



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

OCT 18 2016

Ms. Amy B. Henry
Manager, NEPA and Valley Projects, Environment
Tennessee Valley Authority
400 West Summit Hill Drive, WT11
Knoxville, Tennessee 37902

Re: Letter of Clarification on Ash Impoundment Closures

Dear Ms. Henry:

Pursuant to Section 102(C)(2) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act (CAA), the U.S. Environmental Protection Agency sent comment letters dated March 7, 2016, and June 21, 2016, concerning the Draft Programmatic Environmental Impact Statement (DPEIS) and Final Programmatic Environmental Impact Statement (FPEIS) for Ash Impoundment Closure (CEQ Nos: 20150369 and 20160134). It has been brought to the attention of the U. S. Environmental Protection Agency that the meaning of the 'Lack of Objections (LO)' rating given to the DPEIS and FPEIS has been potentially misinterpreted. This letter is to clarify the meaning of the EPA's rating system criteria and its relevance to oversight and approval of ash impoundment closures.

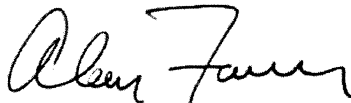
The EPA's rating of a NEPA document is conducted in accordance with the *Policy and Procedures for the Review of Federal Actions Impacting the Environment* (the '309 Manual') (1984; rev. 2007) and does not constitute an approval of, or authorization under Section 309 of the Clean Air Act or Section 102(2)(C) of NEPA. The rating procedures in the 309 Manual state that a 'LO' rating means that: *"the review has not identified any potential environmental impacts requiring substantive changes to the preferred alternative. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposed action"*

It is important to emphasize that the EPA's 'LO' EIS rating was predicated on the Tennessee Valley Authority's (TVA's) commitment and ability to comply with the Coal Combustion Residuals (CCR) Rule as well as state regulatory and enforcement requirements. Therefore, the EPA's letters dated March 7, 2016, and June 21, 2016, did not approve or disapprove the closure-in-place of the ash impoundments.

If the TVA is unable to meet the requirements of the CCR Rule or any requirements from the States for the preferred alternative, the EPA recommends that the TVA consider re-opening the NEPA process and potentially re-evaluating its preferred and selected alternatives for any of the specific impoundments that may be in question.

We appreciate the opportunity to provide this clarification on the ash impoundment closures. If you wish to discuss this matter further, please contact Mr. Christopher Militscher, NEPA Program Office Chief at (404) 562-9512 or at Militscher.chris@epa.gov. Questions about the CCR Rule should be directed to Mr. Jon D. Johnston, Materials and Waste Management Branch Chief, at 404-562-8527 or johnston.jon@epa.gov.

Sincerely,

A handwritten signature in black ink that reads "Alan Farmer". The signature is written in a cursive style with a large, prominent "A" and "F".

G. Alan Farmer

Director

Resource Conservation and Restoration Division

cc: P. Flood, TDEC
C. Head, TDEC