ENVIRONMENTAL INTEGRITY PROJECT

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May 6, 2009

Eddie Bernice Johnson, Chairwoman
Subcommittee on Water Resources and Environment
Committee on Transportation and Infrastructure
U.S. House of Representatives
111th Congress
2165 Rayburn House Office Building
Washington, DC 20515

Dear Congresswoman Johnson:

Thank you again for the opportunity to testify last week regarding the discharge of toxic metals from coal ash ponds and scrubber sludge treatment systems. I am writing to clarify several points in light of questions that have arisen about some of the data we presented and the May 3, 2009 story published in the *Washington Post.*

1) Our charts included arsenic or selenium concentrations at four plants – Big Bend, Roxboro, Cape Fear, and Kingston – where discharges from ash or sludge systems appear to mix with other effluent, such as cooling water, before final discharge to surface water. The expanded volume of the combined discharge will significantly reduce concentrations of these toxic metals, although it will not reduce their mass. Unfortunately, the plants apparently do not monitor or report selenium concentrations at the final discharge point. We have attached a revised bar chart with a note indicating that concentrations are likely to be lower at these plants at the point of final discharge.

2) We have removed the Yates plant from the revised bar charts, as it appears that discharges from the scrubber system may undergo additional treatment prior to their final release. The company reported discharging a large quantity of selenium (1200 pounds) to surface waters in 2007, according to the USEPA's Toxics Release Inventory, but lack of monitoring makes it difficult to determine the concentration at the final outfall.

3) We have confirmed after closely reviewing permit applications and other available data that discharges from ash and scrubber systems on the original bar charts flow directly to receiving waters. In addition, we are attaching detailed charts documenting selenium or arsenic concentrations in discharges from ash ponds or scrubber systems at 40 different plants, which also identifies whether those discharges are direct (most cases), or may be mixed with other effluents

before final release. The charts also provide an estimate of the mass associated with each discharge where that is possible to determine from flow rate data. As noted in our testimony, many plants do not monitor discharges of arsenic, selenium, or other toxic metals at all.

4) The chart displayed in the *Washington Post* story on May 3, 2009 indicated that EPA had established arsenic water quality criteria of ten micrograms per liter to protect saltwater aquatic life. As the chart presented in our testimony clearly indicates, that is incorrect; ten microgram per liter is a drinking water standard designed to protect human health. As noted in our testimony, some states (Tennessee) have also adopted the ten microgram standard to protect humans from exposure during recreational use of rivers or streams.

5) We tried to make clear in both written and oral testimony that water quality criteria apply to surface waters and do not necessarily legally limit what can be discharged at the end of the pipe. But we feel strongly that discharges of this magnitude warrant investigation by the EPA's enforcement program and should compel the agency to develop effluent limitation guidelines that limit both the concentration and mass of toxic metals discharged from power plants.

We appreciate this opportunity to clarify our testimony, and your own thoughtful inquiry into this important matter.

Sincerely,

Eric Schaeffer, Director
Environmental Integrity Project

Lisa Evans, Senior Attorney
Earthjustice

CC: John Boozman, Ranking Member
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Enclosures