111TH CONGRESS
1ST SESSION

S. RES. _____

Recognizing the need for the Environmental Protection Agency to end decades of delay and utilize existing authority under the Resource Conservation and Recovery Act to comprehensively regulate coal combustion waste and the need for the Tennessee Valley Authority to be a national leader in technological innovation, low-cost power, and environmental stewardship.

IN THE SENATE OF THE UNITED STATES

_____

Mrs. BOXER submitted the following resolution; which was referred to the Committee on _____

RESOLUTION

Recognizing the need for the Environmental Protection Agency to end decades of delay and utilize existing authority under the Resource Conservation and Recovery Act to comprehensively regulate coal combustion waste and the need for the Tennessee Valley Authority to be a national leader in technological innovation, low-cost power, and environmental stewardship.

Whereas the burning of coal creates more than 130,000,000 tons of coal combustion waste a year;

Whereas coal combustion waste is made up of various types of waste, including fly ash, bottom ash, boiler slag, and flue gas emission control waste;

Whereas the National Academy of Sciences found that coal combustion waste ''often contain a mixture of metals [including arsenic, lead, selenium, mercury, cadmium, beryllium, chromium, thorium and uranium] and other constituents in sufficient quantities that they may pose public health and environmental concerns if improperly managed.'';

Whereas the 2 most common forms of disposal for coal combustion waste are landfills and surface impoundments, with impoundments generally holding a ''wet'' waste mixture of water and landfills holding a ''dry'' waste that does not include intentionally added water, although other forms of disposal also occur in other areas including mines;

Whereas a 1993 report prepared for the United States Department of Energy found that over the preceding 50 years, roughly 500,000,000 tons of coal combustion waste were disposed of at then-existing or operating waste management units, and that about 1,000,000,000 tons of coal combustion wastes had been disposed of at an estimated 759 closed units;

Whereas the United States Environmental Protection Agency reported to Congress in 1999 that there were roughly 600 fossil fuel combustion waste disposal units operating at approximately 450 coal-fired power plants;

Whereas the United States Department of Energy in 2006 found: ''The total number of [coal combustion waste] disposal units permitted, built, or laterally expanded between January 1, 1994 and December 31, 2004 ('new units') is not known, as no industry organization or government agency tracks this information,'';

Whereas on Monday, December 22, 2008 at 1:00 a.m. a wall constructed of coal combustion waste and dirt failed on a 84-acre surface impoundment holding coal combustion waste and water at the Kingston Fossil Plant in Harriman, Tennessee, 40 miles west of Knoxville;

Whereas the spill from this ''wet storage'' impoundment at the Kingston plant released 5,400,000 cubic yards of waste, equaling more than 1,000,000,000 gallons or an amount nearly 100 times greater than the amount of oil spilled in the Exxon Valdez disaster, into the Emory River and the surrounding valley and community;

Whereas the spill from the Kingston plant covered half of a square mile of land and water with waste up to 12 feet deep, destroying roads, waterways, wildlife, trees, railroad tracks, and impacting 42 properties, 40 homes, and sections and coves of the Emory River used by businesses, community members, families, and children;

Whereas the Kingston spill occurred around 1:00 a.m. in the morning in December, but if it had occurred at midday during the summer, when businesses, community members, families, and children regularly use the river and coves, the already-extensive property damage could have been far greater and the loss of life could have been catastrophic;

Whereas the United States Department of Energy has information demonstrating wet storage impoundments present risks to public safety, health, and the environment: ''[W]et impoundment systems require substantially greater disposal site volumes than dry systems. . . Also, the presence of free liquid increases the possibility of leachate (i.e., a combination of ash solids and water) creation and

its potential for migration into underlying soils and groundwater'';

Whereas in 2006 the United States Department of Energy reported inconsistent coal combustion waste disposal standards, with some States weakening safeguards and others improving protections;

Whereas the United States Environmental Protection Agency in 2000 produced a draft regulatory determination that certain fossil fuel combustion wastes, including coal ash, should be regulated as a hazardous waste under the Resource Conservation and Recovery Act; and

Whereas the United States Environmental Protection Agency has continued to issue information on the adverse effects of coal combustion waste but the agency has so far not required any consistent Federal regulatory protections for coal combustion waste disposal practices despite their clear authority to do so: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the need for the United States Environmental Protection Agency to—

(A) immediately conduct and complete reviews, including onsite confirmatory examinations, of all coal combustion waste impoundments and landfills to ensure the safety of people and the environment located in any area that may be threatened by a spill or release from an impoundment or landfill;

(B) report to the Senate Committee on Environment and Public Works on the earliest date possible that the Agency can regulate coal combustion waste using their existing authority under the Resource Conservation and Recovery Act;

(C) propose rules as quickly as possible to regulate coal combustion waste under the Resource Conservation and Recovery Act using the substantial information currently available to the Agency; and

(D) issue final rules as quickly as possible on regulating coal combustion waste under the Resource Conservation and Recovery Act; and

(2) recognizes the need for the Tennessee Valley Authority to meet the intentions of Congress and be ''a national leader in technological innovation, low-cost power, and environmental stewardship''.