



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

February 4, 2009

Tom Kilgore, CEO
Tennessee Valley Authority
400 Summit Hill Drive
Knoxville, Tennessee 37902-1499

Dear Mr. Kilgore:

As the cleanup of the Kingston fly ash incident moves from the emergency response phase towards the long-term recovery phase, the Environmental Protection Agency (EPA), Region 4, and the Tennessee Department of Environment and Conservation (TDEC) want to express their commitment to working collaboratively in their oversight of cleanup activities. As your agency, EPA and TDEC recognize, there are various state and federal requirements that apply to the cleanup of ash from the Kingston site, the ultimate disposal of the recovered material and the restoration of impacted waters. A coordinated oversight approach is critical to ensuring that the objectives of both state and federal regulatory authorities are achieved so that we can realize our common goal of protecting human health and the environment.

TDEC's Commissioner's Order, issued to TVA on January 12, 2009, requires the submittal of a Corrective Action Plan to TDEC for addressing the cleanup of the ash spill. In addition to other federal authorities that incidents like the Kingston spill trigger, when EPA finds that an Executive agency is in violation of a pollution control standard, Executive Order 12088 states that, upon notice of such violation from EPA, the Executive agency shall provide to EPA a plan to achieve and maintain compliance with the applicable pollution control standard. Without limiting any other authorities that EPA might later choose to exercise with respect to this incident, EPA is hereby providing notice to TVA pursuant to Executive Order 12088 that EPA considers the Kingston spill to be an unpermitted discharge of a pollutant in contravention of the Clean Water Act.

In order to meet the requirements of both the TDEC's Commissioner's Order and Executive Order 12088, and to ensure the most efficient and expeditious collaboration between our three agencies, please provide duplicate copies of all plans, reports, work proposals and other submittals to EPA and TDEC simultaneously. Our two Agencies will then coordinate our review and approval of such submittals within our respective authorities. To that end, our Agencies will identify applicable cleanup standards and other standards of control and will work together to resolve any discrepancies that might exist between federal and state requirements. Please continue to provide submissions to TDEC in accordance with the direction you previously received from Joe Sanders, General Counsel for TDEC, by email dated January 20, 2009. Submittals to EPA should be made to Mr. Tom Welborn, of EPA's Water Protection Division, at 61 Forsyth Street SW., Atlanta, GA 30303-8960 or Welborn.Tom@epa.gov.

Internet Address (URL) • <http://www.epa.gov>


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TDEC and EPA look forward to working with TVA to restoring the Emory River and surrounding area. Please feel free to contact us if you have any questions or concerns.

Sincerely,



A. Stanley Meiburg
Acting Regional Administrator
EPA Region 4



Paul Sloan
Deputy Commissioner
Tennessee Department of Environment
and Conservation