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Water Pollution

Environmental Groups Challenge Permit Issued for TVA's Johnsonville Power Plant

RALEIGH, N.C.—A wastewater discharge permit issued by Tennessee for the Tennessee Valley Authority's Johnsonville power plant violates the Clean Water Act, environmental groups said in a petition filed March 14 with the state Water Quality Control Board.

The petition, filed by Earthjustice, the Environmental Integrity Project, the Southern Alliance for Clean Energy, and the Tennessee Clean Water Network, alleges that the state failed to require sufficient technology-based effluent limits or otherwise require the use of best available control technology. In November 2010, the groups filed a challenge to a permit issued for TVA's Bull Run facility over similar claims (210 DEN A-8, 11/2/10).

TVA's Johnsonville fossil-fuel fired plant is located on the east bank of the Tennessee River west of Nashville. According to the authority, the facility generates about 550 million kilowatt hours of electricity per year and began operation in 1952.

Agency Fails to Require 'Modern' Controls

According to the petition, a permit approved by the Tennessee Department of Environment and Conservation (TDEC) in February (Permit No. TN0005444) allows the facility to discharge 21 million gallons per day of toxic coal combustion wastewater and nearly 1.2 billion gallons per day of "very hot once-through cooling water" to the Tennessee River. The permit also allows TVA to continue using "an old, leaking, and potentially unstable settling pond" despite its risk of structural failure, the groups said in their petition.

TDEC continues to grant the facility a variance from thermal effluent limits that are designed to protect fish and other aquatic life, based on outdated ecological information, according to the petition. The permit also violates federal law because it does not include numeric, technology-based effluent limits for metals or total dissolved solids, the petition said.

"The Permit allows TVA to continue operating the 60-year-old Johnsonville plant without making any investment in modern controls to prevent water pollution," the groups said in their petition.

According to the petitioners, TDEC also violated state public notice requirements by failing to inform parties that commented on the draft permit that a final version had been issued Feb. 9.

The petition was filed with the Tennessee Water Quality Control Board and will be considered by an administrative law judge.

"We hope that TVA abandons wet ash storage in the near future," according to Abel Russ, an attorney with the Environmental Integrity Project.

"In the meantime the Clean Water Act requires numeric limits to prevent unnecessary releases of toxic pollutants," Russ said in a March 14 statement. "That's the law and we want to make sure that TDEC and TVA are following it," he said.

Megan Klein, an attorney for Earthjustice, told BNA that an administrative law judge has been assigned in the groups' challenge to the Bull Run facility permit and the parties currently are conducting discovery. No hearing date has yet been set for that challenge, she said.

Tisha Calabrese-Benton, a spokeswoman for TDEC, told BNA that the permit issued by the agency for the Johnsonville facility was based on federal standards and was protective.

According to Calabrese-Benton, the federal Environmental Protection Agency approved the permit at issue prior to its issuance. "We respect the rights of third parties to appeal permit decisions, and the issue will now be heard before the Water Quality Control Board," she said.

TVA representatives were unavailable for comment.

By Andrew M. Ballard

Text of the petition challenging the water quality permit issued by Tennessee for TVA's Johnsonville plant is available at <http://op.bna.com/env.nsf/r?Open=jstn-8exuep>.

Contact us at <http://www.bna.com/contact/index.html> or call 1-800-372-1033

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