

COAL ASH:

Battle lines form as sprawling dump leaks into W.Va. neighborhood

Manuel Quinones, E&E reporter  
Published: Monday, January 14, 2013

CHESTER, W.Va. -- The ground here is leaking.

Several neighbors have moved away to escape seeps coming out of the hillside. They say the leaks have dampened their backyards and infested their homes with mold.

Curt and Debbie Havens, who put a trailer on their Pyramus Road lot in the mid-1970s and built their current home in 1979, are ready to pack up, too.

"It's equivalent to seven fire hoses," Curt Havens said, describing one outflow. "If you lay seven fire hoses side by side, that's how much water is coming through there."

Neighbors blame the 1,700-acre Little Blue Run coal ash dump -- an unlined impoundment that straddles the border with Pennsylvania and has for decades been a repository for combustion waste from FirstEnergy Corp.'s Bruce Mansfield coal power plant near Shippingport, Pa. The waste travels several miles through an underground pipe.

Environmental advocates argue the dump -- which neighbors say is several hundred feet deep in places and can look light sapphire blue from the sky -- is emblematic of the pollution that dozens of such facilities are causing. They want U.S. EPA to force them to close.

But the agency has proposed two options. One of them would treat coal ash as a hazardous waste and effectively phase out surface impoundments. The other would require companies to install liners on their ponds. Critics fear a hazardous designation and say compliant dumps should be allowed to remain.

The issue is personal for Sharon Fineman, who moved close to Little Blue Run about a decade ago and didn't know what it was. "I had no idea why it was so blue," she said, sitting in the Havens' living room. "I asked if we could swim in it. Then I found out exactly what was in it."

Debbie Havens chimed in, "Now she's a protester!"

Faced with state complaints and the threat of lawsuits, FirstEnergy has agreed to stop coal ash deposits there by 2016. It has bought out several neighbors and has installed pumps in recent years to tackle the leaks. The company also says it has implemented a state-approved "water collection project" to deal with seeps in the area.

But angry neighbors say more keep springing up.

"We started talking to more people down Johnsonville Road. They can't get up in the woods anymore, because of the dampness, mushy, the bad smells," said Curt Havens. "We had a lot of trouble with air. We've had sulfur, rotten egg smell, hydrogen sulfide, which smells like rotten sewer, coming from the impoundment."

FirstEnergy paid to have the Havens' house appraised in September but has yet to make an offer.

For most of the family's time here, the ash dump wasn't that big of a deal. They hoped it would become parkland once it closed. But dreams of bike trails and picnics dissipated as Little Blue Run grew.

Ironically, tougher clean air enforcement has led to the increased capture of waste produced by burning coal for electricity. Last year, plants produced more than 130 million tons of combustion residuals like gypsum and fly ash.

Now, waiting for a buyout, the Havens keeps a hawk's eye on developments. They monitor seeps, keep a diary of smells, lobby lawmakers and complain when necessary.

"They're not going to stop it. They're wasting their time and money. Just buy us out. Quit destroying people's lives," said a skeptical Debbie Havens.

They also are closely watching the debate over federal policy.

Multiple choice

In 2010, after the 2008 coal ash spill from a pond in Tennessee, EPA proposed two rulemaking options for dealing with coal ash dumps to prevent them from spilling and leaking.

One is under Subtitle C of the Resource Conservation and Recovery Act, which would effectively treat coal ash as hazardous. The other is under Subtitle D of the act.

Regulation under Subtitle C would ensure federal-state enforcement and monitoring. It would require retrofitting impoundments with liners within five years and effectively phasing out existing surface dumps. Land disposal restrictions would go into effect.



Parts of the Little Blue Run impoundment are visible from nearby neighborhoods.

"We in the environmental community believe you have to phase out all wet disposal," said Environmental Integrity Project attorney Lisa Widawsky-Hallowell, who is deeply involved with the issue. "The migration of pollutants is faster at [a wet] impoundment. They're already in a medium that it's easier to contaminate elsewhere."

Subtitle D, on the other hand, would rely on enforcement through states and citizen lawsuits. It would also require existing dumps to install liners or shut down, and liners would be required for new impoundments.

"From our perspective, Subtitle C is really the only option that can deal with these older disposal sites," said Widawsky-Hallowell. "Subtitle D doesn't really get at the

issue of some of these dinosaur sites."

Advocates on both sides of the issue, industry and environment, have wondered whether EPA is open to some sort of hybrid approach for regulation.

For one, companies that recycle coal ash for concrete or wallboard, among other uses, have for years been objecting to the negative effects that a hazardous designation could have. In fact, some of Bruce Mansfield's gypsum waste goes to make wallboard at a factory in the shadow of the plant's smokestacks. Some Democrats have joined Republicans in criticizing EPA's rulemaking because of concerns over impeding recycling.

Then there are the utilities, which say either subtitle, but especially Subtitle C, would cost too much to implement. Jim Roewer, executive director of the Utility Solid Waste Activities Group, said the amount of newly labeled hazardous waste would "quickly overwhelm" the system.

"Even a new landfill is going to take time to permit, cite and construct," Roewer said in an interview. "It simply cannot be done in the time EPA proposed. We need the time."

Adding that "there has been a trend toward dry handling, and that trend is going to continue and accelerate," Roewer said safe and compliant ponds, lined or not, should be allowed to operate. "What we really should be looking at is the actual performance of these facilities," he said.

Many skeptics of EPA's rulemaking, including some liberals like Sen. Tammy Baldwin (D-Vt.), have coalesced around legislation that would leave much of the regulation up to states, prohibit a hazardous designation and leave many wet ponds in place. Rep. David McKinley (R-W.Va.), the Havens' congressman, is one of the bill's most ardent backers.

Environmentalists, who cite examples like Little Blue Run, say companies won't do away with wet dumps unless the government forces them.

"If they had a liner, it wouldn't be seeping," Curt Havens said.

Widawsky-Hallowell said EPA could give companies compliance extensions if there is indeed enough hardship. "We are so far from legislation that could come close to protecting human health and the environment," she said.

Pressed on whether she put any weight on a legislative solution, sure to come up again in the new Congress, she said skeptically: "Maybe there would be the potential for a compromise, something that industry and the environmental community could live with."

Forcing company action

Environmental and industry groups are suing EPA to force the agency into releasing its rules. But while EPA says it needs more time to go through public comments and study the issue, activists are taking to the courts to stop pollution from individual ponds.

Earlier this month, the Southern Environmental Law Center filed a complaint in state court against North Carolina regulators for not forcing Duke Energy Corp. and Progress Energy Inc. to clean up what they see as ash-related contamination.

Also this month, the Maryland Department of the Environment filed a settlement agreement with GenOn Energy Inc. in U.S. District Court forcing the company to pay \$1.9 million in penalties and resolve contamination problems at ash dumps in the state.

Little Blue Run is the highest-profile example of citizens, states and environmental groups cracking down on pollution. Last year the Pennsylvania Department of Environmental Protection, which by agreement oversees the impoundment for both Pennsylvania and West Virginia, filed a complaint against FirstEnergy in July. It followed a lawsuit threat from opponents.

"The absence of a liner in the disposal area creates a potential for contaminants from the waste to move into groundwater and surface waters near the impoundment," said the complaint.

PADEP and FirstEnergy reached a settlement involving the dump's closure. The company must present a closure plan by March 31 and stop coal ash deposits by 2016. It must also increase monitoring and immediately report new seeps.

"FirstEnergy has designed and implemented a water collection project to deal with the seeps in the Lawrenceville area," a company spokesman wrote in response to written questions. "It has been approved by the Pennsylvania Department of Environmental Protection" and also the West Virginia Department of Environmental Protection.

But in December the Little Blue Run Regional Action Group, represented by the Environmental Integrity Project and Public Justice, sent the company another notice of intent (NOI) to sue. They say releases from the impoundment are releasing selenium, arsenic, boron and molybdenum into Mill Creek and the Ohio River.

FirstEnergy said the outflow in question is compliant with its National Pollutant Discharge Elimination System permit and will be addressed by the closure consent decree approved in December.

The company added that "the sample used as the basis for the new NOI was obtained illegally by someone trespassing on our property."

FirstEnergy says it hired consulting firm Applied Ecological Services Inc. to help it plan long-term uses for the impoundment and surrounding property. On its website, the company said it wanted to provide "long-term value to the local community."

FirstEnergy, which will still need to deposit ash from the Bruce Mansfield plant somewhere, is working with regulators on developing a lined "state of the art" disposal site.

For now, neighbors can only speculate about what goes on at Little Blue Run. Its impending closure doesn't appear to weaken their resolve to keep fighting the company.

Debbie Havens recounted an early drive through the neighborhood with her father, telling him she wanted to build a house someday on the property with "a white picket fence with kids." She raised two sons there and has lifelong friends as neighbors. But times have changed.

"Mostly every time you see a neighbor, that's all you talk about, the damage and stuff," she said.



Curt Havens shows pictures of the Little Blue coal ash dump in his living room. All photos by Manuel Quinones.



FirstEnergy has installed pumps in Curt and Debbie Havens' neighborhood to control seeps.

Advertisement

HOW CAN WE HELP YOU THINK  
OF ENERGY AS AN ASSET?

