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COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

JACK CONWAY  
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118  
700 CAPITAL AVENUE  
FRANKFORT, KENTUCKY 40601  
(502) 696-5300  
FAX: (502) 564-2894

June 19, 2009

Lisa P. Jackson, Administrator  
United States Environmental Protection Agency 1101A  
U.S. EPA Headquarters  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Re: *Potential Regulation of Coal Combustion Waste*

Dear Administrator Jackson:

I would like to take this opportunity to express my concern regarding recent comments made by the EPA at the 2009 World of Coal Ash Conference. Specifically, Matt Hale, Director of the Office of Solid Waste and Emergency Response, indicated that the EPA is considering proposing regulations that would re-classify ash released from coal-fired power plants as hazardous waste. While I understand in the future there may be opportunities to provide official comment on regulations proposed by your agency, I would like to offer the following observations for your consideration as you begin to draft these regulations.

It is my understanding that current hazardous waste landfill space is inadequate to hold the volume of waste that could be newly classified as hazardous. In order to accommodate added classifications of hazardous waste, additional lands would need to be identified as appropriate areas for waste disposal, acquired, and then converted to safely store that waste. This would be a major undertaking requiring the commitment of federal and state resources and millions of taxpayer dollars.

Also, classifying ash released from coal-fired power plants as "hazardous" could preclude or impair many newly-created alternative uses for this material. As presented at the 2009 World of Coal Ash Conference, research is underway at the University of Kentucky to explore potential uses for this coal ash waste. In fact, much time and many resources have already been invested to make this material recyclable and it is currently available for use in aesthetic and functional ways. For example some coal ash can be



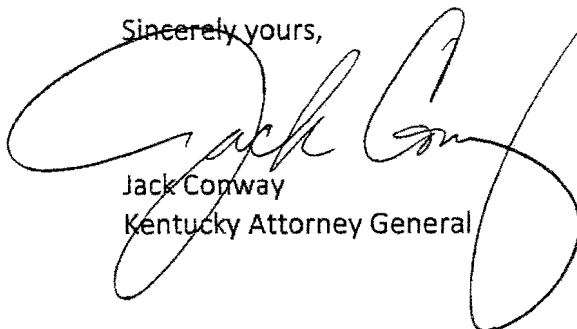
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used as a component in cement mixtures, molded into reclaimed furniture, and used in other household products such as tile.

As you are aware, coal is an integral part of Kentucky's economy and an important domestic energy resource. I agree that there is merit in the development of some form of national ash disposal standards, but only when based upon scientific evidence. I also recognize the need to explore ways to recycle and re-use materials in a way that is environmentally sound and economically viable for an industry that employs thousands of Kentuckians and literally keeps our lights on.

Thank you for the opportunity to provide these initial comments. I would like to request that I be included in the ongoing dialogue as your agency begins deliberations on this important issue. Please let me know what upcoming opportunities may exist to provide more comprehensive input.

Sincerely yours,

A large, stylized handwritten signature in black ink, appearing to read "Jack Conway". The signature is written over the typed name and title.

Jack Conway  
Kentucky Attorney General

/srb