

Friends of Bolin Creek
P.O. Box 234, Carrboro, NC 27510

May 20, 2014

Dear Mayor Kleinschmidt and Town Council members:

We are writing to urge you to clean up the large coal ash dump in the center of Chapel Hill. It would be a grave mistake to follow the lead of the N.C. Department of Environment and Natural Resources – whose reputation on coal ash regulation is now discredited on a national level – by allowing the coal ash to remain in an unlined pit in the center of town.

Last year, the Town of Chapel Hill informed the public that a coal ash landfill was found to be located on the site of the Police Building. For more than a decade in the 1960s and '70s, this property was used as a burial pit for coal ash. The coal ash in this totally unregulated and unlined landfill contains known hazardous substances, including heavy metals that have leached out into the environment and will continue to do so. The Town Web page containing relevant reports is found here:

<http://www.townofchapelhill.org/index.aspx?page=2311>

The Town initiated a study after the discovery and informed DENR later in 2013. The initial studies performed by Falcon Consulting were to establish if the coal ash had contaminated ground water and Bolin Creek. Unfortunately, it has.

Both this July 2013 consultant's report and a subsequent March 2014 "Site Characterization Report" demonstrate that the coal ash has significantly affected ground water. Sampling has revealed extremely high concentrations of coal ash pollutants, far above state and federal standards. These coal ash pollutants in our groundwater include cancer-causing pollutants and toxic metals such as arsenic (found at 14 times the groundwater standard in the most recent report), lead (over 16 times the standard), and chromium at a shocking 93 times the standard.

Worse, these dangerously high levels of toxic contamination were all

measured from the groundwater monitoring well located immediately adjacent to Bolin Creek.

Not surprisingly, the initial consultant report concluded that “groundwater appears to be impacting Bolin Creek.” Groundwater tends to flow down-gradient to adjacent water bodies such as Bolin Creek. The July 2013 report states that “surface water sampled from Bolin Creek exhibited results indicative of environmental contamination above established action levels.” These results are troubling, but surface water tests cannot reveal the true extent of the contamination of the Creek, since the metals and other coal ash pollutants tend to settle into the creek sediments, where they will continue to pollute the food chain and ecosystem of Bolin Creek.

Tests for contamination of the sediments at the creek bottom have not been performed, but need to be performed promptly in order to understand the extent and severity of the coal ash contamination.

As explained in Town Manager Roger Stancil’s April 24, 2014 memo, so far the Town has only performed a number of “supplemental measures,” rather than cleaning up the coal ash. These include fencing off the hillside to keep the public out, installing silt fencing to try to prevent coal ash from washing into Bolin Creek, performing surface water testing, and performing soil probes to identify how far the coal ash extends on the property.

However, we understand from Town staff that DENR has indicated that the Chapel Hill coal ash site is too large to remediate – though there is no basis for such a claim – and we further understand that DENR has suggested the Town add use restrictions to the property’s deed rather than cleaning up the coal ash or treating the polluted groundwater. This understanding appears to be confirmed by Mr. Stancil’s memo, which states that “[w]e will follow the direction of NC DENR” in determining what to do with the coal ash, and lists as possible next steps only “additional testing,” unspecified “supplemental mitigation measures,” or “the placement of future use restrictions on the property.”

It appears from everything we have learned thus far that the town and DENR are preparing to leave a large source of toxic metals and other pollutants, untreated and largely unconfined, in the center of town. No cleanup appears to be planned. The consultant has already indicated that contaminated groundwater flows to the creek, so whatever sediment fencing is put in place

on the surface of the land cannot stop the ongoing pollution of Bolin Creek and its sediments.

Leaving the coal ash in its unlined pit, where it will continue to pollute groundwater and Bolin Creek, would be a grave mistake of the kind that has garnered DENR so much negative national attention in its handling of coal ash throughout North Carolina. The Town of Chapel Hill should avoid affiliating itself with DENR's current refusal to protect public waters from toxic coal ash pollution.

Moreover, for the Town to allow this serious threat to our natural resources to remain in place forever would violate a number of laws. This type of unpermitted pollution of the creek via hydrologically connected groundwater violates the Clean Water Act. Moreover, the state groundwater regulations require that where the North Carolina groundwater standards have been exceeded, as they already have been here many times over, the polluter must stop the discharges to groundwater and take corrective action to clean up the pollution. Yet that is not what the Town appears to be planning in this case.

Accordingly, we request that the Town Council take the following steps to address this serious situation:

1. Test the sediments of Bolin Creek for all coal ash constituents upstream, at, and downstream from the site to determine the extent of the contamination in the creek;
2. Comply with the Clean Water Act's prohibition of unpermitted surface and groundwater discharges of pollutants to Bolin Creek; and
3. Comply with the requirements of North Carolina's groundwater regulations, including 15A N.C.A.C. 2L .0106's requirements that the source of unpermitted groundwater pollution be eliminated and the polluted groundwater be remediated.

Especially in light of the recent revelations in the New York Times, the Associated Press, NPR, CNN, and other national media exposing DENR's mishandling of coal ash issues in North Carolina, we urge the town of Chapel Hill *not* to rely on DENR's questionable guidance in addressing this serious problem. DENR's activities in regard to coal ash regulation are the topic of a federal criminal grand jury investigation. Our Town should preserve its reputation for environmental leadership and set a higher

standard for our State by cleaning up the coal ash that is polluting Chapel Hill's public waters. We look forward to working with you to ensure these vital resources are protected.

Sincerely,

Friends of Bolin Creek

Julie McClintock, President
Friends of Bolin Creek

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