

Air Alliance Houston * Alabama Environmental Council * Alabama Rivers Alliance * Alaska
 Community Action on Toxics * American Bottom Conservancy * American Rivers *
 Appalachian Voices * B.E. Cause * Bastrop County Environmental Network * Bay Area
 Healthy 880 Communities - SL Davis Street Family Resource Center * Black Warrior
 Riverkeeper * Bristlecone Alliance * BURNT * Cahaba Riverkeeper * CCE, Inc * Center for
 Biological Diversity * Center for Coalfield Justice * Center for Energy Efficiency and
 Renewable Technologies * Chattooga Conservancy * Chesapeake Climate Action Network *
 Citizen Advocates United to Safeguard the Environment, Inc. (CAUSE) * Citizen Power *
 Citizens Against Coal Ash * Citizens Against Ruining the Environment * Citizens Coal Council
 * Citizens Environmental Coalition * Citizens for Clean Power * CLEAN/Civil Society Institute
 * Clean Air Council * Clean Air Task Force * Clean Air Watch * Clean Energy Action *
 CLEAN New York * Clean Power Now * Clean Water Action * Coal River Mountain Watch *
 Colorado Interfaith Power and Light * Concerned Residents of Portland, NY + People Like Us *
 Connecticut Coalition for Environmental Justice * Conservation Minnesota * Cook Inletkeeper *
 Corsica River Conservancy * CREDO * Dakota Resource Council * Dakota Rural Action *
 Defend Our Desert * Defenders of Wildlife * Delaware Riverkeeper Network * Diné Citizens
 Against Ruining Our Environment (Diné CARE) * Dooda (NO) Desert Rock * Earth
 Ministry/Washington Interfaith Power & Light * Earthjustice * Ecology Center * Environment
 America * Environmental Defense Fund * Environmental Integrity Project * Environmental
 Justice Resource Center at Clark Atlanta University * EPP-LCA * Fall-line Alliance for a Clean
 Environment (FACE) * First Presbyterian Church, Environmental Ministry Committee * Fresh
 Energy * Friends of Merrymeeting Bay * Friends of the Earth * Friends of the Kaw * GASP
 (formerly known as Alabama First) * Georgia Interfaith Power & Light * Georgians for Smart
 Energy * Glynn Environmental Coalition * Grand Canyon Trust * Great Old Broads for
 Wilderness * Great Plains Alliance for Clean Energy * Green Environmental Coalition *
 GreenLaw * Greenpeace USA * Group Against Smog and Pollution * Gulf Restoration Network
 * Healthy Child Healthy World * Henry S. Cole & Associates, Inc. & Ekos-Squared * Hoosier
 Environmental Council * Interfaith Power & Light * Iowa Environmental Council * Iowa
 Interfaith Power and Light * Izaak Walton League of America * Kentucky Environmental
 Foundation * Kentucky Resources Council * Labadie Environmental Organization * Local
 Environmental Action Demanded Agency, Inc. * League of Conservation Voters * Legal
 Environmental Aid Foundation of Indiana, Inc * Lone Tree Council * Lower Mississippi
 Riverkeeper * Meigs Citizens Action Now * Michigan Energy Alternatives Project *
 MidlandCARES * Milwaukee Riverkeeper * Minnesota Center for Environmental Advocacy *
 Missouri Coalition for the Environment * Montana Environmental Information Center *
 Mountain Watershed Association * National Parks Conservation Association * National Wildlife
 Federation * Natural Resources Defense Council * Neighbors for Neighbors * New Mexico
 Environmental Law Center * North Carolina Interfaith Power & Light * Northwest Atlantic
 Marine Alliance * Northwest Environmental Defense Center * Ohio Environmental Council *
 Ohio River Foundation * Ohio Valley Environmental Coalition (OVEC) * Oklahoma Chapter
 Sierra Club * OMB Watch * Oregon Physicians for Social Responsibility * Oregon Toxics
 Alliance * Our Children's Earth Foundation * PennFuture * Physicians for Social Responsibility
 * Physicians for Social Responsibility Colorado * Physicians for Social Responsibility Iowa *
 PINES Group * Plains Justice * Prairie Rivers Network * Progressive Leadership Alliance of
 Nevada * RENEW Wisconsin * Resurrection Bay Conservation Alliance * Rivers Unlimited *
 San Juan Citizens Alliance * Save It Now, Glades! * South Carolina Coastal Conservation
 League * SEED Coalition * Sierra Club * Sierra Club TN Chapter * Sierra Club Watauga Group
 * Snake River Alliance * Southern Alliance for Clean Energy * Southern Environmental Law

Center * SouthWings * Students for Environmental Concerns * t.e.j.a.s. * Tennessee Clean Water Network * Tennessee Interfaith Power & Light * Tennessee RIVERKEEPER * The Alliance for the Great Lakes * The Friends of Big Canoe Creek * The Native Forest Council * Turtle Island Restoration Network * Union of Concerned Scientists * United Mountain Defense * Valley Watch * Vermont Interfaith Power and Light * Vermont Public Interest Research Group * Watauga Watershed Alliance * Waterkeeper Alliance * Wenham Lake Watershed Association * West Virginia Highlands Conservancy * West Virginia Rivers Coalition * Western Environmental Law Center * Western North Carolina Alliance * Western Organization of Resource Councils (WORC) * White Oak-New Riverkeeper Alliance * WildEarth Guardians * Winyah Rivers Foundation * Women's Voices for the Earth * Wyoming Conservation Voters

November 19, 2010

The Honorable Lisa Jackson
Administrator

United States Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

RE: Comments on Coal Combustion Residuals Proposed Rule, Docket ID EPA-HQ-RCRA-2009-0640

Dear Administrator Jackson,

We would like to begin by thanking the Agency for carrying out an open and robust comment period on the proposed coal ash rulemaking. We understand that you have heard thousands of speakers at public hearings across the country and will read tens of thousands of written comments. This is undoubtedly a daunting task, but these numbers highlight how important the issue of coal ash disposal is to citizens across the U.S., from Harriman, Tennessee to Perry County, to the hundreds of places coal ash is disposed, stored and reused.

Although many of us will submit more detailed comments for your review, we are coming together to submit this letter to voice our collective support for EPA's promulgation of a rule under the authority of Subtitle C of the Resource Conservation and Recovery Act (RCRA).

Subtitle C provides the only effective option for protecting human health and the environment from the physical and the chemical dangers of coal ash. Subtitle D would allow EPA only to develop suggested guidelines for coal ash disposal, leaving citizens without federally enforceable rules and permitting individual states to opt out of the guidelines. As your analysis has already indicated, the majority of states are likely to ignore any EPA-developed disposal guidelines and would continue to allow dangerous coal ash dumping under current, inadequate state programs.

The untenable result under Subtitle D would be unequal and inadequate protection from a pervasive threat that plagues almost every state in this nation. The perilous reality, according to your agency's own calculations, is that those states that currently fail to protect their citizens from the dangers of coal ash are the same states that, given the choice granted by Subtitle D, would ignore newly promulgated EPA guidelines. These are the exact same states that generate the overwhelming majority of the coal ash in the U.S. (approximately 80% of annual generation).

Furthermore, a Subtitle D scheme leaves vulnerable populations – low-income communities, communities of color and children – living near these disposal sites out in the cold. Selection of Subtitle D would create monumental disparity: those states that will not implement Subtitle D are also more likely to have higher percentages of vulnerable populations, putting them at greater risk. In other words, a weak EPA rule would apply new safeguards in states where coal ash presents a relatively small, or even non-existent, environmental justice problem, while failing to add protections in states where environmental justice communities are heavily impacted by coal ash disposal.

By comparison, Subtitle C offers a comprehensive, equitable and meaningful basis for coal ash regulation. Where Subtitle D proffers only guidelines, Subtitle C establishes federally enforceable safeguards codified in mandatory permits. Where Subtitle D only addresses disposal, Subtitle C covers the entire lifecycle of ash, from generation and storage to transportation, treatment and final disposal.

The breadth and federal enforceability of Subtitle C regulations are necessary because coal ash poses a very real danger. The catastrophic collapse of the dam at the Tennessee Valley Authority's Kingston plant sounded a warning for the grave threats posed by the nation's aging

fleet of coal ash impoundments – a great number of which are over three-decades old, not designed, built or constructed by professional engineers, and located in states where neither inspections nor evacuation plans have ever been required.

While the inundation of Harriman, Tennessee is a frightening example of the damage that unsafe coal ash disposal can cause, EPA must also consider the more pervasive and subtle danger that coal ash poses to our groundwater and surface water. Whether coal ash is stored in a landfill, pond, or mine, it poses a significant danger when its toxic constituents dissolve from the ash into water. The toxic chemicals in ash, such as antimony, arsenic, barium, lead, cadmium, chromium, manganese, mercury, molybdenum, and thallium, which readily leave ash and enter water, are known to cause serious health problems. Especially where there is prolonged exposure, these toxic metals can cause several types of cancer, heart damage, lung disease, respiratory distress, kidney disease, reproductive problems, gastrointestinal illness, birth defects, impaired bone growth in children, nervous system impacts, cognitive deficits, developmental delays and behavioral problems. In short, coal ash toxics have the potential to injure all of the major organ systems, damage physical health and development, and even contribute to mortality. And the threat of harm is significant – people living near some unlined wet ash impoundments have a 1 in 50 chance of getting cancer from arsenic-contaminated water. And human populations are not the only populations at risk – substantial threats are also posed to fish and wildlife when coal ash contaminants enter our water bodies.

The danger of contaminated water is not merely conjecture. Research by EPA, as well as two reports by the Environmental Integrity Project, Earthjustice and Sierra Club document 137 cases of surface or groundwater damage in 34 states. In the most recent report each and every one of the 35 sites studied show heavy metal contamination above federal drinking water standards. These results, in fact, are just a small percentage of the real damage occurring at coal ash disposal sites across the country. Many states do not require any on-site or off-site water monitoring, meaning that there is no source of monitoring data for investigators compiling damage cases.

Furthermore, the EPA's latest scientific findings lend great urgency to the promulgation of federally enforceable standards. New EPA leach tests, specifically designed for coal ash, reveal

that toxic chemicals such as arsenic, chromium and selenium, can leak from coal combustion waste in concentrations far exceeding the threshold that the EPA uses to identify hazardous waste. Based on the toxic constituents of coal ash and its propensity to leach those harmful chemicals in prodigious amounts, there is no question that coal ash meets the hazardous waste listing criteria set forth in RCRA.

Opponents of coal ash regulation rest their case on the vague and flawed argument of stigma. The oft-repeated warning from the coal ash industry is that listing ash as a special waste will create a stigma, making it impossible to use ash beneficially. However, EPA has responded to this concern by proposing to list coal ash, only if disposed, as a special waste and to exempt coal ash entirely from regulation if beneficially used. History has demonstrated that if the cost of disposal rises, incentives for reuse increase. There is no reason this oft-demonstrated market behavior should not repeat itself here. We agree with the Agency's analysis that regulation of coal ash disposal will increase beneficial reuse of ash.

In view of the immense amount of coal ash generated in the U.S. and its disposal and reuse in nearly every state and territory of the nation, it is essential that the EPA enact federally enforceable safeguards that protect the health and environment of every citizen equally and effectively.

Thus we respectfully ask the EPA for a strong rule that lists coal ash as a "special waste" under Subtitle C of RCRA and accomplishes the following:

- Incorporates the best available practices of preventative hazard design in storage and disposal facilities, including composite liners, leachate collection systems, long term ground water monitoring, dust controls, and corrective action; and
- Phases out as quickly as possible the wet storage of coal ash, the disposal of coal ash in mines and unprotected landfills, and the disposal or reuse of unencapsulated ash where it is exposed to surface or ground water.

As the American public reaps the substantial benefits of cleaner air accomplished by the requirements of the Clean Air Act, this Administration must ensure that the same harmful

pollutants captured in the flue gas of coal-fired power plants do not end up in our rivers, streams and drinking water.

Respectfully,

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