

BIZ & LABOR

CIVIL RIGHTS

ENERGY & ENVIRONMENT

NATURAL DISASTERS

POLITICS & GOV

## Ohio utilities ask Trump to ease rules around toxic coal ash

BY: **MARTY SCHLADEN** - FEBRUARY 5, 2025 5:00 AM



(Stock photo by Monty Rakusen via Getty Images)

President Donald Trump comes into office vowing to ease environmental regulations on the utility industry. Now companies that own coal-burning plants in Ohio are asking the new administration to excuse them from cleaning up acres of toxic waste that is soaked in groundwater.

They include the owners of what [has been called the nation's deadliest coal plant](#) and a consortium that has gotten hundreds of millions from Ohio ratepayers as a consequence of the biggest political bribery scandal in state history.



A photo of the coal ash pond at the James Gavin Power Plant in Cheshire, Ohio included in documents to the EPA.

Gavin Power and the Ohio Valley Electric Corporation on Jan. 15 joined eight other utilities in asking Lee Zeldin, now the commissioner of the U.S. Environmental Protection Agency, for broad exemptions from cleanup rules. Among them are requirements that they protect groundwater from coal ash – a byproduct that contains toxins such as [arsenic](#), [mercury](#), [lead](#) and even [radioactive isotopes](#).

The EPA in 2015 [implemented a rule](#) requiring that utilities make sure such poisons can't seep out of their coal ash impoundments and into the surrounding water supply. The utilities asking that it be repealed have declared it to be ineffective – and they say they can't afford to comply with it.

"Recent changes made by the U.S. Environmental Protection Agency ("EPA") to air, water, and waste regulations have resulted in significant burdens on the nation's power sector without tangible benefits," the utilities' letter to Zeldin said. "These regulations, individually and collectively, threaten the reliability of the power grid, jeopardize national security, are a drag on economic growth, increase inflation, and hinder the expansion of electric power generation to support the critical development and deployment of artificial intelligence and related technologies."

The companies didn't furnish any evidence in their letter to support their claims, but Gavin Kearney, an attorney for the environmental group Earthjustice, said they might get a sympathetic hearing from the new administration – even though the coal ash rule is rooted in the 1976 [Resource Conservation and Recovery Act](#).

"We have a lot of concern about what EPA might do," he said in an interview Monday. "What's in the letter is consistent with Trump's executive orders. They put a premium on what they call 'permitting efficiency.' They talk about prioritizing certainty and efficiency over all other considerations. I think there's a risk that we're going to sacrifice people's health for business interests."

An industry group representing the utilities, the Utility Solid Waste Activities Group, didn't immediately respond to a request for comment.

In their letter to the EPA, the companies said they meet all "federal environmental laws protecting human health and our nation's clean air and clean water."

But one, Gavin Power, is said to be the deadliest coal plant in the United States. Modeling wind patterns, a 2023 analysis by the Sierra Club estimated that the plume emitted by the plant's smokestacks travels to the east and [kills 244 people a year](#).

The plant, located along the Ohio River near Cheshire, also has a 300-acre coal ash impoundment containing 8.2 million cubic yards of the partially toxic stuff.

In other places, such impoundments have failed with disastrous results. The ash is so toxic that more than 50 workers

who didn't have proper protective equipment died after cleaning up a massive 2008 spill at the Kingston Fossil Plant, [the Tennessee Lookout](#) reported. Another 150 were sickened.

Gavin, the Earthjustice lawyer, said that while the impoundment at the Gavin Plant has held fast since it was created in 1974, it is intermixing with groundwater that flows into surrounding wells and into the Ohio River. From there water flows downstream and many communities draw drinking water from it.

In court already, Gavin said, the utilities have tried to evade complying with the EPA rule by using a counterintuitive argument – that groundwater doesn't count as a fluid.

"They're basically trying to get EPA to reinterpret the 2015 rule, which the (U.S. District Court of the District of Columbia Circuit) has already said you can't have your coal ash sitting in groundwater for the obvious reason that the toxic chemicals in coal ash leach into groundwater," he said. "They get into drinking water, surface water, etc."

**SUBSCRIBE**

Also seeking to get out of complying with the rule is a group of utilities that operate two aging coal plants that have received huge subsidies as a consequence of the [biggest money laundering scandal in Ohio history](#).

Former House Speaker Larry Householder, R-Glenford, is serving a 20-year sentence in federal prison for his involvement in a 2019 scheme in which Akron-based FirstEnergy paid \$61 million in bribes to secure a \$1 billion bailout for two nuclear plants in Northern Ohio.

To attract the support of other Ohio utilities, the law, House Bill 6, also subsidized coal plants that several own jointly as part of the Ohio Valley Electric Corporation, or [OVEC](#).

Despite its benighted history, the coal subsidies in HB 6 remain on the books and Ohio ratepayers so far have subsidized the OVEC plants to the tune of [\\$430 million](#).

While Ohio ratepayers have been made to subsidize the plants as a consequence of Statehouse corruption, one of the coal plants OVEC owns – Clifty Creek – is in Indiana. Gavin, of Earthjustice, said OVEC has argued that groundwater doesn't count as a liquid to avoid having to line coal-ash impoundments at that facility.

Are the utilities, in their Jan. 15 letter to the EPA, trying to stick taxpayers with the bill to clean up messes they made and profited from?

"That's exactly what's going on here," Gavin said. "When Gavin Power closed the impoundments – they're not putting coal ash in it today – they essentially threw a cover over it, said, 'All right, we closed it and the cover keeps rainwater from getting in and that was all the EPA was talking about when it said 'liquids.'"

He added, "So this whole absurd effort to define liquids as not including groundwater is essentially to prevent them from having to either excavate the coal ash and get it out of the groundwater, or figure out some other measure by which they can prevent groundwater from flowing in and out of the coal ash forever, basically. The motivation is to avoid the cost or accountability for decades of polluting groundwater."

**SUPPORT**



*Our stories may be republished online or in print under Creative Commons license CC BY-NC-ND 4.0. We ask that you edit only for style or to shorten, provide proper attribution and link to our website. AP and Getty images may not be republished. Please see our [republishing guidelines](#) for use of any other photos and graphics.*



## MARTY SCHLADEN

Marty Schladen has been a reporter for decades, working in Indiana, Texas and other places before returning to his native Ohio to work at The Columbus Dispatch in 2017. He's won state and national journalism awards for investigations into utility regulation, public corruption, the environment, prescription drug spending and other matters.

Ohio Capital Journal is part of [States Newsroom](#), the nation's largest state-focused nonprofit news organization.

### MORE FROM AUTHOR

#### MORE FROM OUR NEWSROOM



#### Ohio Gov. DeWine supports repeal of remaining scandal-ridden FirstEnergy legislation

BY [MORGAN TRAU](#)

January 14, 2025



#### Ohio coal plant said to be nation's most deadly. New owners seem likely to keep it open

BY [MARTY SCHLADEN](#)

January 3, 2025

### REPORTING FOR THE PEOPLE



The Ohio Capital Journal is an independent, nonprofit news organization dedicated to connecting Ohioans to their state government and its impact on their lives. The Capital Journal combines Ohio state government coverage with incisive investigative journalism, reporting on the consequences of policy, political insight and principled commentary.

We're part of [States Newsroom](#), the nation's largest state-focused nonprofit news organization.

Our stories may be republished online or in print under [Creative Commons license](#) CC BY-NC-ND 4.0. We ask that you edit only for style or to shorten, provide proper attribution and link to our website. (See full [republishing guidelines](#).)

© Ohio Capital Journal, 2025

v1.73.0

**STATES NEWSROOM**

**FAIR. FEARLESS. FREE.**