

Coal Ash Should be Better Regulated by EPA, Say Investors

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Investment groups managing over \$240 billion urge EPA to adopt "Subtitle C" regulations for coal ash

September 15, 2010 – The U.S. Environmental Protection Agency (EPA) should adopt federally-enforceable regulations governing coal ash disposal to prevent costly environmental and public health impacts, says a group of investors representing over \$240 billion in assets under management in a public comment letter submitted to the EPA today. This letter, organized by Green Century Capital Management, comes the day before a public hearing in Chicago on the proposed regulations, and is signed by 22 institutional investors including the Connecticut State Treasurer's Office.

"The catastrophic coal ash spill at the Tennessee Valley Authority (TVA) pond in December 2008 demonstrated that current regulations are not enough to mitigate environmental and financial risk for utilities and their shareholders," according to the letter the investors submitted to the EPA. The TVA faces over \$1 billion in costs along with dozens of lawsuits after a retaining wall failed at one of the public utility's coal ash ponds in 2008, spilling over one billion gallons of coal ash sludge into homes and rivers in the town of Kingston, TN.

The investors highlight the financial assurance requirement in the proposed regulations as a critical measure to assist shareholders in understanding the financial risks associated with coal ash and evaluating which companies are financially prepared to manage the costs of closing down coal ash sludge ponds or dealing with coal ash-related impacts.

Coal ash is a by-product of burning coal that contains arsenic, mercury, lead and other toxins filtered out of smokestacks by pollution control equipment. The toxins in coal ash have been linked to cancer, organ failure, and other serious health problems. Coal ash is generally stored in enormous quantities in landfills or impoundment ponds, such as the one operated by TVA that failed in 2008. Currently, coal ash ponds and landfills are subject to less consistent regulation than landfills accepting household trash.

"Beyond the TVA spill, the disastrous oil well blowout in the Gulf of Mexico demonstrates that unforeseen accidents can occur that create unpredictably large environmental and financial risk for energy companies. We believe it is critical that utilities be required to assure shareholders and the public that they are financially prepared to manage the costs associated with a catastrophic coal ash spill or other ash-related events that could require significant clean up costs," states the letter.

The letter, organized by Green Century Capital Management (Green Century) and **As You Sow**, is signed by 22 institutional investors including the Connecticut State Treasurer's Office, New York State Comptroller Thomas DiNapoli, and Oregon Treasurer Ted Wheeler; socially responsible investors including Trillium Asset Management Corporation and First Affirmative Financial Network; and religious investors including Catholic Healthcare West and the Sisters of St. Francis of Philadelphia. A full list of signatories is below.

"It's not just the possibility of another TVA spill that presents risks to companies that store or dispose of coal ash. There is documented evidence of coal ash contamination from leaching or spillage at over 67 different sites in the U.S. Lax regulation of coal ash means companies often do the bare minimum to comply with the regulations that exist, and unfortunately this can lead to serious environmental and health risks. We need consistent, federally-enforceable regulations that bring all companies up to best practice," says Emily Stone, Shareholder Advocate at Green Century.

The letter to the EPA follows shareholder resolutions, filed for the first time in the 2010 proxy season, requesting improved disclosure on how companies are reducing environmental and health risks associated with coal ash. Resolutions were filed at Southern Company*, FirstEnergy*, Xcel Energy*, CMS Energy* and MDU Resources* by Green Century and As You Sow. The resolutions that went to a vote at company annual meetings received an average shareholder vote of 35%** (21%** at Southern Company, 41%** at MDU Resources and 43%** at CMS Energy), demonstrating that a sub-

stantial number of shareholders view the issue of coal ash as materially relevant to their investments.

“The EPA coal ash ruling for subtitle C is critical to prevent another TVA disaster from ever occurring again and to ensure these sludge ponds and landfills don’t create public health problems for local communities. Companies should be required by the EPA to use best practice for storing coal ash so we can lessen risks to the environment, to communities and to the bottom line,” says **Andrew Behar, CEO of As You Sow**.

The full list of signatories to the letter: As You Sow, Boston Common Asset Management, Calvert Asset Management Company Inc., Catholic Healthcare Partners, Catholic Healthcare West, Christopher Reynolds Foundation, the Connecticut State Treasurer’s Office, Domini Social Investments LLC, Dominican Sisters of Hope, First Affirmative Financial Network LLC, Green Century Capital Management, the Midwest Coalition for Responsible Investment, New York State Comptroller Thomas P. DiNapoli, the Northwest Coalition for Responsible Investment, Oregon Treasurer Ted Wheeler, PaxWorld Management LLC, Robert Brooke Zevin Associates, Sisters of St. Francis of Philadelphia, Sisters of St. Joseph of Carondelet and Associates, The Sustainability Group at Loring, Wolcott & Coolidge, Trillium Asset Management Corporation, and the Ursuline Sisters of Tildonk.