

# Blue Ridge Environmental Defense League

[www.BREDL.org](http://www.BREDL.org)

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Mr. Craig Brown  
Regulatory Specialist  
Regulatory Division  
United States Army Corps of Engineers  
3331 Heritage Trade Drive, Suite 105  
Wake Forest, North Carolina 27587

April 6, 2015

Re: Corps Action ID Number: SAW-2014-02254

Dear Mr. Brown:

On behalf of the members and Directors of Blue Ridge Environmental Defense League (BREDL) and our Lee and Chatham County chapters, I write to offer the following comments on the 404 permit applications under consideration for the proposed Colon and Brickhaven coal ash disposal sites.

## Request for a Public Hearing

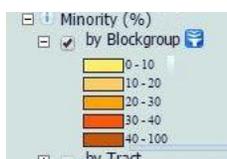
Blue Ridge Environmental Defense League requests that the Corps hold a public hearing on the draft 404 permit. The substantial impact and huge scale of the proposed coal ash disposal sites demand additional public input. Moreover, Lee and Chatham Counties are understood to be “ground zero” for natural gas extraction in North Carolina- with its attendant potential to impact the waters of the United States from spills, waste pit overflows and leaks, and stormwater runoff. Cumulative and indirect impacts must be studied.

## Environmental Justice

Poor rural communities and communities of color are more likely to be targeted for waste disposal. Coal ash disposal is no exception. For example, coal ash waste from the Kingston, Tennessee spill was taken to Uniontown, Alabama, over 300 miles away. Similarly, coal ash waste from the Wilmington area (over 100 miles away), and the Charlotte area (also over 100 miles away) is being transported to rural communities in Lee and Chatham counties. The permit documents submitted by the applicant to DENR identify all of North and South Carolina as

potential service areas. There is nothing in federal or state law to prohibit coal ash from coming from anywhere.

Executive order #12898 requires that federal agencies, *“To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.”* The communities near the Brickhaven and Colon sites have a higher percentage of minority residents than the state average. Images from US EPA EJ View mapping tool attached to emailed comments. Legend:



Disposing of 20,000,000 tons of dangerous coal ash at these sites, less than 10 miles apart, places a disproportionate toxic burden on the Brickhaven and Colon/Osgood communities. The North Carolina Department of Environment and Natural Resources’ (DENR) accelerated permit review including scheduling one hearing on three different permits for each site is unprecedented, and the confusing electronic commenting process (the link simply says “public notice”) exacerbate this already unjust and unfair process.

### Need for an Environmental Impact Statement

The permitting of these two landfills will have a significant impact on the whole region. The cumulative and indirect impacts of the proposed permitting activities must be evaluated.

- Cape Fear Watershed
  - Duke Energy has coal ash impoundments on the Cape Fear River.
  - Bodies of water are already impaired within the Cape Fear River Basin.
  - There are two old unlined landfills in Randolph County located on the Deep River currently contaminating groundwater, and a new regional landfill-which could also receive coal ash is proposed at the same site.
  - If the Lee and Chatham County sites are permitted- a dangerous precedent will be set. There are many clay mines located in the Cape Fear region.<sup>1</sup>
  - The City of Sanford’s wastewater treatment plant, which could be the recipient of concentrated leachate from both sites, discharges into the Deep River.
  - To move the 20,000,000 tons of coal ash from the Sutton and Riverbend sites to Lee and Chatham counties, it could take up to 200,000 railcars, 666,667

<sup>1</sup> [http://www.bredl.org/pdf5/150109\\_REPORT\\_CoalAsh-ClayMine-Dumpsites.pdf](http://www.bredl.org/pdf5/150109_REPORT_CoalAsh-ClayMine-Dumpsites.pdf)

truckloads, or combination of the two. The potential impact of spills along the transport routes should be evaluated; additionally deposition into surface waters from fugitive ash should be assessed.

- Needs and welfare of the people
  - The effect of the proposed coal ash disposal sites on property owners near the sites have not been studied.
  - Many people in Lee and Chatham counties depend on gardens to supplement their diets, and raise chickens, goats and other animals as well. The potential for coal ash to settle on gardens and affect livestock has not been considered.
  - The public health impact of fugitive coal ash on air quality has not been studied.
- Safety
  - Potential impacts on emergency service response time have not been evaluated.
  - Impacts on the transportation of school children have not been considered.
  - The impact of increased traffic from fracking operations in addition to coal ash disposal has not been assessed.

### Inconsistencies

There are several inconsistencies within the applicant's project description, which the Corps has posted on the web page related to the 404 permit under consideration.<sup>2</sup> The impacts of the proposed activity cannot be accurately assessed using erroneous information.

#### Project Description:

- In the project description provided to the Corps, the applicant states:
  - *“Approximately 3 million tons of coal ash would be transported to the Brickhaven and Sanford Mines for use in mine reclamation.”* According to documents currently under review by DENR<sup>3</sup>, the amount of coal ash to be disposed of at the Colon site is up to 8,800,000 tons, and the amount of coal ash to be disposed of at the Brickhaven site is up to 12,000,000 tons-20,000,000 tons total. Additionally, Duke Energy has stated to the local officials in Chatham County that coal ash from their Cape Fear facility may also be disposed of at the Brickhaven site.
  - *“The coal ash would be contained within an engineered fill cell that utilizes a High Density Polyethylene (HDPE) liner that is seamed and welded to ensure the liner is leakproof.”* According to the United States Environmental Protection Agency (EPA), all liners leak, it is a matter of if, not when. Additionally, tests

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<sup>2</sup> [SAW-2014-02254](#)

<sup>3</sup> Colon: [Permit Application Overview/Facility Plan/Engineering Plan/Operations Plan/Closure & Post-Closure Plan](#)  
Brickhaven: [Permit Application Overview/Facility Plan/Engineering Plan/Operations Plan/Closure & Post-Closure Plan](#)

have not determined that the constituents of coal ash are even minimally prevented from being released into the environment. Selenium is of particular concern.<sup>4</sup>

- *“The proposed HDPE liner is designed to industry standards and has an expected life of 500+ years.”* Two of the vendors listed in the applicant’s permit documents reviewed by DENR have stated that the standard manufacturer’s warranty is 5 years, with some special applications up to 20 years.<sup>5</sup>

What is being described by Duke Energy, Charah, and NC DENR is not “mine reclamation.” Indeed, Lee County’s GIS Services have determined that almost 80% of the footprint of the Colon landfill has never been excavated. Describing a coal ash landfill as “mine reclamation” allow the companies and the state to sidestep a lengthier and more deliberate permitting process with opportunities for public participation at almost every step.

We urge the Corps to deny the 404 permit.

Sincerely,

A handwritten signature in cursive script that reads "Therese Vick".

Therese Vick

North Carolina Healthy, Sustainable Communities Campaign Coordinator

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<sup>4</sup> Lemley, Dennis, *Dr. Technical and Environmental Issues with Synthetic Liners Proposed for use in Coal Ash Disposal Applications*. 21 September 2010. (Attached to email with these comments).

<sup>5</sup> Emails to Therese Vick from GSE and Solmax.