

Consumers Energy faces shareholder resolution over coal ash

Company is formally asked to explain actions to contain ash hazards

By Eartha Jane Melzer 2/1/10 10:18 AM

A California-based environmental advocacy organization that owns stock in CMS/Consumers Energy is asking the company to explain how it is protecting itself and the public from the risks posed by 700,000 tons of coal ash that it produces each year.



In a resolution filed in late 2009, the group As You Sow requested, “that the Board prepare a report on the company’s efforts, above and beyond current compliance, to reduce environmental and health hazards associated with coal combustion waste, and how those efforts may reduce legal, reputation and other risks to the company’s finances and operations.”

Consumers Energy's Karn-Weadock complex, photo courtesy Hampton Township

Coal combustion waste (CCW) is a by-product of burning coal that contains arsenic, mercury, heavy metals and other toxins that are filtered out of smokestacks by filters. This waste is stored in landfills and retention ponds. Toxins from CCW are known to leach from these disposal sites into ground and surface waters and have been linked by the U.S. Environmental Protection Agency to elevated cancer risks for nearby residents. Coal ash disposal is currently regulated at the state level. However, the billion gallon Tennessee Valley Authority coal ash spill in 2008 spurred new focus on the dangers and costs of coal ash and EPA is expected to release new rules for coal ash soon.

“Coal combustion comprises 47.5 percent of CMS Energy’s generation capacity,” As You Sow states in its resolution. “CCW is therefore a significant issue for our company.”

“This is the first year that shareholders have filed on coal ash,” said Amy Galland, research director for As You Sow. “I think it is important that shareholders are looking at the range of environmental impacts of these companies and coal ash has significant effects.”

Galland said that the Securities and Exchange Commission will decide whether shareholders will have a chance to vote on the resolution at their annual meeting.

“Another option,” she said, “is that the company agrees to do what you ask, then the resolution is withdrawn.”

Galland said that the FirstEnergy Corporation of Ohio recently upgraded its coal ash handling practices in response to a shareholders resolution.

“The company is considering As You Sow’s request,” Consumers Energy spokeswoman Mary Gust told the Michigan Messenger, “and it is premature to discuss this at this point.”

The resolution by As You Sow expressed concern that CMS has stated that only one of the company’s diked ash ponds has been rated as to whether a dam breach would likely result in a loss of human life and significant environmental consequences.

This CMS report, made in response to EPA inquiries after the TVA coal ash spill, also states engineering and structural integrity testing information is missing for most of the company’s surface impoundments.

Older plants a particular risk

The JR Whiting Plant a 328 megawatt facility located along Lake Erie 10 miles south of Monroe, is the oldest plant in the CMS fleet. It began operating in 1953.

In response to EPA questions about coal ash surface impoundments at the JR Whiting Plant, CMS indicated that it did not have records of whether five of the six coal ash ponds used at the plant were constructed by professional engineers.

It also stated, “While Company personnel make visual inspections of the dike at least weekly and visual inspections are made by the MDEQ’s inspector at least quarterly, we have not found a record of a formal structural inspection of these ash storage ponds.”

In a 2007 EPA report on the environmental hazards of coal ash disposal sites, the agency singled out the JR Whiting plant as one of few unlined coal ash dumps with no system to monitor whether toxins are moving into the groundwater.

Lack of data on site design and safety

CMS also told EPA that in the wake of the Tennessee Valley Authority ash dike failure that the company sent out requests for engineering firms to evaluate the structural integrity of its ash impoundments.

Last year the Environmental Integrity Project analyzed EPA's coal ash risk assessment data and found that as many as 1 in 50 people who live around unlined coal ash dumps will get cancer because of toxins in drinking water.

Consumers Energy's JH Campbell plant in Ottawa County also has an unlined 267 acre ash disposal site.

The Karn/Weadock generating complex in Hampton Township near Bay City is Consumers Energy's largest. According to the company it uses 3 million tons of coal per year and can generate up to 2,101 megawatts of power, about 25 percent of the company's annual electricity production.

This is also the site where the company plans to build a strongly contested new coal plant.

As at the JR Whiting plant, Consumers Energy has stated that it does not know whether most of the hundreds of acres of surface ash impoundments at the Karn-Weadock complex were designed by professional engineers.

In 2008 the local environmental group, Lone Tree Council, uncovered documents from the state Department of Environmental Quality that showed that toxins from the ash piles at the Karn/Weadock complex had been leaching into the groundwater for decades.

Nancy Janoch of Midland Cares, a group that opposes construction of a new Consumers power coal plant at the Karn/Weadock complex on environmental grounds, lives about 20 miles from the complex.

Janoch emphasized that coal causes environmental and human health problems as it is mined, transported, and burned and as well as when the ash is disposed as waste, and said that she's concerned that the heavy metals and toxins from coal ash dumps will threaten Michigan agriculture by contaminating the soil and water.

Janoch said that she supports the effort by As You Sow.

"I'm sure that having some kind of resolution will be better than nothing, but what needs to be questioned is why CMS is persisting in saying there is no alternative but coal in the future. That is something shareholders should pursue."

"Michigan relies a lot on our water, our soil and our air," she said. "Those are things that are compromised by having coal power facilities in our state."