



October 15, 2009

The Honorable Lisa Jackson
Administrator, Environmental Protection Agency
Room 3000, Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Ms. Jackson:

On behalf of the Intermountain Power Agency, owner of the Intermountain Power Project, a 1800 MW coal-fueled electric generating facility located in Utah, I am writing to state my concern that the Environmental Protection Agency (EPA) is considering new environmental regulations for coal combustion by-products, specifically fly ash (CCB). Recent national attention has been focused on the failure of a wet ash impoundment at the Tennessee Valley Authority's Kingston, Tennessee facility. I am sure this tragedy has polarized the public's view of fly ash; however, to use this event as a stepping stone towards a hazardous waste designation of CCB's would cause severe collateral damage to hundreds of facilities and unfairly punish those that take a much more conservative management of CCB's .

We therefore wish to register our strong opposition to regulating CCB's as hazardous waste. The cost of disposing of CCB's will be substantially greater if CCB's are regulated as hazardous waste than as non-hazardous waste. The regulation of CCB's as hazardous waste could require our project to implement costly retention measures on site (estimates as much as \$75 million per annum) or even disposal of CCB's generated during the production of electricity at commercial hazardous waste disposal facilities. Moreover, there are very few such facilities in the U.S. and these facilities have limited capacity and impose substantial costs for the disposal of hazardous wastes. The estimates of disposal for our project range between \$100 and \$400 million per annum. These costs will be borne directly by our purchasers and ultimately passed on to ratepayers.

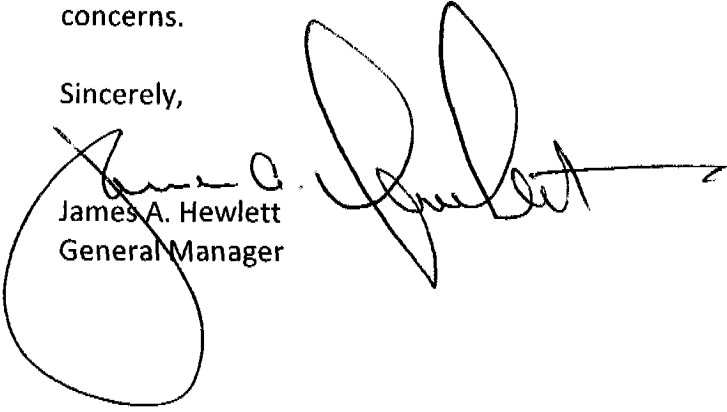
The CCB materials produced at our project are non-hazardous. This is principally due to the source and quality of coal used in combustion that greatly impacts the characteristics of the CCB produced. Our project sells a substantial portion of its CCB's which not only is a revenue source but eliminates costs of handling and storing of the material. The regulation of CCB's as a non-hazardous waste pursuant to a federal non-hazardous waste program would allow for the imposition of management and disposal controls on CCB's that are fully protective of human health and the environment without unduly impacting the beneficial uses of CCB's and imposing substantial unwarranted costs on power production.

Our project looks to the many uses of CCB's in concrete, earth stabilization, structural and embankment fills, asphalt pavements, grouts, siding, etc, as a means of reducing our carbon footprint. This is principally achieved by reducing the greenhouse gasses that would otherwise be produced by DOT's and cement manufacturers having to use more cement and other materials to meet the strength, durability, etc, requirements provided by the CCB's. Thus, one unfortunate effect of regulating CCB's as a hazardous waste and eliminating their sale for construction would result in more greenhouse gas being produced.

IPA respectfully requests and urges the EPA to not regulate or reclassify CCB's as hazardous materials under Subtitle C of the Resource Conversation and Recovery Act (RCRA) of 1976 or any other section of the RCRA.

Thank you for your consideration. Please contact us if you have any questions about our stated concerns.

Sincerely,


James A. Hewlett
General Manager