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IN EUROPE (U.S. HELSINKI COMMISSION)

November 22, 2021

Jeffrey J. Lyash
President and Chief Executive Officer
Tennessee Valley Authority
400 West Summit Hill Drive
Knoxville, TN 37902

Dear President Lyash,

I am writing to express my concern regarding Tennessee Valley Authority's (TVA) decision to dispose of its toxic coal ash from the Allen Fossil Plant to the South Shelby Landfill in Memphis, Tennessee, and to inquire whether adequate environmental review and public engagement occurred and whether reasonable alternatives were considered.

As you well know, I have been a staunch advocate of the removal of TVA's toxic coal ash, particularly when it was disclosed in 2017 that TVA detected arsenic contamination in the groundwater at more than 300 times the groundwater protection standard.¹ I was especially alarmed when I learned that TVA acknowledged the existence of a breach in the protective clay

¹ Charlier, Tom, "High levels of arsenic, lead found beneath Tennessee Valley Authority plant," *Commercial Appeal*, <https://www.commercialappeal.com/story/news/2017/07/12/high-levels-arsenic-lead-found-beneath-tennessee-valley-authority-plant/470096001/>

barrier that separated the high levels of contaminants in the groundwater in the shallow aquifer from the deeper sand aquifer from which the City of Memphis draws its drinking water.²

When TVA's decision was initially disclosed to the Memphis City Council in July 2021, I expressed apprehension about the decision and questioned whether the process included the appropriate amount of transparency and community input. I also inquired as to why Whitehaven was chosen rather than Tunica, Mississippi. Following the negative reaction by community members to the announcement, TVA publicly committed to "listening and engaging with its customers, communities and the people it is privileged to serve" before advancing its proposal. To that end, I am surprised to learn that TVA had already received most of the required permits and expects to start moving the coal ash through South Memphis "soon."³

It is my understanding that this proposal is moving forward under TVA's Final Environmental Impact Statement for the Allen Fossil Plant Ash Impoundment Closure (2020 EIS), which did not adequately disclose site-specific information.⁴ It is also my understanding that the 2020 EIS only analyzed impacts on a hypothetical, generic "environmental justice population," and did not adequately take the specific Whitehaven community into account, which is already burdened by dozens of highly polluting facilities and has been identified as an air pollution hot spot.

Over the past year, residents of South Memphis have endured an environmentally unjust attempt to build a pipeline through its predominately Black neighborhoods because a company viewed it as the "point of least resistance." This potential environmental disaster that could have threatened our city's drinking water and would have disrupted several residents' property rights was averted through an extraordinary grassroots effort put together by the very community that would have been affected. Considering South Memphis residents' recent experience standing up against environmental injustice, it is perplexing to me that TVA would not take the adequate steps to analyze site-specific impacts of its decision and solicit ample community feedback before dumping its waste in the exact same community. This is especially important considering the volume of truck traffic and accompanying noise, air pollution and safety impacts that will be endured by these residents for the next several years. It appears that TVA is woefully out of touch with the community it wants to impose its coal ash upon.

Because of the significant environmental justice concerns surrounding TVA's decision and the apparent lack of public engagement on the selection of the South Shelby Landfill, I believe it would be prudent for TVA to conduct a supplemental EIS rather than rely on generic assumptions in the 2020 EIS. Completing such analysis would also comply with the Council on Environmental Quality's guidance which emphasizes the need to meaningfully engage with the specific community that will be affected early and often throughout the National Environmental Policy Act (NEPA) process.

² Watts, Micaela A., "TVA report: Clay barrier absent above Memphis aquifer at site near coal ash landfill," *Commercial Appeal*, www.commercialappeal.com/story/news/breaking/2019/03/01/memphis-aquifer-not-protected-arsenic-some-parts-tva-says-coal-ash-contamination-ground-water/3034179002

³ Guzman, Dulce Torres, "Memphis residents wage fight against TVA coal ash storage," *Tennessee Lookout*, <https://tennesseelookout.com/2021/11/15/10698/>

⁴ Tennessee Valley Authority, Allen Fossil Plant Ash Impoundment Closures, <https://www.tva.com/environment/environmental-stewardship/environmental-reviews/nepa-detail/Allen-Ash-Impoundment-Closure>

Before TVA begins hauling ash and fill material through overburdened South Memphis neighborhoods, I would appreciate the answers to the following questions:

1. The Allen Fossil Plant Ash Impoundment Closure EIS employs a “bounding analysis” to evaluate transportation, noise, air quality, and safety impacts associated with its landfill selection. Has TVA previously used a bounding analysis to evaluate environmental impacts that will disproportionately burden environmental justice communities? If so, please provide examples.
2. Is TVA aware of other federal agencies that employ a “bounding analysis” to evaluate environmental impacts on environmental justice communities? If so, please provide examples.
3. The EIS explains that TVA was considering an alternative to move coal ash by truck up to nearly 25 miles through minority environmental justice communities within 30 miles of the Allen Fossil Plant. The EIS further explains that this alternative will have disproportionate impacts on unspecified minority and low-income environmental justice communities. Despite having identified these disproportionate impacts, did TVA exclude from consideration the possibility of transport by rail or barge followed by trucking a short distance to a receiving landfill?
4. Did the criteria TVA used to evaluate proposals for ash hauling and disposal of the Allen Fossil Plant coal ash criteria require the receiving landfill to have a rail spur or port on site?
5. Did TVA receive any proposals from landfills that are located within thirty miles of a rail spur or port?
6. Did TVA consider the possibility of backhauling fill by rail or barge to avoid trucking impacts associated with borrow sites in South Memphis?
7. When TVA became aware that its two final landfill choices would both have disproportionate impacts on minority, low-income environmental justice communities, did it revisit its range of potential alternatives to try to avoid those impacts? If not, why not?
8. Was the Tunica Landfill willing to take some or all of the toxic coal ash waste? If so, why was that site not chosen?
9. At what point did TVA decide that it would dispose of coal ash from the Allen Fossil Plant at the South Shelby Landfill? Did TVA immediately disclose its selection to the public and Memphis City Council? If not, why not?
10. Did TVA consider the cumulative pollution burdens imposed by TVA and other industrial polluting facilities in South Memphis before making its landfill selection?

11. Would additional environmental review be advantageous to TVA to determine the potential impacts of its selection of the South Shelby Landfill on the South Memphis community and obtain the community's input?

While I absolutely share TVA's goal to remove its toxic coal ash from unlined pits at the Allen Fossil Plant and remove the threat to the City of Memphis' drinking water, I believe the South Memphis community deserves answers to the aforementioned questions before three million cubic yards of toxic coal ash is transported through their neighborhood for the next several years.

I appreciate your prompt attention to this urgent matter and look forward to your response.

As Always, I remain,

Most sincerely,

A handwritten signature in blue ink that reads "Steve Cohen". The signature is written in a cursive, flowing style.

Steve Cohen
Member of Congress