

February 26, 2008
Sent via Email

Mr. Steven Pattison
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, MD 21230

Re: Proposed Fly Ash Regulations

Dear Mr. Pattison:

Please include these comments as part of the official public record on the Proposed Fly Ash Regulations.

I am a resident of Crofton since 1969, and former Secretary and Board Member of the Crofton Civic Association. I write these comments as a drinker of public water -- at risk, in a position the same as every other greater Crofton resident-- down aquifer from the leaking Fly Ash land fill pits. Also, I write to you, a representative of a government agency entrusted to protect the public health and welfare, and so mine.

The proposed regulations have emerged from a period of time going back to when Constellation/BGE first began dumping at the Gambrills site in 1995. So while proposed regulations look to the future, they come from MDE a State agency which, from the start, has been responsible for permitting and enforcing water quality standards for this site. It became known in 2006 that nearby wells were contaminated with heavy metals including known carcinogens. An agreed action by MDE and Constellation - a consent decree - includes a \$1M fine, less than a pittance for this energy Giant (and since Constellation agreed to this figure prior it does not amount to an imposition on their account). However, by agreeing to the Consent Decree, Constellation has taken its responsibility and admitted fault.

Not so for MDE. Has not MDE any responsibility in this matter? Is not MDE responsible for 11 years of failed oversight or enforcement in this matter? Are the private contaminated wells from which people are drinking safe to drink from? Do they meet the standards of the federal Safe Drinking Water Act?

In the MDE Water Supply Report to EPA, September 2007, for Calendar Year 2006, pg. 6, there is only one reference to problem wells in Anne Arundel County:

"Preliminary findings indicate that fly ash from Baltimore Gas and Electric may be a potential source of cadmium contamination.

One transient water system and a number of private wells have detected cadmium near or above the drinking water maximum contaminant level of 5 parts per billion cadmium. Because no

elevated cadmium samples were found in wells screened below the weathered zone, the MGS map is being used by the Anne Arundel County Health Department to guide depth specifications for new wells.”

The ambiguity of wording and vagueness of reference does not make clear whether this language alludes to Gambrills or specifically cited Woodland Beach in AA County. Was 2006 the first year that water quality in these private wells was tested or reported? Has raw soil boring data been released publicly though I know it has been requested?

To me it is this background with which I approach commenting on these proposed regulations. A background which indicates that MDE has violated the public trust, seemingly failing to disclose information and taking action. Doing so MDE is outright culpable or at best guilty of non-feasance. Can I look at the proposed regulations and trust that MDE is acting on behalf of the public?

Comments:

1. I support the statements made by County Executive Leopold and the citizens organization Crofton First.
2. That Air Quality enforcement and data collection will be done visually is sheer folly on its face.
3. Third party independents should have responsibility in every instance that data is collected, analyzed and reported. All this information should go to MDE, AA County, and the public at the same time.
4. The Comptroller's Office or an office analogous to a federal agency Inspector General should investigate and report on the past eleven years of MDE history regarding Fly Ash dumping in Gambrills to determine past errors and causes, to correct and clean the slate, to restore public confidence in MDE.
5. The State Department of Health should take an active, not passive role as it has, to determine the health of the people directly effected by toxic water and fine particulate air exposure. This is an issue of national attention for which the outcome of the regulations is awaited. (A law professor at Berkeley - while discussing a non-related subject - asked me if I was aware of fly ash issues at a place named Gambills, Maryland.)
6. Soils should be tested at the dump sites to determine whether volatiles, semi-volitales, and organics are present regardless of any consideration as to disposition of the property, e.g., for a shopping to be built on top. As I questioned at Tuesday's public hearing, a possible reason attributed to the "sick building"/dead building status of former EPA Headquarters at Waterside Mall in SW Washington, D.C. was the presence of these substances/gases in the soils below the building and subsequently migrated through the foundation into the working space.

The EPA, Region 8, held a seminar on February 19, 2008 on the subject of Vapor Intrusion which it defined as:

Vapor Intrusion is the migration of volatile chemicals from the subsurface into overlying buildings. Volatile chemicals may include volatile organic compounds, select semi-volatile organic compounds, and some inorganic analytes, such as elemental mercury and hydrogen sulfide. Degradation of the indoor air quality causes a great deal of fear and anxiety among building occupants, business, and other property owners. Vapor intrusion has become a significant environmental issue for regulators, industry leaders, and concerned residents. Vapor intrusion requires three components: the source, an inhabited building, and a pathway from the source to the inhabitants.

7. The regulations should require that the deeds to all fly ash dump site properties have indicators on the property maps what materials were present at locations of the properties so that in the future, say 20 years from now, if there is a problem with the site there will be information present showing the status of the site when it was a fly ash dump.
8. Though stated in 3., to make one particular aspect of the the point explicit: Monitoring must not be done by Constellation. For monitoring to be credible, it must be done by an independent third party.

Sincerely,

Dick Lahn
dicklahn@bellatlantic.net

Richard M. Lahn
1488 Harwell Avenue
Crofton, MD 21114