Hudson took over $30,000 from big coal corporation Duke Energy’s PAC and voted with Duke to kill protections for our drinking water. This is the same Duke Energy that spilled 78 million pounds of coal ash and toxic pollutants into a North Carolina river, turning 70 miles of river into toxic sludge. And it’s the same Duke Energy that raised electric rates for hardworking North Carolina families.

Over His Career, Hudson Has Taken $31,000 From The Duke Energy Corporation PAC. Over his career, Hudson has taken $31,000 from the Duke Energy Corporation PAC. [Federal Election Commission, Hudson for Congress, accessed 7/7/20]

Duke Energy Was One Of The Largest Coal Burners In The United States. “Duke Energy Corp. is one of the largest coal burners in America.” [E&E News, 10/3/19]

2015: The Environmental Protection Agency Issued The Clean Water Rule, Which Defined “Waters Of The United States” To Include Streams And Wetlands That Fed Larger Bodies Of Water, Putting Them Under The Protections Of The Clean Water Act. “On Tuesday, the Environmental Protection Agency and the US Army Corps of Engineers presented the Trump administration’s proposal to undo a major Obama-era environmental regulation, the Clean Water Rule. The rule defined the ‘Waters of the United States,’ a.k.a. WOTUS. These are the rivers, streams, and lakes that fall under federal jurisdiction and forms the foundation of a massive piece of environmental regulation, the Clean Water Act. The Obama rule, first published in 2015, was meant to clarify which streams and wetlands fall under federal clean water protections — a question that had been causing legal frustration for years. […] To understand this rule, we need to go back to 1972, when Congress passed the Clean Water Act. That law features dozens of regulations and permitting requirements for anyone discharging pollution into the ‘waters of the United States’ in a way that could affect human health or aquatic life. These rules apply to factories, power plants, golf courses, new housing developments — and much, much more. […] But here’s the tricky part. The Clean Water Act doesn’t precisely define what ‘waters of the United States’ means. That’s left to the EPA and the Army Corps of Engineers. And it’s a hard question. For instance, the law is clear that major navigable rivers and lakes and any connected waterways should be protected. […] The final Waters of the US rule, published in June 2015, outlined which bodies of water were automatically covered by the Clean Water Act — requiring permits for discharges or dredging or dirt fill — and which ones still needed to be dealt with on a case-by-case basis. For instance: In the past, tributaries of navigable rivers were evaluated on a case-by-case basis. But under the new rule, they’re automatically protected if they have a bed, a bank, and a high-water mark. This includes many streams that are dry for part of the year. Waterways without these features are still dealt with case by case. Wetlands and ponds are now automatically covered if they’re within 100 feet or within the 100-year floodplain of a protected waterway. Otherwise, it’s case by case.” [Vox, 2/28/17]

Duke Energy Submitted A Comment Opposing The Implementation Of The 2015 Clean Water Rule. “The U.S. Environmental Protection Agency and U.S. Army Corps of Engineers are developing a new definition of the ‘waters of the U.S.,’ subject to federal regulation, to be released in the first quarter of 2018. In the meantime, some utilities support maintaining the status quo instead of allowing the Obama administration's 2015 definition of the term to go into effect. A comment period has closed in the EPA and Army Corps' regulatory action to turn back the clock on the Clean Water Rule, more commonly referred to as Waters of the U.S., or WOTUS. Over 200,000 comments were received from industry stakeholders and the public, with just under 10,000 available to view Sept. 28. The Edison Electric Institute, which represents a number of utilities and electric companies, and Duke Energy Corp. agree that maintaining the status quo provides certainty for regulated entities and the continued permitting of energy-related water permits. Acknowledging the inherent difficulty of defining the waters of the U.S., Duke Energy said the 2015 initiative still left some questions unanswered despite the Obama administration's best efforts. ‘Instead of reducing uncertainty, the 2015 WOTUS rule was filled with ambiguous terms and definitions that would lead to jurisdictional interpretations in the broadest extent possible resulting in the ability to classify just about any water, and some land features, as WOTUS,’ Duke Energy wrote. That rule significantly expanded federal jurisdiction, and the implementation strategy would have delayed energy infrastructure projects, including renewable energy facilities, the company added.” [SNL Generation Markets, 10/3/17]
Duke Energy Filed An Environmental Protection Agency Comment Criticizing The Clean Water Rule. “Duke Energy is concerned that the proposed rule allows non-jurisdictional features, that are explicitly excluded from the ‘waters of the United States’ definition, to be used as connections for the purposes of establishing jurisdiction over ‘adjacent’ and ‘other waters.’ […] The use of non-jurisdictional connections, including groundwater, to establish adjacency or a significant nexus has no limits. The proposed rule essentially allows for all waters to be deemed jurisdictional based on these connections. This is, again, similar to the ‘any hydrological connection’ theory rejected in Rapanos and hardly clarifies jurisdiction. Duke Energy recommends that the agencies eliminate the use of excluded features and waters as a basis for connections to establish further jurisdiction.” [Environmental Protection Agency, Comment Compendium, 2015]

Duke Energy’s Diane Denton Criticized The Environmental Protection Agency Clean Water Rule And Met With EPA Administrator Scott Pruitt To Discuss Its Rollback. “U.S Environmental Protection Agency Administrator Scott Pruitt sat down with South Carolina farmers, developers and utility company representatives Monday to discuss the EPA's plan to rescind the Clean Water Rule and eventually replace it. […] The 2015 rule, intended to protect drinking-water supplies, expanded federal jurisdiction to waters that eventually flow into larger ones, sometimes only seasonally. Critics, including the like-minded group Pruitt and other officials met with Monday, said the rule caused great confusion about federally regulated waters, and whether the rules applied to such things as drainage ditches, irrigation ponds and golf course lagoons. ‘Our power plants have man-made ponds, cooling ponds,’ said Diane Denton of Duke Energy, who said clarity is needed about what is subject to federal regulation.” [Charleston Post & Courier, 7/25/17]

Hudson Voted Against The Moran Amendment That Would Strip Language Barring The Army Corps Of Engineers From Enforcing The Clean Water Rule. Hudson voted against the “Moran, D-Va., amendment that would strike the section of the bill that would bar the use of funds by the Army Corps of Engineers to develop, implement or enforce regulations pertaining to the definition of waters under the jurisdiction of the Clean Water Act.” The amendment was rejected 188 – 226. [H.Amdt. 246 to HR 2609, Vote #311, 7/9/13; CQ, 7/9/13]

The Moran Amendment Would Have Reversed Language That Would Have Blocked The Army Corps Of Engineers Of Working With The Environmental Protection Agency To Protect Streams And Wetlands Under The Clean Water Act. “Protecting All Water (Moran Amendment 1) Rep. James Moran’s (D-VA) amendment would have reversed Energy and Water Agencies spending bill language to block U.S. Army Corps of Engineers (Corps) work with the U.S. Environmental Protection Agency (EPA) to restore Clean Water Act protections to streams and wetlands. [July 9, 2013; rejected 177-236] Pro-environment vote was a YES vote.” [Clean Water Action, Fall 2014]

Hudson Voted For H.R. 5078, A Bill That Would Prohibit The Environmental Protection Agency From Finalizing An Expansion Of The Federal Water Pollution Law. Hudson voted for “Passage of the bill that would prohibit the EPA and Army Corps of Engineers from finalizing an expansion of the federal water pollution law. It also would prohibit the agencies from enforcing a rule which identifies more than 50 agricultural activities that are exempt from Clean Water Act permitting requirements as long as they are conducted in accordance with Natural Resources Conservation Service conservation practices.” The bill passed 262-152. [HR 5078, Vote #489, 9/9/14; CQ, 9/9/14]

The House Passed H.R. 5078, The Waters Of The United States Regulatory Overreach Protection Act, Which Would Prevent The Environmental Protection Agency From Adopting An Expanded Definition Of “Waters Of The United States” Under The Clean Water Act. “On September 9, the House of Representatives passed H.R. 5078, the ‘Waters of the United States Regulatory Overreach Protection Act of 2014.’ The bill would prevent the EPA and Army Corps of Engineers from adopting a proposed rule change defining the ‘waters of the United States,’ which determines the scope of the Clean Water Act (CWA). Additionally, it would bar any revised rule that is ‘substantially similar’ to the current proposal. Instead, the bill instructs the agencies to go back to the drawing board, writing a new rule with input from state and local governments.” [Journal of Water, 10/2/14]
Hudson Voted For The Banks Amendment That Would Repeal The Environmental Protection Agency’s Rule Defining “Waters Of The United States” Under The Clean Water Act. Hudson voted for the “Banks, R-Ind., amendment that would repeal the EPA's rule regarding the definition of the ‘Waters of the United States’ under the Clean Water Act.” The amendment was adopted 238-173. [H.Amdt. 31 to HR 2, Vote #203, 5/18/18; CQ, 5/18/18]

The Banks Amendment To The Farm Bill Would Repeal The Clean Water Rule, Removing Federal Protections For Small Streams And Wetlands. “The Farm Bill: Dirty Water Rider The House voted to attach a rider to the Farm Bill (May 2018 House version) that would have repealed the Clean Water Rule. This Dirty Water Rider would have removed federal protections for small streams and wetlands, endangering the drinking water sources for 117 million Americans. The pro-environment vote was NO. Amendment 633 (Banks) passed in the House 238-173 on May 18, 2018. The full bill, H.R. 2 later failed.” [Clean Water Action, 2018]

Hudson Voted For A $146.5 Energy-Water-Legislative Branch-Veterans Affairs Appropriations For Fiscal Year 2019. In June 2018, Hudson voted for: “Passage of the bill, as amended, that would provide $146.5 billion in discretionary funding for fiscal 2019 to various departments, agencies and legislative operations, including $44.7 billion for the Energy Department, the Army Corps of Engineers, the Interior Department’s Bureau of Reclamation; $98 billion for military construction activities and for VA programs and activities; and $3.8 billion for operations of the House of Representatives, joint House-Senate items and legislative branch entities such as the Library of Congress, the Capitol Police, and the Government Accountability Office. It would provide $11.2 billion for programs that maintain and refurbish nuclear weapons in the United States’ stockpile. As amended, it would provide $1.1 billion in funding for the Veterans Community Care Program.” The bill passed by a vote of 235-179. [HR 5895, Vote #257, 6/8/18; CQ, 6/8/18]

The Fiscal Year 2019 Energy-Water-Legislative Branch-Veterans Affairs Appropriations Bill Would Kill The Clean Water Rule, A Provision Democrats Called A “Poison Pill.” “House lawmakers want more money for nuclear weapon modernization efforts while introducing cuts to renewable energy research. It also would set aside funding for the Yucca Mountain nuclear waste repository in Nevada and continue funding for the mixed oxide fuel fabrication facility in South Carolina. The House bill includes controversial policy riders meant to ease the repeal of the EPA-Army Corps joint ‘Waters of the United States’ regulation. Democrats have called the measure a “poison pill” unlikely to survive Senate scrutiny.” [CQ, 6/8/18]

Hudson Voted For The June 2018 House Version Of The Farm Bill. In June 2018, Hudson voted for: “Passage of the bill that would reauthorize and extend federal farm and nutrition programs through fiscal 2023, including crop subsidies, conservation, rural development and agricultural trade programs and the Supplemental Nutritional Assistance Program. It would require individuals receiving SNAP benefits, who are 18-59 years old, to work or participate in work training programs for a minimum of 20 hours per week, and would require the Department of Agriculture to establish a database to track individuals receiving SNAP benefits. The bill would reauthorize and extend supplemental agricultural disaster assistance programs, the current sugar policies and loan rates, several international food aid programs, nonrecourse marketing assistance loans for loan commodities, several dairy programs, including the dairy risk management program (previously the margin protection program) and would modify certain utility standards in the Home Energy Assistance Program to require SNAP benefits recipients to provide documentation of such expenses in order to receive increased benefits using the Standard Utility Allowance.” The bill passed, 213-211. [H.R. 2, Vote #284, 6/21/18; CQ, 6/21/18]

The June 2018 House Version Of The Farm Bill Would Have Repealed The Clean Water Rule. “Farm Bill The House Farm Bill (June 2018 version) would have repealed the Clean Water Rule, removed protections from pesticide spraying in waters, slashed conservation funding, weakened protections for endangered species, and many other rollbacks. It would have also forced thousands of people off of Supplemental Nutrition Assistance Program (SNAP, or food stamps) benefits. The pro-environment vote was NO. H.R. 2 passed in the House 213-211 on June 21, 2018.” [Clean Water Action, 2018]

The Clean Water Rule Would Better Protect Drinking Water For 117 Million Americans. “One in three Americans gets drinking water from streams that are not clearly protected by the Clean Water Act. Two confusing
and controversial Supreme Court decisions in 2001 and 2006 left many of our nation’s smaller streams and wetlands in a legal limbo. The lack of clarity has compromised enforcement in hundreds—perhaps thousands—of pollution cases. And for the first time in decades, the rate of wetland loss is on the rise. In 2015, the U.S. Army Corps of Engineers and the Environmental Protection Agency finalized a rule clarifying how the Clean Water Act applies to these smaller streams and wetlands. The final rule restores Clean Water Act protections for 60 percent of the nation’s stream miles and millions of acres of wetlands. These waters are a buffer against floods, provide water during droughts, and filter pollutants from drinking water. [...] The Clean Water Rule will better protect drinking water supplies for 117 million Americans.” [National Wildlife Federation, February 2017]

Duke Energy Spilled Coal Ash Into The Dan River, Coating 70 Miles Of The River In Gray Sludge. “Duke Energy pleaded guilty Thursday to nine violations of the federal Clean Water Act and will pay $102 million in fines and restitution for illegally discharging pollution from coal-ash dumps at five North Carolina power plants. The plea by the nation's largest electricity company, part of a negotiated settlement with federal prosecutors, is the result of an investigation that began in February after a pipe collapsed under a coal ash dump, coating 70 miles of the Dan River in gray sludge.” [CBS, 5/14/15]

Duke Energy Spilled 78 Million Pounds Of Coal Ash Into The Dan River. “North Carolina officials said Friday they reached a $6 million settlement with Duke Energy over the Eden coal ash spill. The state Department of Environmental Quality fined Duke $6.8 million in February following the February 2014 spill. Duke appealed the fine, and state environmental officials said this settlement to pay a $6 million fine resolves the appeal. The spill dumped an estimated 39,000 tons--or 78 million pounds--of coal ash into the Dan River. The sludge traveled as far as 70 miles away from the Eden power plant.” [WXII, 9/23/16]

2018: Duke Energy Increased Electricity Rates In North Carolina. “Duke announced its plans following a rate hike last year for its residential customers in eastern and central North Carolina, including in the Charlotte area. In that hike, a typical residential customer using 1,000 kilowatt-hours of electricity per month saw their bill increase from $103.85 to $104.69, according to Duke.” [Charlotte Observer, 1/17/19]

2020: Duke Energy Sought To Raise Electric Rates In North Carolina By An Average Of 10.3%. “Both Duke Energy Progress and Duke Energy Carolinas are asking the NC Utilities Commission for rate hikes in 2020. The public hearings have already been held. The evidentiary hearings (where intervenors like NC WARN get to present their testimony and cross-examine Duke witnesses) are postponed due to the pandemic. It is likely that the two hearings will be combined. [...] Duke wants people to think this is a 6.7% residential rate hike, but Duke is actually seeking an average 10.3% increase for residential accounts. The lower 6.7% figure is the net increase after Duke pays customers back for overcharges related to tax savings that it failed to pass on to us in previous years.” [NC Warn, 2020]

HEADLINE: “Duke Energy Carolinas Plans Temporary Rate Hike For NC Customers Next Month” [Charlotte Business Journal, 7/24/20]
Utilities support maintaining status quo as EPA replaces Clean Water Rule

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Highlight: A comment period has closed in the U.S. Environmental Protection Agency and U.S. Army Corps of Engineers' effort to turn back the clock on the Clean Water Rule.

The U.S. Environmental Protection Agency and U.S. Army Corps of Engineers are developing a new definition of the "waters of the U.S.," subject to federal regulation, to be released in the first quarter of 2018. In the meantime, some utilities support maintaining the status quo instead of allowing the Obama administration's 2015 definition of the term to go into effect.

A comment period has closed in the EPA and Army Corps' regulatory action to turn back the clock on the Clean Water Rule, more commonly referred to as Waters of the U.S., or WOTUS. Over 200,000 comments were received from industry stakeholders and the public, with just under 10,000 available to view Sept. 28.

The Edison Electric Institute, which represents a number of utilities and electric companies, and Duke Energy Corp. agree that maintaining the status quo provides certainty for regulated entities and the continued permitting of energy-related water permits.

Acknowledging the inherent difficulty of defining the waters of the U.S., Duke Energy said the 2015 initiative still left some questions unanswered despite the Obama administration's best efforts.

"Instead of reducing uncertainty, the 2015 WOTUS rule was filled with ambiguous terms and definitions that would lead to jurisdictional interpretations in the broadest extent possible resulting in the ability to classify just about any water, and some land features, as WOTUS," Duke Energy wrote. That rule significantly expanded federal jurisdiction, and the implementation strategy would have delayed energy infrastructure projects, including renewable energy facilities, the company added.

Earthjustice submitted comments on behalf of a coalition of environmental groups protesting the Trump administration's narrow interpretation of how the Clean Water Rule should be replaced and urged the agencies to use relevant science to develop the new definition. President Donald Trump in a February executive order directed the EPA and Army Corps to review the rule through the lens of the late U.S. Supreme Court Justice Antonin Scalia, who wrote a 2006 opinion on the matter with an eye toward rescinding it. But environmental groups contend that adopting a definition consistent with Scalia's opinion could leave millions of acres of wetlands excluded from federal protections.

The public, meanwhile, largely pleaded with the EPA in thousands of named and anonymous comments to continue to protect the nation's waterways.

"We need more drinking water protections, not fewer," wrote Osborne Lamoree of Florida. "Dumping coal ash and coal tailings in drinking water sources [is] criminal and I would be arrested if I did it and you should be also." Cassalyn David of Arizona concurred, objecting to lifting protections for any bodies of water. The review of the Clean Water Rule "is an attempt to gut the Clean Water Act," David wrote. "It would allow industry to freely pollute waterbodies, and lead to widespread degradation of waterways."