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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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DOUGLAS P. SCOTT, DIRECTOR

217/524-3300

July 17, 2009

Lisa Jackson
 Administrator
 U.S. Environmental Protection Agency
 Ariel Rios Building, Mail Code: 1101A
 1200 Pennsylvania Avenue, NW
 Washington, DC 20460

Re: Proposed Regulations for Coal Combustion Waste

Dear Administrator Jackson:

It is our understanding the U.S. EPA is in the process of evaluating the existing federal regulations and current policies as they would relate to coal combustion waste (CCW), and intends to propose new regulations for CCW by the end of the 2009 calendar year. As a result of these activities we have been contacted by some of the coal companies in Illinois. They have voiced a concern that this process includes the possibility of classifying CCW as a hazardous waste. Based on this information we are providing the following comments for your consideration as the U.S. EPA develops these new regulations for CCW.

Currently Illinois regulates CCW as both a special waste and a solid waste and would therefore require any site accepting CCW for disposal to be designed, constructed, and operated in accordance with the appropriate non-hazardous solid waste disposal regulations. This position is consistent with the position U.S. EPA has taken since 1988. And in fact in 2000 EPA had determined it would develop national regulations for management and disposal under subtitle D (non-hazardous waste) rather than subtitle C (hazardous waste). Illinois regulations also have provisions to allow CCW to be beneficially reused and not be considered a waste, provided the generator meets certain restrictions and requirements.

Based on our past experience, it our position that classifying CCW as a hazardous waste is not warranted and would place unnecessary barriers on its beneficial use/reuse in the future. We feel our approach of regulating CCW under the non-hazardous solid waste regulations is protective of both human health and the environment and is an effective and logical way to safely manage CCW. However, if U.S. EPA feels there is a need to develop specific regulations to address the disposal of CCW we would recommend the waste be regulated as a non-hazardous waste under an expansion to the subtitle D regulations.

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If you or your staff have any questions, or would like to discuss our position in more detail, please contact Steve Nightingale, P.E., of my staff at 217/558-6213.

Respectfully,

A handwritten signature in cursive script that reads "Gary P. King".

Gary P. King, Acting Chief
Bureau of Land

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cc: Mathy Stanislaus
Barry Breen
Matt Hale