

Indiana Environmental Group Sues the State for Allowing Powerplant to Discharge Coal Ash Wastewater to the White River

Eagle Valley Generating Station continues to discharge untreated Coal Ash Laden wastewater into the West Fork of the White River.

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“

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Dr. Indra Frank

[Environmental Council](#) (“HEC”) filed suit last week (Case 55C01-2503-RA-000691) in Morgan County Court against the Indiana Office of Administrative Law Proceedings (“OALP”) for upholding a 2023 water pollution permit issued by the Indiana Department of Environmental Management (“IDEM”). The permit allows the Eagle Valley Generating Station—an AES-owned powerplant in Martinsville—to discharge untreated wastewater laden with neurotoxins, carcinogens, and poisons from its leaching coal ash waste ponds into a stretch of the West Fork of the White River. This section of the river is

upstream of the City of Martinsville’s municipal wells, which provides the city’s drinking water.

HEC asked the OALP to revoke the permit, citing violations of federal and state clean water laws and the federal rule that governs the proper disposal of coal ash to protect human health and the environment from these exact types of toxic risks. Instead of revoking the permit, the OALP upheld IDEM’s unlawful permit, leaving a serious threat to both the environment and human health unchecked. Additionally, contrary to established Indiana law, the OALP ruled that HEC and its members, who live in Martinsville, lack standing to challenge the permit.

In its lawsuit, HEC alleges that by affirming IDEM’s permit, “the OALP ignored the law and evidence, disregarded procedural rules, and trampled on the rights of Hoosiers to obtain fair, impartial, and independent administrative review of IDEM’s decisions, which is the only legal recourse they have when those decisions adversely affect their interests.” Accordingly, HEC is asking the Morgan County Court to reverse the OALP’s ruling to ensure that the newly created administrative body is not just a rubber-stamp for state agency decisions.

“We are bringing this legal action to stop AES’s contamination of the White River since it wasn’t

stopped by our state agencies. We need our state agencies to step in and protect Indiana's land, air, and water now more than ever since the ability of federal EPA to do so is being severely undermined. The cuts to EPA's authority include rollbacks of the federal coal ash rule and increasing reliance on the states to fix coal ash problems," said Indra Frank, Coal Ash Advisor for HEC.

HEC is represented in the case by the [Conservation Law Center](#) ("CLC"), a public interest environmental law firm that also runs the Conservation Law Clinic at Indiana University Maurer School of Law.

"Indiana courts are no longer required to give deference to state agencies that abuse their administrative power at the expense of everyday Hoosiers as IDEM and the OALP did in this case," said Christian Freitag, Executive Director of CLC. "Last year, the Indiana legislature ended agency deference so that Indiana courts will provide a meaningful check on government agency decisions that affect the health and safety of Indiana citizens. We are asking the Morgan County Circuit Court to do that here."

About Hoosier Environmental Council:

Founded in 1983, the Hoosier Environmental Council (HEC) is the largest statewide environmental policy organization in Indiana. HEC aims to advance solutions that are good for the environment and good for the economy. Visit hecweb.org for more information. You can also follow HEC on Twitter: [@hec_ed](#), and on Facebook at facebook.com/hecweb.

About Conservation Law Center:

Conservation Law Center is the only public interest environmental law firm based in Indiana. Established in 2005, the Center provides pro bono legal services to nonprofit organizations and community groups in Indiana and the Midwest region on issues related to water quality, land conservation, endangered species, environmental justice, and the public trust. Visit conservationlawcenter.org for more information. You can also follow Conservation Law Center's work on Facebook and Instagram [@conservlawcentr](#).

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