

ASH POND NEWSBYTES



March 2022

Dear Readers,

The following is a collection of ash pond news from the month of March 2022. Our intent is to provide you with important news pieces to help inform your business decisions and keep you up to date about the coal and ash pond industry.

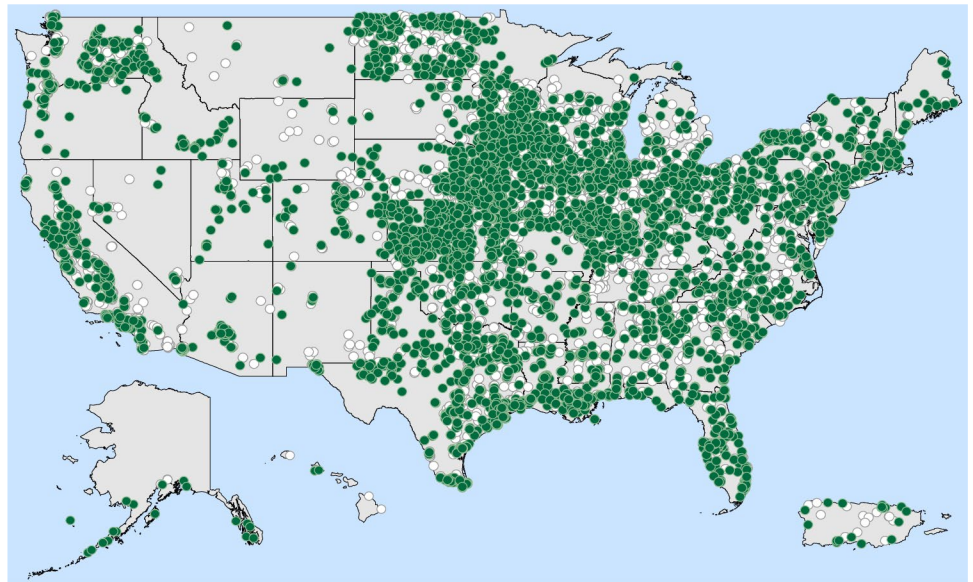
– Peter Alvey & The Roux Team

LEGAL AND REGULATORY

In an attempt to bring its ash ponds under USEPA compliance, **Duke Energy** has engaged in several hundred million dollars in coal ash site closures, remediation, and other related costs. In 2019, Duke asked the Indiana Utility Regulatory Commission to increase rates for retail customers to recover these costs. Indiana Supreme Court justices have been divided on this issue, ultimately ruling that the utility cannot recover past coal-ash cleanup costs adjudicated under a prior rate order by treating the costs as a capitalized asset. [Link](#)

In San Antonio, Texas, **CPS Energy** is moving forward with the construction of a 3-acre, double lined retention pond for the J.K. Spruce Power Plant. This pond will replace two existing single lined ponds that are not in compliance with current USEPA Coal Ash Storage rules. The pond can still be used if the plant is converted to a natural gas plant. [Link](#)

Indiana electric utility **NiSource** has been ordered through a USEPA consent decree to pay \$11.8 million for coal ash cleanup of a State Superfund site in the Town of Pines. [Link](#)
(Subscription Required)



Risk Management Plan (RMP) facilities that GAO analyzed (10,420)

● Located in an area with one or more of these natural hazards (3,219)

○ Located in an area without one or more of these natural hazards or where hazards are unknown (7,201)

Sources: GAO analysis of Environmental Protection Agency, Federal Emergency Management Agency, National Oceanic and Atmospheric Administration, and U.S. Forest Service data; U.S. Census Bureau (map). | GAO-22-104494

Figure extracted from the GAO Report

SPECIAL REPORT

The US Government Accountability Office (GAO) supports Congress in meeting its constitutional responsibility and helps improve accountability and performance of the federal government. In February 2022, GAO released a study on chemical accident prevention. The USEPA's Risk Management Plan (RMP) rule requires that certain facilities develop a risk management program to detect and prevent or minimize the consequences of an accidental release. The facilities governed by this plan include chemical manufacturers and water treatment plants. Federal data analyzed by GAO, including flooding, storm surge, wildfire, and sea level rise, indicate that over 3,200 of the 10,420 facilities analyzed (31%) are located in areas exposed to these natural hazards. GAO supports the EPA issuing regulations, guidance, and further direction on how to incorporate risks into the RMPs. [Link 1](#) [Link 2](#)



Happy
Spring!

COAL POWER PLANT ASH POND CLOSURE AND MODIFICATIONS

Near Green Bay, Wisconsin, the Neighborhood Investment Fund Program is giving \$15 million to Brown County. The funds will go toward expanding the Port of Green Bay operations, as well as moving the **C. Reiss Coal Company** operation to the former site of **Wisconsin Public Service Corporation's** Pulliam Power Plant. C. Reiss Coal Co is a subsidiary of **Robindale Energy**. These funds will start to chip away at the costly site improvements required at the Pulliam Plant property in preparation for the move. The full estimates for moving the coal piles range between \$20-\$25 million. Demolition of the former Pulliam Power Plant began in October 2018 and is almost complete. [Link](#)

In Indiana, utility AES, formerly **Indianapolis Power and Light**, announced plans to retire all coal operations by 2025. AES intends to accomplish this with a combination of retirements, fuel conversions, and asset sales. In 2018, Northern Indiana's **NIPSCO** announced its plan to decarbonize within the next 10 years. **CenterPoint Energy**, which serves southern Indiana, also said it is going to retire much of its coal fleet in the coming decade. [Link](#)

New Jersey has a goal to decarbonize by 2050, and **Exelon Corporation's Atlantic City Electric Utility** will shutter their Logan and Chambers plants in Swedesboro and Carney's Point, respectively, by the end of May 2022. This plan will save customers as much as \$30 million. Through investment affiliates, these plants are owned by **Starwood Energy Group Global, LLC**. [Link 1](#) [Link 2](#)

CLOSURE AND MODIFICATIONS (CONT.)

Montana-Dakota Utilities recently ended its operation of Heskett Station in Mandan, North Dakota. Heskett's Unit 1 has been online since 1954, and Unit 2 was installed in 1963 due to a growing demand in the area. Although plans to stop running the coal units were already in place, a mechanical failure and compliance issues advanced the timeline. [Link](#)

In Grimes County, Kentucky, **Charah Solutions** plans to sell the remaining 20% of the Gibbons Creek power plant property to an undisclosed buyer. In January 2021, the other portion of the property was sold to become a residential development. Charah expects to complete environmental cleanup of ash ponds and landfills in 2023. [Link](#)



Duke Energy's Power Plant at Lake Julian

BENEFICIAL REUSE

In Port Sheldon, Michigan, **Consumers Energy's** J.H. Campbell plant is located on a 2,000-acre property along Lake Michigan. Current plans place the decommissioning of this plant in 2025, leaving a unique opportunity for redevelopment. A consultant hired by Consumers Energy is gathering input from Ottawa County, Port Sheldon Township, and economic development organization Lakeshore Advantage. It is not known at this point how much of the property Consumers will keep after the plant's decommissioning. [Link](#)

Near the University of North Carolina, in Chapel Hill, the town council has approved a development plan for an area known to be filled with coal ash. The town is specifically interested in adding low-income housing and municipal offices on this property. Chapel Hill plans to cap the coal ash with three to four feet of clean soil, and a retaining wall between the edge of the coal ash extents and a nearby creek, which is connected to the town's water supply. [Link](#)

In 2020, **Duke Energy** transitioned their coal plant at Lake Julian, North Carolina to a gas-fired combined cycle station. Alongside this transition, they have been excavating coal ash out of the area. According to reports, much of this coal ash went to the Asheville Regional Airport to be used as fill or recycled off-site at Roanoke Cement. [Link](#)

IN OTHER NEWS...

In Spring 2021, a fertilizer plant owned by **HRK Holdings** in Tampa Bay, Florida, called Piney Point, had a leak that caused a release of an alleged 200 million gallons of polluted water into Tampa Bay. Because of the nature of the plant operations, this water had high concentrations of nitrogen, causing a Red Tide which killed large populations of fish. Workers have spent the last year trying to avoid another leak or spill while remediating the current release. A closure plan has been recently approved. [Link Link 2](#)

Five years following a 2017 federal decision to rescind safety rules regarding chemical plants, government investigators are telling Texas lawmakers that the lack of federal regulation is increasing the risk of chemical disasters in the face of climate change. Under the 1990 Clean Air Act, the Risk Management Plan (RMP) rule requires facilities that use hazardous substances to develop plans that identify potential effects of a chemical accident, lay out prevention steps, and spell out emergency responses. A GAO study, detailed in the *Special Report* section of this newsletter, found that climate-related risks were not being factored into these plans. Thousands of facilities are located in areas considered at high risk for flooding or wildfires. [Link](#)

The City of Los Angeles is suing Monsanto Co., Solutia Inc., and Pharmacia LLC for compensation of past costs incurred by the city to clean up polychlorinated biphenyl (PCB) contamination and an abatement fund for future costs. Despite the long ban on PCBs, stormwater and wastewater systems continue to drain PCBs into Los Angeles Harbor and Santa Monica Bay. [Link](#)



Petrochemical Refinery in Houston, Texas

PFAS coverage litigation is only in its early stages, but the role of jurisdiction in coverage exclusions continues to evolve. A North Carolina company, **Buckeye**, has been sued by plaintiffs for bodily injury and property damage allegedly caused by the release of PFAS into the environment through direct contact or exposure to Aqueous Film Forming Foams (AFFF). Buckeye's insurer, **Colony Insurance Co.**, filed a declaratory judgment suit claiming that it had no duty to defend Buckeye because of a "Hazardous Materials Exclusion." The exclusion, if applicable, eliminates coverage for claims "which would not have occurred in whole or in part but for actual, alleged, or threatened discharge, dispersal, seepage, migration, release or escape of 'hazardous materials' at any time." However, under North Carolina law, the exclusion does not apply in this instance. [Link](#)

On Wednesday, March 16, 2022, a fire erupted at a Walmart fulfillment center in Plainfield, Indiana. According to the fire chief, the fire suppression system at the facility was working when the firefighters arrived, but a decision was made to turn off the sprinkler assigned to the affected area. Additional details about this strategy have not yet been shared with the public. [Link](#)

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McDonald's is facing a proposed class action lawsuit in Illinois federal court. The 47-page lawsuit reports that McDonald's fast-food packaging contains per- and polyfluoroalkyl substances (PFAS), and that they have known about this for a long time. [Link](#)