



NORTH CAROLINA
COAL ASH MANAGEMENT COMMISSION



MICHAEL JACOBS, CHAIRMAN

NATALIE K. BIRDWELL, EXECUTIVE DIRECTOR

January 29, 2016

MEMORANDUM

TO: ENVIRONMENTAL REVIEW COMMISSION
The Honorable Jimmy Dixon, Co-Chairman
The Honorable Chuck McGrady, Co-Chairman
The Honorable Trudy Wade, Co-Chairman

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

SUBJECT: North Carolina Coal Ash Management Commission Quarterly Report Q2 FY 2015-2016

DATE: January 29, 2016

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.

January 29, 2016

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 2015-2016 fiscal year.

Commission Membership

On March 16, 2015 the North Carolina Superior Court ruled that six (6) of the nine (9) CAMC 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) gubernatorially-appointed commissioners continue to carry out the mission and work of the Commission to the extent possible without being able to hold an official meeting due to a lack of sufficient members to constitute a quorum. Given the amount of time required to appoint or re-appoint commissioners following a Supreme Court ruling, and the legislatively mandated deadlines for actions established in SB 729, there is likely to be very little time for the Commission to prepare to rule on Classification Recommendations in accordance with the timeline.

Staffing

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 contract paperwork was given final approval by legal counsel prior to the end of the calendar year. Scopes of work are currently being created to fulfill the identified immediate technical needs, and will begin to be released in Q3 FY15-16.

The permanent, full-time External Affairs position is expected to be posted shortly after the North Carolina Supreme Court ruling is issued. Due to compressed timelines to make decisions given the legal situation, we will look to fill this position as soon possible once the membership of the CAMC is resolved.

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 Q2 FY15-16, the CAMC staff completed a CAMC Commissioner Administrative Handbook, continued to develop the CAMC Commissioner Coal Ash Primer, and continued to pursue and gather information pertinent to build the knowledge of current and future commissioners. The staff and all three (3) commissioners attended the American Coal Ash Association's Fall Meeting in Raleigh in October. The executive

director was invited to speak and presented an overview of the Preliminary Beneficial Use Report the Commission released in June 2015. The report has been hailed by industry experts as the most comprehensive informational document on beneficial use to date.

Meetings

Senate Bill 729 states that the Commission must have five (5) commissioners in order to constitute a quorum. Therefore, the Commission is unable to hold any commission meetings until after the North Carolina Supreme Court issues its ruling and new commissioners are appointed and sworn in. The future meeting schedule and locations 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 and November, 2015 with the next quarterly payment due in February, 2016. Due to the delay in operations, the Commission funds remaining in the account will be utilized to pay for consultants needed to meet the timelines prescribed in Senate Bill 729.

Web Site

The Commission web site (www.CAMC.NC.gov) continues to be an effective tool to disseminate information about the Commission activities to government entities, the public and the media. We are currently working with the website's development team to develop additional features and content for the website. There is still work to be done in order for this site to become a comprehensive portal for information on coal ash matters including details of the 14 sites in North Carolina. Once the External Affairs position is filled, focus will be placed on the completion of the site.

Deliverables

Senate Bill 729 required 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.

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. The final contract approval for the engineering firms was received late in the quarter, and a scope of work was issued relative to the technical needs to develop and complete the natural attenuation report.