

November 29, 2021

VIA e-mail to Vojin.Janjic@tn.gov

Vojin Janjic, NPDES Permit Writer
State of Tennessee
Department of Environment and Conservation
Division of Water Resources
William R. Snodgrass – Tennessee Tower
312 Rosa L. Parks Avenue, 11th Floor
Nashville, Tennessee 37243-1102

Re: Modifications to TVA Kingston Fossil Plant NPDES Permit TN0005452

Dear Mr. Janjic,

The Southern Environmental Law Center, Statewide Organizing for Community eMpowerment, the Southern Alliance for Clean Energy, the Center for Biological Diversity, Appalachian Voices, and the Sierra Club ask the Tennessee Department of Environment and Conservation (“TDEC” or “the Department”) to incorporate several key features into the TVA Kingston Fossil Plant NPDES Permit TN0005452: (1) a reopener provision to promptly incorporate new, more stringent limitations; (2) an express acknowledgment that Kingston is enrolled in the Early Retirement subcategory; and (3) leachate limits established through TDEC’s best professional judgment.

After the disastrous 2008 coal ash spill and clean-up at Kingston, TVA has publicly committed to “regain the trust of the public,”¹ saying, “TVA will not waiver from our commitment to protecting water resources.”² Yet, relying on an illegal rule that EPA is already reconsidering, TVA is abandoning its six-year investment in pollution controls for the same communities and waterways the Kingston Coal Plant has devastated. It is welcome news that TVA is considering retiring one of the most harmful coal plants in the country. But before and after Kingston stops burning coal, TDEC must ensure that TVA complies with the letter and spirit of the Clean Water Act and keeps its commitment to protect the water and communities of East Tennessee.

I. The Kingston Coal Plant has polluted East Tennessee for decades.

The Kingston Coal Plant has polluted the Clinch and Emory Rivers in Roane County since 1955. In December 2008, one of the primitive berms holding back the coal ash waste at Kingston

¹ TVA, Kingston Fossil Plant, <https://www.tva.com/energy/our-power-system/coal/kingston-fossil-plant> (last visited Nov. 11, 2021).

² TVA, Groundwater Monitoring: Kingston Fossil Plant, https://tva-azr-eastus-cdn-ep-tvawcm-prd.azureedge.net/cdn-tvawcma/docs/default-source/fact-sheets/kingstonf3813d96-cdd5-4b00-ba57-345aa5d2f7db.pdf?sfvrsn=cfee9b43_3 (last visited Nov. 11, 2021).

failed, spilling a billion gallons of toxic coal ash sludge into the rivers.³ Roughly 900 workers spent five years of their lives cleaning up TVA’s mess.⁴ Today, over fifty of those workers have died and more than 400 are sick because TVA’s contractor misled them and failed to protect them from the hazards of toxic and radioactive coal ash.⁵ The accident remains the largest industrial spill in United States history, five times larger than BP’s Deepwater Horizon oil spill.⁶ The Environmental Protection Agency wrote, “The TVA Kingston impoundment failure ignited a nation-wide concern over the safety of coal ash impoundments,”⁷ leading the agency to issue the first nation-wide regulations governing the storage and disposal of coal ash.⁸

Over a decade after the catastrophic coal ash spill, the 66-year-old Kingston Plant remains a major source of harmful pollution. Opting for a “monitored natural recovery” of the coal ash spill, TVA left 170,000 cubic yards of contaminated material in the Emory River.⁹ For decades, TVA sluiced coal ash wastewater into leaking, unlined pits, deeming them “wastewater treatment” impoundments. Some of these unlined pits were submerged in groundwater, and the coal ash stored or disposed of in the pits contaminated groundwater flowing through them on its way to the nearby river.¹⁰ To this day, Kingston’s on-site coal ash remains subject to a state order, requiring TVA to investigate and remedy any unacceptable risks.¹¹ The coal ash has contaminated groundwater with levels of pollution—including arsenic, lithium, molybdenum, and cobalt—that exceed groundwater protection standards.¹²

Kingston’s operation draws massive amounts of water from the Emory River.¹³ Most of that water is then discharged to the Clinch River at significantly higher temperatures and loaded with

³ Austyn Gaffney, *‘They Deserve to Be Heard’: Sick and Dying Coal Ash Cleanup Workers Fight for Their Lives*, *The Guardian* (Aug. 17, 2020), <https://www.theguardian.com/us-news/2020/aug/17/coal-spill-workers-sick-dying-tva>.

⁴ *Id.*

⁵ Jamie Satterfield, *Another Widow Mourns as Death Toll Hits 50 Among Kingston Coal Ash Workers*, *Knoxville News Sentinel* (Sept. 3, 2020), <https://bit.ly/3xPnyws>.

⁶ Gaffney, *supra* n. 3.

⁷ EPA, *Hazardous and Solid Waste Management System; Disposal of Coal Combustion Residuals from Electric Utilities*, 80 Fed. Reg. 21301, 21313 (2015).

⁸ *Id.*

⁹ Austyn Gaffney, *A Legacy of Contamination*, *Grist* (Dec. 15, 2020), <https://bit.ly/3wJaOpx>.

¹⁰ Final Coal Ash EIS, Part I, Chapter A.2 Response to Comments at 27.

¹¹ TDEC Commissioner’s Order OGC15-0177 (Aug. 6, 2015).

¹² TVA, *Annual Groundwater Monitoring and Corrective Action Report, Kingston Fossil Plant Sluice Trench and Area East of Sluice Trench 6–7* (July 31, 2020), available at <https://bit.ly/3hHyXIT>; TVA, *Annual Groundwater Monitoring and Corrective Action Report, Kingston Fossil Plant Stilling Pond 6–7* (July 31, 2020), available at <https://bit.ly/3iib6hU>.

¹³ TVA, *Biological Monitoring of the Clinch River near Kingston Fossil Plant Discharge, Autumn 2015*, at 2 (May 2016), *in* 2016 TVA Permit Application 79–170; TDEC, *Draft NPDES Permit TN0005452—TVA Kingston Fossil Plant (KIF) R-3* (Oct. 31, 2017).

toxic pollution.¹⁴ Through five wastewater outfalls into the Clinch and Emory rivers,¹⁵ the Kingston plant is currently authorized to release one billion gallons per day of cooling water along with fourteen million gallons per day of toxic wastewater effluent, with no limits on arsenic and selenium.¹⁶

II. The Clean Water Act's Effluent Limitation Guidelines limit toxic wastewater pollution from coal plants.

Power plants, mostly coal plants, are responsible for most of the toxic wastewater pollution discharged into our nation's rivers, lakes, and streams every year.¹⁷ The Clean Water Act declares it "the national goal that the discharge of pollutants into navigable waters be eliminated."¹⁸ To that end, the Act requires EPA to set "effluent limitation guidelines" based on the "best available technology economically achievable."¹⁹

When EPA set the first standards for coal plants in 1982, many plants treated wastewater with unlined surface impoundments, "which are essentially pits where wastewater sits, solids (sometimes) settle out, and toxins leach into the groundwater."²⁰

In 2015, recognizing that surface impoundments are "largely ineffective,"²¹ EPA took the long-overdue step of revising the outdated rule, placing the first limits on how much toxic wastewater coal plants can discharge. The 2015 Rule imposed stringent limits on toxic pollution from scrubber sludge (known as "Flue Gas Desulfurization" or "FGD" wastewater), as well as bottom ash transport water and other waste streams.²² The 2015 Rule required compliance "by a date determined by [TDEC] that is as soon as possible beginning November 1, 2018, but no later than December 31, 2023" for both waste streams.²³

In 2020, lobbied by industry insiders, including TVA,²⁴ EPA issued a new rule for FGD wastewater and bottom ash transport water. The 2020 Rule loosened some pollution-control

¹⁴ According to TVA's 1974 temperature surveys, cooling water increases by an average of 14.4° Fahrenheit. TVA, Kingston Steam Plant Water Temperature Surveys (Nov. 1974). For TVA's reported effluent discharges of toxic pollutants, see <https://echo.epa.gov/effluent-charts#TN0005452>.

¹⁵ TVA Kingston Fossil Plant, NPDES Permit TN0005452, Page 1 (June 7, 2018).

¹⁶ *Id.* at 2–6, R-2, R-3 (June 7, 2018).

¹⁷ EPA, Effluent Limitation Guidelines and Standards for the Steam Electric Power Generating Point Source Category, 80 Fed. Reg. 67837 (Nov. 3, 2015) ("Steam electric power plants contribute the greatest amount of all toxic pollutants discharged to surface waters by industrial categories regulated under the CWA.").

¹⁸ 33 U.S.C. § 1251(a)(1).

¹⁹ 33 U.S.C. § 1311(b).

²⁰ *Southwestern Elec. Power Co. v. EPA*, 920 F.3d 999, 1003 (5th Cir. 2019).

²¹ 80 Fed. Reg. 67,838, 67,840 (2015).

²² *Id.* at 67895–96.

²³ *Id.*

²⁴ The Utility Water Group, of which TVA is a member, petitioned EPA to reconsider the 2015 Rule. See UWAG Petition to Reconsider the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category (March 24, 2017),

requirements, rolled back all compliance dates, and created several subcategories governed by even less stringent standards.²⁵ The “Early Retirement” subcategory applies no numeric limitations specific to toxic pollutants if operators declare that a plant will stop burning coal by 2028.²⁶

Many groups, including the Sierra Club, have argued that the 2020 Rule is unlawful, suing EPA in federal court.²⁷ The 2020 Rule is illegal because, among many other reasons, EPA unreasonably ignored record evidence that membranes are the best available technology for all coal plants, and the 2020 Rule’s many rollbacks fail the Clean Water Act’s essential requirement: reasonable further progress towards zero pollution.²⁸ EPA has since requested to stay the ongoing litigation, informing the court that “EPA has decided to initiate a notice-and-comment rulemaking in which the Agency will determine whether more stringent limitations and standards are appropriate consistent with the technology-forcing statutory scheme and the goals of the Clean Water Act.”²⁹

III. TVA can and should comply with its current permit’s commonsense limits on toxic pollution.

TVA has requested that TDEC modify the NPDES permit to incorporate the unlawful 2020 Rule, and TVA has opted into the Early Retirement subcategory, which places no limits on toxic pollutants for FGD wastewater or bottom ash transport water. Thus, TVA seeks to ensure that Kingston—a 66-year-old plant infamous for its pollution—will never face wastewater limits on arsenic and selenium. Yet TVA has been preparing to install wastewater treatment systems to address its toxic pollution since November 2015.³⁰ TVA initially proposed to complete the wastewater treatment systems by 2022.³¹ TVA regularly completes massive projects on much shorter timelines. For example, TVA has installed flue gas desulfurization units and selective catalytic reduction units—more complicated and far more expensive projects—in three to five years.³²

<https://www.epa.gov/petitions/uwag-petition-reconsider-effluent-limitations-guidelines-and-standards-steam-electric>.

²⁵ EPA, Steam Electric Reconsideration Rule, 85 Fed. Reg. 64650 (Oct. 13, 2020).

²⁶ *Id.* at 64660.

²⁷ *Appalachian Voices v. EPA*, No. 20-2187 (4th Cir. 2020).

²⁸ 33 U.S.C. § 1311(b)(2)(A).

²⁹ Dec. of Radhika Fox, Mot. For Abeyance, *Appalachian Voices v. EPA*, No. 20-2187, Doc. 62-2 (4th Cir. July 26, 2021).

³⁰ Letter from Terry Cheek, TVA, to Vojin Janjic, TDEC (Oct. 14, 2016) (“TVA has initiated work to implement the ELGs on several fronts including initiating a Phase I study at a coal-fired site in Kentucky prior to the publication of the final ELGs in November 2015.”).

³¹ *Id.*

³² Ranajit (Ron) Sahu, Comments on the Draft NPDES Permit No. TN0005452 for TVA – Kingston Fossil Plant (KIF) located in Harriman, Roane County, Tennessee 7 – 8 (submitted on Dec. 18, 2017).

TVA has needlessly delayed its plans to control its toxic wastewater pollution. For bottom ash transport water, TVA has produced nothing but a “Phase 1 study,”³³ which it did not *begin* until 2019.³⁴ Though TVA has been dragging its feet, it has made progress towards compliance with FGD wastewater, including by installing a process water basin and an organosulfide feed and control system to treat arsenic and mercury.³⁵ TVA also hired AECOM as a contractor in 2019 to engineer, procure, and construct a system to comply with the 2015 ELGs for FGD wastewater.³⁶

In November, TVA reported that it made a record \$1.5 billion in profits the prior year,³⁷ and the Board gave its CEO a \$2.6 million raise, topping his salary off at \$9.9 million.³⁸ The TVA Board has already budgeted up to \$3.5 billion for the Kingston and Cumberland retirement and replacement projects.³⁹

Given that it has benefited from minimal clean water protections for more than six decades, TVA should take the modest but critical step of finishing its six-year investment in protections for East Tennessee communities and waterways long burdened by its pollution.

IV. TDEC must include a reopener provision, clarify that TVA has elected the Early Retirement subcategory, and use its best professional judgment to set limits for coal ash leachate.

While EPA reconsiders the effluent limitation guidelines, TDEC must take several critical steps to ensure that Kingston complies with the Clean Water Act: (1) include and exercise a reopener provision; (2) make clear that TVA has elected the Early Retirement subcategory, and (3) use best professional judgment to set limits for leachate based on membrane technology.

A. TDEC should retain the Reopener Provision to promptly incorporate new, more stringent limits.

Because EPA has already begun to reconsider the 2020 ELG Rule,⁴⁰ it is critical that TDEC retain the automatic reopener provision in the final Kingston permit. While EPA has instructed states to implement the 2020 ELG Rule, it has also indicated that it is considering whether to publish a more stringent rule based on membrane technology, as “treatment systems using membranes continue to rapidly advance as an effective option for treating a wide option for

³³ TVA, Wet FGD Wastewater Treatment & Bottom Ash ELG Project Updates, TVA Kingston Fossil Plant – NPDES No. TN0005452, 2020 Annual Report (submitted Jan. 19, 2021) (“2020 ELG Report”).

³⁴ TVA, Wet FGD Wastewater Treatment & Bottom Ash ELG Project Updates, TVA Kingston Fossil Plant – NPDES No. TN0005452, 2019 Annual Report (submitted Jan. 10, 2020).

³⁵ *Id.* at 4.

³⁶ 2020 ELG Report at 2.

³⁷ TVA, Form 10-K for the Fiscal Year Ended Sept. 30, 2021, at 95.

³⁸ Dave Flessner, *TVA CEO Gets \$2 Million Pay Boost as Agency Achieves Record Profits While Cutting Rates, Debt*, Chattanooga Times Free Press (Nov. 15, 2021).

³⁹ TVA, Form 10-K for the Fiscal Year Ended Sept. 30, 2021, at 79.

⁴⁰ Dec. of Radhika Fox, Mot. For Abeyance, *Appalachian Voices v. EPA*, No. 20-2187, Doc. 62-2 (4th Cir. July 26, 2021).

treating a wide variety of industrial pollution, including from steam electric power plants.”⁴¹ EPA also indicated that it is reconsidering the 2020 Rule’s subcategories.⁴² As discussed, we believe the 2020 Rule is illegal, and we welcome EPA’s decision to replace it with a rule that aligns with the Clean Water Act’s demands for reasonable further progress towards eliminating all pollution in our clean water.⁴³ The automatic reopener provision ensures that if and when EPA promulgates a new rule, TDEC will promptly incorporate any more stringent limitations to adequately protect Tennessee waterways.

B. TDEC should clarify that TVA has elected the Early Retirement Subcategory.

To increase transparency and promote accountability, TDEC must also make clear that TVA has opted into the “Early Retirement” subcategory. The Draft Permit states, “A Notice of Planned Participation (NPP) shall be made to the division no later than October 13, 2021.”⁴⁴ Yet this date has already passed, and TVA has already issued its Notice of Planned Participation, enrolling the Kingston plant into the Early Retirement subcategory. That means the plant will not be required to meet any new limitations for toxic pollutants like arsenic and selenium. Rather than inform the public of TVA’s pollution-control obligations, the permit obfuscates them by setting out each of the various “compliance pathways” without indicating that TVA has already elected one. Even if TVA may later transfer out of the Early Retirement subcategory, it is critical that the permit reflect that TVA has already chosen its compliance pathway. To meaningfully inform the public of TVA’s pollution-control obligations, TDEC must clearly indicate that the Kingston Plant is governed by the Early Retirement Subcategory.

C. TDEC must set limits for leachate by using best professional judgment.

TDEC must use its best professional judgment to determine the best available technology (BAT) to reduce and eliminate leachate pollution, and then set numeric limitations based on what that technology can achieve.

1. The ELGs for leachate have been vacated.

In 2015, EPA finalized a major and long-overdue set of revisions to the ELGs for steam electric power plants (like Kingston), which had not been previously updated since 1982.⁴⁵ Although the 2015 Rule established more stringent BAT effluent limitations for the largest coal ash wastewater streams from power plants, the Rule exempted coal combustion residual leachate from impoundments and landfills from more stringent requirements. Rather, for leachate, the 2015 Rule only required compliance with EPA’s existing, outdated 1982 standards, which let

⁴¹ EPA, EPA Announces Intent to Bolster Limits on Water Pollution from Power Plants, (July 26, 2021), <https://www.epa.gov/newsreleases/epa-announces-intent-bolster-limits-water-pollution-power-plants>.

⁴² Dec. of Radhika Fox, Mot. For Abeyance, *Appalachian Voices v. EPA*, No. 20-2187, Doc. 62-2 (4th Cir. July 26, 2021).

⁴³ 33 U.S.C. § 1311(b)(2)(A).

⁴⁴ Draft NPDES Permit No. TN0005452 at 2 (Oct. 26, 2021).

⁴⁵ EPA, Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category, 80 Fed. Reg. 67,837, 67,838 (Nov. 3, 2015).

power plants dump pollution into often-unlined “surface impoundments”—earthen pits—as supposed treatment. The 1982 standards for power plants did not include any specific limits on toxic metals in power plant wastewater, but instead only limited dissolved solids and oil and grease in those discharges.⁴⁶

However, in April 2019, the Fifth Circuit ruled that this outdated and inadequate regulation of the toxic discharges from landfill leachate was illegal and violated the Clean Water Act. The Court of Appeals invalidated this portion of EPA’s 2015 ELGs and sent that portion of the regulation back to EPA for revision to a stricter standard.⁴⁷

As a result of the vacatur, there is no EPA-established BAT for landfill leachate. Yet instead of conducting their own BAT analysis as is now required, TDEC has attempted to rely on the outdated and vacated 1982 standards.

EPA has determined that what TDEC and TVA propose here—refusing to analyze treatment options for leachate⁴⁸—is illegal. At the Merrimack coal-fired plant in New Hampshire, for which EPA issues the Clean Water Act discharge permit, the agency initially proposed the same approach of sending leachate to a primitive impoundment with no additional treatment. But after the Fifth Circuit’s decision in *Southwestern Electric Power Co. v. EPA*, 920 F.3d 999, 1006 (5th Cir. 2019), EPA has agreed that this approach (the same one adopted by TDEC and TVA) is illegal. At the EPA’s motion, the Environmental Appeals Board has remanded that portion of the proposed permit to correct this serious error and allow EPA to conduct a site-specific best available technology analysis for leachate at Merrimack.⁴⁹ TDEC must do the same here.⁵⁰

2. TDEC must set standards based on membrane technology.

“Where promulgated [ELGs] only apply to certain aspects of the discharger’s operation,” as is the case here, then TDEC must set BAT limits in its NPDES permits on a case-by-case basis using best professional judgment.⁵¹ TDEC must require pollution control technology that constitutes “a commitment of the maximum resources economically possible to the ultimate goal of eliminating all polluting discharges.”⁵² BAT limitations must “be based on the performance of the single best-performing plant in an industrial field.”⁵³ The Clean Water Act requires TDEC to

⁴⁶ 40 C.F.R. § 423.13(g)(1)(ii), (k)(1)(ii).

⁴⁷ *Sw. Elec. Power Co. v. EPA*, 920 F.3d 999, 1004 (5th Cir. 2019).

⁴⁸ See Kingston Draft NPDES Permit TN0005452 at R-11 (applying 1982 standards).

⁴⁹ Remand Order, *In re GSP Merrimack LLC*, 18 E.A.D. 524, 542–46 (EAB 2021), https://yosemite.epa.gov/OA/EAB_WEB_Docket.nsf/Filings%20By%20Appeal%20Number/CB6DAB631E28A9A4852587260066B9C0?OpenDocument.

⁵⁰ The legal analysis presented here appears in more detail in the Petition filed by Sierra Club and Conservation Law Foundation in the Merrimack proceeding. Petition for Review, *In re GSP Merrimack LLC*, 68–75 (NPDES Appeal Nos. 20-05 & 20-06).

⁵¹ 40 C.F.R. § 125.3(c)(2)–(3).

⁵² *EPA v. Nat’l Crushed Stone Ass’n*, 449 U.S. 64, 74 (1980).

⁵³ *Southwestern Electric Power Co.*, 920 F.3d at 1006 (quoting *Chem. Mfrs. Ass’n v. EPA*, 879 F.2d 177, 226 (5th Cir. 1989)).

“use the latest scientific research and technology in setting effluent limits, pushing industries toward the goal of zero discharge as quickly as possible.”⁵⁴

It is now well-established that a membrane toxic pollution technology is currently available and effective for such toxic pollution. TDEC cannot avoid require its installation at Kingston. Membrane filtration is available, as EPA demonstrated by using it for its Voluntary Incentive Program limits in 2020 and reaffirmed in July 2021 when announcing its intention to reexamine and strengthen the 2020 Rule: “treatment systems using membranes continue to rapidly advance as an effective option for treating a wide variety of industrial pollution, including from steam electric power plants.”⁵⁵

EPA’s 2020 ELG Rule record demonstrates membrane technology is in use at three plants in China, and it has been piloted by at least seven plants in the United States, including at Duke Energy’s Belews Creek site in North Carolina.⁵⁶ The technology is also in use in other industries, as EPA’s site visit notes from its ELG rulemaking reflect: “According to [Duke Energy], the paste encapsulation technology is well-proven over the past several decades in the mining industry for tailings deposition and underground backfill.”⁵⁷

Not only is membrane filtration available, but it can be implemented anywhere between 12 and 28 months.⁵⁸ Accordingly, membrane technology is “available” and should be used in the Kingston permit as BAT. Moreover, as EPA’s 2020 ELG Rule record shows, membrane filtration is more effective at controlling pollution than other methods like biological treatment.⁵⁹ In addition, it is the only technology that can control bromide, aside from a zero liquid discharge system, like the vapor compressor evaporator system at Duke Energy’s Mayo facility in North Carolina.⁶⁰ Moreover, membrane filtration uses vastly less water than the less-effective

⁵⁴ *Kennecott v. EPA*, 780 F.2d 445, 448 (4th Cir. 1985).

⁵⁵ EPA, EPA Announces Intent to Bolster Limits on Water Pollution from Power Plants, (July 26, 2021), <https://www.epa.gov/newsreleases/epa-announces-intent-bolster-limits-water-pollution-power-plants>.

⁵⁶ See Proposed Rule, 84 Fed. Reg. 64, 620, 64,632 (Nov. 22, 2019).

⁵⁷ EPA, Notes from Site Visit to Duke Energy’s Belews Creek Steam Station on December 13, 2017, Docket ID No. EPA-HQ-OW-2009-0819-7337.

⁵⁸ See ERG, FGD and Bottom Ash Implementation Timing – DCN SE08480, at 3, Docket ID No. EPA-HQ-OW-2009-0819-8191 (Oct. 17, 2019); Email from Greg Johnson, New Logic Research, to Phillip Flanders, Ronald Jordan, and Elizabeth Gentile, Docket ID No. EPA-HQ-OW-2009-0819-8179 (June 22, 2019); KLeeNwater, Budgetary Proposal – Wastewater Treatment & Water Reuse Systems – DCN SE07065A18, at 13, Docket ID No. EPA-HQ-OW-2009-0819-7617 (Nov. 16, 2017); ERG, Technologies for the Treatment of Flue Gas Desulfurization Wastewater – DCN SE07367, at M- 2, Docket ID No. EPA-HQ-OW-2009-0819-8155 (Oct. 22, 2019).

⁵⁹ See, e.g., 84 Fed. Reg. at 64,631 (ultrafilters downstream of biological filters cannot remove the dissolved metals and inorganics (e.g., nutrients, bromides) that nanofiltration or reverse osmosis can).

⁶⁰ *Id.*

biological treatment methods—some 30 million gallons per plant compared with low-residence time biological treatment.⁶¹

Because there is no EPA-established BAT for leachate, the Clean Water Act requires TDEC to look at what technologies are available—like membrane filtration—and set limits based on what pollution reduction the best available technology can achieve.

Sincerely,



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⁶¹ *See id.* at 64,652–53.