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Source: Daily Environment Report: News Archive > 2010 > November > 11/02/2010 > News > Water Pollution: Environmental Groups Challenge Permit Issued for TVA's Bull Run Power Plant

210 DEN A-8

Water Pollution

Environmental Groups Challenge Permit Issued for TVA's Bull Run Power Plant

RALEIGH, N.C.—A discharge permit recently issued by state regulators for the Tennessee Valley Authority's Bull Run power plant violates the Clean Water Act, environmental groups said in a petition filed Nov. 1.

According to the petition, the permit allows the facility to discharge 19 million gallons of contaminated water per day into a local drinking water source instead of requiring the best available technology that is economically achievable, as required by the Clean Water Act.

The permit also violates the federal law because it does not include numeric, technology-based effluent limits for metals or total dissolved solids, the petition said.

The petitioners—Earthjustice, Environmental Integrity Project, Southern Alliance for Clean Energy, and Tennessee Clean Water Network—filed the petition with the Tennessee Water Quality Control Board challenging a permit approved Oct. 1 by the Tennessee Department of Environment and Conservation (Permit No. TN0005410). The environmental groups request that the board consider and reverse the issuance of the water quality permit.

According to the petition, the National Pollutant Discharge Elimination System permit at issue authorizes the Bull Run facility to discharge 19 million gallons of liquid coal combustion waste per day from a 30-acre settling pond into a portion of the Clinch River that is part of the Melton Hill Reservoir near Oak Ridge, Tenn. The reservoir provides drinking water for about 170,000 people and is used for recreational activities, the petition said.

19 MGD
liquid coal
combustion
waste
from a settling
pond

The settling pond at issue had been classified by the Environmental Protection Agency as among the top 49 high-hazard potential sites holding coal combustion waste in the United States (167 DEN A-6, 9/1/09).

Units rated as high-potential hazard are those where failure probably would cause loss of life.

Groups Say Alternatives, Limits Lacking

According to the environmental groups, the Tennessee Department of Environment and Conservation violated the Clean Water Act by not requiring the best available technology that is economically available and by not setting numeric, technology-based effluent limits for certain contaminants.

EPA has identified multiple coal combustion waste technologies used in the United States that achieve zero liquid discharge, including complete recycle, evaporation ponds, conditioning dry fly ash, underground injection, and vapor-compression evaporation, according to the petition. In addition, EPA has identified a number of other power plants that have significantly reduced the amount of pollutants discharged from their scrubber systems through chemical precipitation and biological treatment technologies, the petition said.

As other power plants in the United States have implemented such approaches, it demonstrates that the technologies are "available and economically achievable," the petition said. It said regulators justified their decision not to consider alternative technologies because TVA has announced it intends to convert its wet fly ash and bottom ash handling systems to dry ash handling systems at six of its 11 coal-fired power plants.

However, according to the petition, TVA is under no legal obligation to convert Bull Run to a dry system within any specific period of time. The permit also indicates that TVA expects the dry

conversion at Bull Run to take between eight and 10 years to complete, outside of the five-year permit term, the petition said.

In addition, the groups said in their petition that Tennessee regulators violated the Clean Water Act by issuing a discharge permit that does not include any numeric technology-based effluent limits for metals, total dissolved solids, or other parameters aside from pH, total suspended solids, and oil and grease discharges.

"After the Kingston disaster, TVA and the state of Tennessee should know better," Megan Klein, attorney for Earthjustice, said in a Nov. 1 statement.

"The EPA lists this coal ash dam as 'high-hazard' because it will likely kill people if it fails," Klein said. "TVA needs to shut it down and move to a safe system that actually works to prevent water pollution," she said.

Klein told BNA that the Tennessee Water Quality Control Board is not required to act on the petition with a specific time frame. An administrative law judge will be assigned to the case and typically will try to consider such a petition within six months of it being filed, she said.

Parties can request extensions of hearing dates set by the judge, Klein said.

Pond Status Said Upgraded to 'Significant' Hazard

"The status of the settling pond at Bull Run Fossil Plant has been reduced from 'high hazard' to 'significant' due to the work TVA has done to improve the stability and condition of that impoundment," Barbara Martocci, a TVA spokeswoman, said in a Nov. 1 statement e-mailed to BNA. Federal guidelines consider 'significant' any potential hazards that pose an environmental or infrastructure threat that extends beyond a facility's property, but where there is no probable risk of loss of life.

According to Martocci, Stantec Inc., engineering consultants for TVA, cited the Bull Run storage pond improvements in a report the company issued in October assessing all of TVA's ash storage facilities. "TVA meets all of its water permits designed by the state to protect the safety and health of the public," Martocci said.

Additional Requirements Said Added to Permit

Tisha Calabrese-Benton, a spokeswoman for the Tennessee Department of Environment and Conservation, told BNA that water supply officials have found no public drinking water problems associated with the Bull Run facility. Public water systems using the Clinch River downstream from the plant monitor for primary inorganic contaminants that include most of the heavy metals associated with coal ash, she said.

According to Calabrese-Benton, the NPDES permit at issue is more stringent than the permit it replaced and was only issued after review and approval by EPA. In addition to discharge requirements, it also includes structural integrity requirements, she said.

Following the December 2008 coal ash spill at TVA's Kingston facility, Tennessee regulators issued an enforcement order that required, among other things, complete structural review of all coal ash impoundments in the state, Calabrese-Benton told BNA. Needed improvements at Bull Run were identified in that review—including lowering the pool level at the storage pond—and they have been or are being addressed, she said.

The state regulatory agency "respects the process which allows citizens to appeal permits and is committed to continuing to work to protect both human health and the environment," Calabrese-Benton said. "Sensationalizing issues, however, is not particularly constructive in achieving science-based solutions to the environmental problems we all face," she said in response to the environmental groups' announcement of their permit challenge.

By Andrew M. Ballard

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

Text of the Stantec evaluation of TVA ash storage facilities is available at <http://www.tva.gov/power/stantec2>.

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

ISSN 1521-9402

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Core

Hg. (etc.) discharge problem by
recycling waste stream, thus going to zero discharge