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Call to Action to Mitigate and Eliminate Risks to our Nation's Water Resources, Aquatic Ecosystems, Human Health, Wildlife Resources, and Outdoor Economies from Impoundments Containing Coal Combustion

Friday, May 2, 2014

WHEREAS, Coal Combustion Wastes (CCWs) [*variously identified as Coal Combustion Residues or Residuals*] consist of fly ash, bottom ash, coal slag, and flue gas desulfurization residuals, derived as a result of the combustion of coal by our nation's electric power generating industry; and

WHEREAS, the U.S. Environmental Protection Agency (EPA) has identified at least 676 land disposal units (landfills or surface impoundments) located at 240 facilities where wet or slurried CCWs are managed by utilities; and

WHEREAS, CCWs contain a broad range of constituents of concern (COPCs), including but not limited to the metals aluminum, antimony, arsenic, barium, boron, cadmium, chromium, cobalt, copper, lead, mercury, molybdenum, selenium, thallium, and zinc, among others, all of which, individually, or in combinations, pose a risk to human health, the environment, and wildlife, as well as to cause specific environmental and natural resources damage; and

WHEREAS, the toxicity hazards of CCWs from various coal sources and various combustion facilities vary substantially due to a many factors related to coal source and specifications of combustion facilities, leachates from CCWs have been documented to exceed both human health and ecological toxicity levels, as well as Maximum Contaminant Levels for most of the aforementioned metals; and

WHEREAS, the U.S. Fish and Wildlife Service (USFWS) has established environmental effects of toxins associated with CCWs upon biota ranging from amphibians, fish and mammals, to birds and reptiles, and causing impacts from physiological, developmental, and behavioral toxicity to major population and community-level changes; and

WHEREAS, EPA estimates that approximately 126 million tons of CCWs are produced in the U.S. annually and approximately 60 percent of these materials are disposed in landfills or surface impoundments, while the remainder are utilized in a variety of construction materials; and

WHEREAS, EPA has identified at least 45 of these units at 27 different locations, which have a high hazard potential rating, using the criteria developed by the National Dam Safety Program; and

WHEREAS, nearly all of these CCW management facilities are situated in close proximity to sensitive rivers, wetlands, and related waters of the U.S., resulting in extraordinary risks to these public waters, public water supplies, public recreational resources, and wildlife and sensitive wildlife habitats; and

WHEREAS, the risks associated with many of these CCW impoundments is exacerbated by the facts that many of the dams were built five or more decades ago, long before current landfill technologies and standards existed, and before the Clean Water Act, and that some of the utilities which benefitted from disposal of their CCWs in these facilities are already defunct or in bankruptcy, leaving no responsible financial entity accountable to maintain these impoundments; and

WHEREAS, EPA has identified accidental and permitted releases of toxic COPCs from over 200 CCW containment units throughout the U.S., that have resulted in exceedances of environmental standards in surface waters, wetlands, and groundwater, and impacting waters of the U.S., as well as privately owned natural resources; and

WHEREAS, numerous catastrophic failures of CCW containment dams have been documented by USFWS to have resulted in extensive pollution to public water resources as well as devastating damage to wildlife resources, including for example, the 1967 Clinch River, VA spill killing over 200,000 fish and poisoning benthic invertebrates for over 120 km downstream, the 2008 impoundment failure of the Tennessee Valley Authority's Kingston (TN) Fossil Plant impoundment, resulting in the release of 4.1 million cubic meters of ash into the Emory River, and most recently, the Feb 2014 failure of the Duke Energy Dan River Steam Plant's (NC) CCW impoundment, resulting in release of over 127,000 metric tons of coal ash and contaminated water to the Dan River [*Note: Other sources provide different numbers, to include an estimate 82,000 US tons of ash and 27 million gallons of contaminated water*], impacting over 112 km of the Dan River downstream, in both NC and VA, to within 15 km of Kerr Reservoir, a vast Corps of Engineers lake providing extensive wildlife habitat and recreational resources to the two state region, as well as water supply to over one-million Virginians; and

WHEREAS, the USFWS has documented from just twenty-two specific cases of fish and wildlife damages from disposal of CCWs, resulting in monetized direct cost of poisoned fish and wildlife and related costs exceeding \$US 2.3 billion; and

WHEREAS, the Electric Power Research Institute (EPRI), the scientific arm of the coal power industry, has long acknowledged the inherent environmental hazards from surface disposal of CCWs for decades and has encouraged utilities to switch from wet to dry storage in order to protect shareholders from significant financial risks; and

WHEREAS, in its Regulatory Impact Analysis undertaken as a part of its rulemaking allowing the ongoing use of unlined wet impoundments for the management of CCWs under Subtitle D of the Resource Conservation and Recovery Act (RCRA), EPA and the Office of Management and Budget (OMB) have failed to take into account the monetized value of impacts to fish and wildlife and related costs of this antiquated and technically flawed approach to managing CCWs; and

WHEREAS, EPA's proposed revisions to RCRA Subtitle D do not address safe closure and cleanup of CCW impoundments that do not receive ash after the proposed date of the rule, and do not require corporate financial responsibility to assure cleanup of existing facilities; and

WHEREAS, recent settlement agreements between the Catawba Riverkeeper Foundation and South Carolina Electric and Gas Company, have established a precedent for action by utilities to remove CCWs from unlined wet impoundments situated proximal to vulnerable rivers and sensitive wildlife habitats; and

WHEREAS, the wet-disposal of CCWs in unlined impoundments proximal to public waterways and vulnerable wildlife habitats is now recognized by the utility industry, regulatory agencies, environmental interest groups, and wildlife advocates alike as an archaic, wholly inappropriate and imprudent practice constituting a real and present danger to public health, wildlife resources, and outdoor economies, as demonstrated by recent failures of these type facilities;

NOW, THEREFORE, BE IT RESOLVED that the National Wildlife Federation, at its annual meeting assembled May 1-3, 2014 in Baltimore, Maryland, hereby calls upon responsible federal and state agencies, and the regulated community to take action, and urges the EPA and the OMB to expedite promulgation, implementation and enforcement of federal rules and regulations that provide definitive standards for the federal and state regulation of CCW impoundments across the United States; and

BE IT FURTHER RESOLVED that the National Wildlife Federation strongly encourages the utilities responsible for CCW wet impoundments to voluntarily act to expedite moving these toxic CCW residuals to lined dry landfill facilities employing best available technologies including leak resistant liner systems, and located in environments distant from public water resources and sensitive wildlife habitats, and commends those utilities already doing so; and

BE IT FURTHER RESOLVED that the National Wildlife Federation supports ongoing efforts by federal and state agencies, and the nation's utilities, to continue their work towards energy conservation, and conversion of our power production facilities to non-fossil sources; and

BE IT FURTHER RESOLVED that the National Wildlife Federation supports close coordination and cooperation between federal environmental, energy, and wildlife management programs and those of responsible state agencies, to effectively mitigate, or wherever possible eliminate the potential effects of CCWs upon water resources and wildlife.

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