



NORTH CAROLINA
COAL ASH MANAGEMENT COMMISSION



MICHAEL JACOBS, CHAIRMAN

NATALIE K. BIRDWELL, EXECUTIVE DIRECTOR

November 3, 2015

MEMORANDUM

TO: ENVIRONMENTAL REVIEW COMMISSION
The Honorable Brent Jackson, 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 Q1 FY 2015-2016

DATE: November 3, 2015

Pursuant to Session Law 2014-122, Senate Bill 729 (§130A-309.202 Section (m) Reports), the North Carolina Coal Ash Management Commission (CAMC) 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 Counsel

North Carolina Coal Ash Management Commission

Quarterly Report

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

November 3, 2015

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 1 of the 2015-2016 fiscal year.

Commission Membership

On March 16, the North Carolina Superior Court ruled that six (6) of the nine (9) commissioners were appointed in a manner that it found to be unconstitutional. On June 30, the North Carolina Supreme Court heard the appellate arguments in the case, and will subsequently issue a ruling after deliberations. In the interim, the Commission staff and three (3) current commissioners continue to focus on carrying out the mission and work of the Commission. Given the absence of a majority of Commissioners since March 16 and the amount of time required to appoint or re-appoint commissioners following a Supreme Court ruling, there is likely to be very little time for the Commission to prepare to rule on Classification Recommendations in accordance with the timeline established in SB 729.

Staffing

The permanent, full-time Administrative Assistant position was filled and the selected candidate, Janet Mack, started work at the end of July. Ms. Mack has experience in academia, private sector business, and most recently in the mortgage and real estate industry. Janet has an extensive background in client relations, office management and task management and organization. Janet received her B.S. in Marketing from Post University.

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. Also, we anticipate the need for technical advisement in the area of beneficial use. Therefore, we anticipate contracting with two or more engineers to serve, as appropriate, as subject matter experts as needed.

A Request for Qualifications (RFQ) was released in April for the groundwater specialist. Engineering firms submitted Letters of Qualifications to assist the Commission in reviewing and approving classifications of coal combustion residuals surface impoundments and impoundment closure plans, reviewing and making recommendations on laws governing coal ash residuals, and producing quarterly reports as required by the Environmental Review Commission. The CAMC conducted interviews with two of the submitting engineering companies in early July, and completed the qualification process for both of those companies for various aspects of the work. The final contract paperwork has been submitted for final approval by legal counsel and scopes of work are currently being created to fulfill the identified immediate technical needs.

The permanent, full-time External Affairs position is expected to be posted shortly after the North Carolina Supreme Court ruling is issued.

Other Operations

The CAMC staff has been diligently working on the creation of onboarding materials that will serve as an informational aid and reference guide to the operational workings of the Commission, as well as background on coal ash in the state of North Carolina. During Q1 FY15-16 the CAMC staff visited the Roxboro and Asheville stations and gained a better understanding of not only the magnitude of the ash at each location, but also the scale, geography and logistics of the operation necessary to address the ash at those sites.

Meetings

Senate Bill 729 states that the Commission must have five (5) commissioners in order to constitute a quorum. At this time, the Commission does not expect to hold any commission meetings until after the North Carolina Supreme Court issues its ruling and new commissioners are appointed. Subsequent 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 future meeting schedule will be determined after the ruling by the North Carolina Supreme Court.

Finances

Duke Energy has been invoiced in accordance with Senate Bill 729 and submitted a quarterly payment in August with the next quarterly payment due in November. Due to the delay in operations, the Commission funds remaining in the account will be utilized in accordance with the increased work load of the Commission to meet the timelines prescribed in Senate Bill 729. It is vital to ensure those funds are available for use by the Commission in order to completely address the technical requirement for review of information to be submitted to the Commission. With the need to get new commissioners, or commissioners who have been inactive for several months, up to speed quickly to be prepared for the ash pond categorizations, the CAMC will require extensive contracted engineering resources in a short time period.

Web Site

The Commission web site (www.CAMC.NC.gov) continues to be an invaluable tool to disseminate information about the Commission activities to government entities, the public and the media. We are currently working with the website's applications team to develop additional features and content for the website. There is still significant work to be done in order for this site to become a

comprehensive portal for information on all aspects of coal ash including details of the 14 sites in North Carolina. Once the External Affairs position is in place, focus will be placed on the completion of the 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. On June 9th, the Commission released its preliminary report on the Beneficial Use of Coal Ash. The 49-page report, entitled, "Coal Ash: Waste or Resource," will be updated as the Commission continues to gather more information on the market dynamics and specific economics of various beneficial use applications. The Report examines current applications for beneficially using coal ash and focuses attention on the most environmentally-safe and economically-sound applications that have the greatest opportunity to absorb large amounts of coal ash.

The CAMC will continue to explore additional areas of study to identify market, regulatory and political barriers to and opportunities for expanding beneficial use programs. The report has gained national recognition amongst various stakeholder groups as one of the premier reports on beneficial use to date. The executive director was invited to present an overview of the Commission's preliminary report on the Beneficial Use of Coal Ash at the American Coal Ash Association's (ACAA) national meeting held in Raleigh in October 2015.

Pursuant to Section 13.(a) of SB 729, the CAMC is currently studying whether and under what circumstances no further action or natural attenuation is appropriate for a coal combustion residuals surface impoundment that is classified as low-risk. After the final contract approval for the engineering firms, a scope of work will be issued relative to the technical needs to develop and complete the monitoring and natural attenuation report.