease in cash flow, which will impair their ability to create new jobs.

The other option of allocating cleanup costs to Duke's shareholders also hits the pocketbooks of citizens across the state. Who are Duke's shareholders? One of the largest shareholders in Duke Energy is the North Carolina Retirement System, which owns over a half million Duke shares. There are over 900,000 working and retired teachers and state employees in North Carolina, all of whom are beneficial owners of Duke stock. Other Duke shareholders include our state university endowment funds, charitable organizations, churches, and young couples saving for their children's education. So regardless of how the clean-up is paid for, it will impact the citizens of North Carolina.

In exploring alternative approaches, this commission will consider potential new technologies as well as innovative applications of existing technologies. Solutions to problems are not static. It is impossible to know today what alternatives will present themselves in the years to come, so we need to adapt if superior solutions arise in the future.

There are other tradeoffs that need to be considered carefully besides cost. Do we want coal ash cleaned up quickly, or do we want it cleaned up safely? One approach being promoted would require 5 million dump-trucks full of coal ash traversing the rural roads and neighborhoods of North Carolina, which would create profound safety issues.

It took 80 years to produce the current coal ash problem. It will be impossible to solve it overnight. There are tradeoffs that will need to be made between speed, effectiveness, safety and cost. All these factors are important, but unfortunately, cannot all be accomplished simultaneously. The Coal Ash Commission will weigh these tradeoffs and support actions that we believe are in the best interest of the citizens of North Carolina.



Exhibit D

PROPOSED 2015 MEETING SCHEDULE

(MEETING DATES AND LOCATIONS ARE TENTATIVE AND SUBJECT TO CHANGE)

JANUARY 14, 2015

NORTH CAROLINA STATE UNIVERSITY

MCKIMMON CENTER

RALEIGH, NC

MARCH 2015

NORTH CAROLINA A&T UNIVERSITY (TENTATIVE)

GREENSBORO, NC

MAY 2015

UNIVERSITY OF NORTH CAROLINA - CHARLOTTE (TENTATIVE)

CHARLOTTE, NC

JULY 2015

UNIVERSITY OF NORTH CAROLINA – WILMINGTON (TENTATIVE)

WILMINGTON, NC

SEPTEMBER 2015

UNIVERSITY OF NORTH CAROLINA – ASHEVILLE (TENTATIVE)

ASHEVILLE, NC

NOVEMBER 2015 (TBD)