

SENATE JOINT RESOLUTION 784

By Burchett

A RESOLUTION to direct the Department of Environment and Conservation to report on the status of the Tennessee Valley Authority's emergency preparedness and transition to dry coal ash storage.

WHEREAS, Tennessee experienced one of the worst man-caused ecological disasters in the December 22, 2008, coal ash dam failure and spill of more than 5.4 million cubic yards of coal ash at the Tennessee Valley Authority (TVA) coal plant at Kingston; and

WHEREAS, the TVA Inspector General, in a report dated June 12, 2009, found that TVA had not implemented the federal National Information Management System (NIMS) in accord with Presidential Homeland Security directives and that this failure "hampered communications and delayed certain emergency response actions following the spill; and

WHEREAS, the Tennessee Department of Environment and Conservation (TDEC), in an Ash Spill Advisory Committee report entitled "Lessons Learned from TVA Dredge Cell Containment Facility Failure" released November 30, 2009, notes that the TVA Inspector General finding that TVA had not complied with NIMS and found that "emergency planning and preparedness are critical aspects for the safe management and operation of containment structures including CCW (Coal Combustion Waste)" and that "TVA should implement NIMS training and changes to the Emergency Response Plans (ERPs) to improve communications with other agencies should TVA encounter another emergency situation"; and

WHEREAS, the TDEC Ash Spill Advisory Committee report also states that "TVA should add emergency management personnel and risk assessment for all TVA owned and operated facilities" and that "because of their high risk to life, property or environmental damage from potential failure, TDEC should review their requirements for similarly permitted facilities and

associated risk to determine commensurate levels of emergency planning and preparedness";
and

WHEREAS, TVA has six other coal-fired power plants in Tennessee with wet coal ash storage; and

WHEREAS, experts in coal ash agree that dry coal ash storage is preferable to wet coal ash storage; and

WHEREAS, TVA's response to its Inspector General and, according to TDEC's Ash Spill Advisory Committee, was that TVA will fully implement the NIMS; and

WHEREAS, TVA has announced that it plans to move three of its coal plants from wet ash storage to dry ash storage by 2012 and to eventually close all its wet ash ponds; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED SIXTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE HOUSE OF REPRESENTATIVES CONCURRING, that the Department of Environment and Conservation shall report to the 107th General Assembly no later than March 30, 2011, as to TVA's progress on NIMS implementation and emergency preparedness, including changes to the ERPs and emergency management personnel and risk assessment for all TVA owned and operated facilities in Tennessee.

BE IT FURTHER RESOLVED, that the Department of Environment and Conservation shall report annually, by February 1 of each year, on TVA's progress in transition to dry coal ash storage at each of its coal plants in Tennessee and in responding to the recommendations made in the TDEC Advisory Committee report, include a review of structural evaluations of all presently used coal ash storage facilities, both wet and dry landfills, until the transition to new dry coal ash storage is made.

BE IT FURTHER RESOLVED, that such annual reports shall also include structural analyses and geotechnical investigations and information on TDEC's progress on incorporating these recommendations and an independent evaluation board, including geotechnical and dam safety experts, into their permitting process as the Advisory Committee recommended.

BE IT FURTHER RESOLVED, that TDEC is authorized to seek to recover costs from TVA for the investigation, preparation, and presentation of these reports.

BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to the
Commissioner of the Department of Conservation and Environment.