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December 30, 2008

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Via Certified Mail – Return Receipt Requested

Tom Kilgore, President and CEO
Tennessee Valley Authority
400 W. Summit Hill Dr.
Knoxville, TN 37902-1499

James H. Fyke, Commissioner
Tennessee Department of Environment and
Conservation
L & C Annex, 1st Floor
401 Church Street
Nashville, TN 37243

Mike Apple, Director
Tennessee Division of Solid and Hazardous
Waste
5th Floor, L&C Tower
401 Church Street
Nashville, TN 37243-1535

Mr. Stephen L. Johnson, Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Mail Code: 1101A
Washington, DC 20460

James I. Palmer, Jr., Regional
Administrator
U.S. Environmental Protection Agency
Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-3104

Re: TVA Kingston Fossil Plant Notice of Intent to Sue Under Resource Conservation and
Recovery Act for Abatement of Imminent and Substantial Endangerment

Gentlemen:

We represent Southern Alliance for Clean Energy (“SACE”), a non-profit organization, organized under the laws of the State of Tennessee that promotes responsible energy choices that solve global warming problems and ensure clean, safe and healthy communities throughout the Southeast. SACE has members who live in the vicinity of the Tennessee Valley Authority’s Kingston Fossil Plant in Roane County, Tennessee, who are directly impacted as a result of the failure of a coal ash dredge cell impoundment at that facility.

SACE hereby places TVA and the other federal and state agencies to which this notice is addressed, pursuant to Section 7002(a)(1)(B) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6972(a)(1)(B), that SACE intends to file suit against TVA for abatement of an imminent and substantial endangerment to health and the environment caused by the

disposal of solid waste from the coal ash dredge cell impoundment at TVA's Kingston Fossil Plant. This principal address of SACE is as follows:

Southern Alliance for Clean Energy
Post Office Box 1842
Knoxville, TN 37901

Section 7002(a)(1)(B) of RCRA, 42 U.S.C. § 6972(a)(1)(B), allows affected citizens to bring suit against "any person, . . . including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility, who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment." Specifically, on December 22, 2008, TVA disposed of approximately 1 billion gallons of coal ash waste from its coal ash dredge cell impoundment into the Emory and Clinch Rivers and onto land in the vicinity of that impoundment due to the failure of the containment retention walls.

Coal ash waste is a solid waste pursuant to RCRA. Although EPA exempted fossil-fuel combustion (FFC) waste streams, including coal fly ash and bottom ash from electric utility power plants, from being regulated as hazardous waste under RCRA in 1993, coal ash contains significant levels of toxic metals, such as arsenic, thallium, antimony, lead, cadmium, mercury, selenium, boron, antimony, barium, cobalt, and molybdenum. Arsenic has been determined by EPA to be a Class A human carcinogen. According to EPA, "[a]n increased lung cancer mortality was observed in multiple human populations exposed primarily through inhalation. Also, increased mortality from multiple internal organ cancers (liver, kidney, lung, and bladder) and an increased incidence of skin cancer were observed in populations consuming drinking water high in inorganic arsenic."

Coal ash is spread across at least 300 acres of property adjoining the TVA coal ash impoundment that failed, including private property occupied by residents in the area. Direct human contact with the ash is the most immediate health concern, with inhalation posing a health hazard once the ash dries and becomes airborne.

Exposure through consumption of contaminated water is also a significant risk. When coal ash comes in contact with water, hazardous constituents leach out of the waste and contaminate groundwater and surface water. Coal ash has poisoned surface water and groundwater supplies in at least 23 states. EPA data of the TVA fly ash release so far indicates that several heavy metals are present in the water above drinking water standards, and at least one sample of river water indicates concentrations of arsenic that are considered very high. The Tennessee River near the TVA disposal site is the source of water supply for the City of Kingston, Tennessee, and toxic metals from the coal ash pose a risk to this water supply. In addition, the Watts Bar Reservoir downstream is used by several communities as the source of public water supply. According to TVA approximately 12 million gallons per day are taken from Watts Bar Reservoir

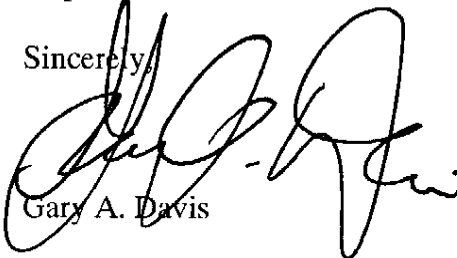
for public water supply. There are also numerous wells and springs in the immediate area of the coal ash disposal using groundwater for either domestic water supply or for livestock watering.

Finally, the metals and other compounds in the coal ash disposed of by TVA pose an imminent and substantial endangerment to fish and aquatic life in the Emory and Clinch Rivers and in the Tennessee River and Watts Bar Reservoir. Metals bioconcentrate up the food chain and can also pose a risk to humans consuming fish from these waters.

We intend to file suit in ninety (90) days in federal court and will seek abatement of the imminent and substantial endangerment through a court order directing TVA to: (1) characterize the full extent of the contamination of land, surface waters, sediments, and groundwater as a result of the coal ash disposal and provide this information to the public as it becomes available; (2) completely remove the coal ash contamination from surrounding lands and sediments; (3) diligently monitor the air and water in the area during the cleanup process; (4) temporarily relocate during the cleanup those residents whose property has been impacted by the coal ash spill to prevent exposure to the coal ash dust; (5) permanently relocate those residents whose property will remain contaminated after cleanup; (6) ensure that public and private water supplies are protected from contamination and that alternative water supplies are provided where contamination has been detected; (7) implement a plan to ensure that the remaining coal ash impoundment cells at the Kingston Fossil Plant will not fail; and (8) monitor the long-term health and environmental consequences of the coal ash disposal in the surrounding area.

If you would like to discuss this matter, please contact me as soon as possible, as we intend to file suit as soon as the statutory notice period expires.

Sincerely,



Gary A. Davis

GAD/ndg

cc: Michael Mukasey, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530-0001