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May 15, 2013

The Honorable Rick Scott
Governor of Florida
The Capitol
400 South Monroe Street
Tallahassee, FL 32399

Sent via email to noah.valenstein@laspbs.state.fl.us.

RE: Audubon Recommended Veto for SB 682

Dear Governor Scott:

On behalf of Audubon Florida, I respectfully request that you exercise your veto authority to prevent SB 682 (Fossil Fuel Combustion Products) from the 2013 Regular Legislative Session, from becoming law.

This legislation excludes coal ash disposal facilities from statutory provisions on hazardous waste landfills and exempts the beneficial use of coal ash from important regulatory requirements. Much of the bill's premise relies on expected rulings from the U.S. Environmental Protection Agency (EPA) regarding the regulatory classification of this waste product. While Audubon supports the concepts of beneficial use, we are concerned that this bill goes too far in allowing the use of coal ash without proper oversight.

In particular, the uses of unencapsulated coal ash for structural fill material or for pavement aggregate lack appropriate checks and balances to ensure no harm is done to Florida residents or to the environment. Similar concerns about the use of unencapsulated coal ash were expressed by EPA recently when Mathy Stanislaus, the Assistant Administrator for the Office of Solid Waste and Emergency Response, testified before Congress that questions have been raised regarding the environmental consequences of beneficially using coal ash. To address these concerns, EPA is developing a methodology for evaluating current unencapsulated uses of coal ash. Mr. Stanislaus' testimony can be found at this web site:

<http://democrats.energycommerce.house.gov/index.php?q=hearing/hearing-on-hr-the-coal-ash-recycling-and-oversight-act-of-2013-subcommittee-on-environment-a>


To understand how coal ash can harm the environment, you don't have to look any further than active waste cleanup cases for coal fired power plants where improper handling of coal ash has resulted in contaminated ground water (Tampa Electric Company's Big Bend Station in Apollo Beach) and extensive damage to wetlands (Seminole Generating Station in Palatka).

As written, SB 682 contains criteria and setbacks that must be adhered to when coal ash is used as structural fill or pavement aggregate, but no one is given responsibility to ensure these criteria are followed. This approach of “trust without any verification” has been tried before and failed. Take for example, the 10/2 general permit for stormwater management systems that was adopted last year as part of the Environmental Streamlining bill, HB 503. Strict requirements were included in the bill to ensure no wetlands were impacted by these projects and no surface waters were impaired. But lack of compliance and little oversight assured there would be problems. The failure of the Department of Environmental Protection (DEP) and the water management districts to monitor and prevent these problems should have been anticipated. The end result is a long list of documented problems and a new quest to fix this problem legislatively. To repeat this scenario with coal ash, where the potential damage and cleanup costs are more significant, seems ill advised.

The best way to ensure protection of wetlands, habitat and our water supply is to have more control over where coal ash is being used in Florida. That control is best achieved by having your team at DEP review, approve and assess compliance for the unencapsulated uses of a proven waste. SB 682 does not allow for these important checks and balances.

In order to avoid costly damage to water resources, Audubon urges you to veto SB 682. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Draper". The signature is fluid and cursive, with a large initial "E" and "D".

Eric Draper
Executive Director