

# The New York Times

## Environmentalists Want TVA Prosecuted in Ash Spill

*Associated Press*  
*Bill Poovey*  
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CHATTANOOGA, Tenn. (AP) -- Environmental groups said Monday they want the Tennessee Valley Authority to be prosecuted for its huge coal ash spill in Tennessee and not shielded from penalties for polluting.

In response, officials with the nation's largest public utility said they are already subject to penalties and lawsuits filed by the Environmental Protection Agency and it's working to change the way it stores its coal ash.

The groups argue that TVA should not be protected from prosecution or penalties by a long-standing federal rule that limits how the Justice Department can prosecute federal agencies.

The Dec. 22, 2008, spill is considered one of the largest environmental disasters in TVA history. About 5.4 million cubic yards of metals-laden ash spilled when an earthen dike failed at the coal-powered plant and a cleanup is ongoing.

Representatives of the **Environmental Integrity Project**, Sierra Club and other groups said a report by TVA's own inspector general shows the Knoxville-based utility's spill at the Kingston plant is only its "latest and most dramatic example of environmental mismanagement."

**Eric Schaeffer, the Environmental Integrity Project's director**, said the groups sent a letter to President Barack Obama, urging him to have the Justice Department stop protecting TVA from penalties for the spill and the utility's record of violating air and water pollution laws.

The White House press office and a spokesman for the Justice Department did not answer an e-mail message seeking comment.

Schaeffer declined to say Monday if he believes there has been criminal wrongdoing by TVA, but "the IG report suggests that the misconduct was either intentional or what we would call pretty bad negligence."

TVA spokeswoman Barbara Martocci released an e-mail statement saying the utility is already subject to federal penalties by the Environmental Protection Agency and others "under the statutes they have the authority to enforce. TVA, like all federal agencies, and consistent with the Department of Justice's position on the issue, is not subject to civil penalties in suits brought by citizen groups under some federal environmental statutes."

The TVA statement said the utility agrees that courts "have already ruled that EPA is free to sue TVA and we have never disputed this."

The Environmental Integrity Project made a few more recommendations in a report, saying TVA uses some of the worst practices in utility industry, but it could offer the Obama administration an opportunity to transform it into a "model of clean energy production and environmental stewardship."

The project recommends Obama appoint new directors to TVA's governing board, that the utility produce a timeline for its plan to convert all wet coal waste storage to dry, zero-discharge systems and that it phase out old coal-fired plants.

The utility said it has committed to change its wet coal ash storage to a dry system within 10 years, at a cost of up to \$2 billion.

Two congressional panels held hearings last week on TVA's Kingston spill that an EPA official said has left pollutants at elevated but acceptable levels in treated drinking water around the site on the Emory River about 40 miles west of Knoxville.

Tom Kilgore, TVA's chief executive and president, said in a hearing that the utility has removed about two-thirds of the ash that spilled into the river and is on schedule to complete the river clean up by next spring. Kilgore said it will probably take until 2013 to clean up remaining ash on nearby land.

TVA is the nation's largest public utility serving nearly 9 million customers in Tennessee, Alabama, Mississippi, Kentucky, Georgia, North Carolina and Virginia.