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August 27, 2009

Mr. Matt Hale  
Director, Office of Resource Conservation and Recovery  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Dear Mr. Hale:

This letter is written in response to recent discussions at the federal level concerning the possible development of regulations for coal combustion waste (CCW). The South Carolina Department of Health and Environmental Control (Department) appreciates the opportunity to comment on the regulatory options that are currently under consideration. For the following reasons, we believe that the Department's current regulatory framework for the management of CCW is protective of the public's health and the environment.

The Department regulates disposal of CCW through its Solid Waste Landfill Permitting program and its Water Facilities Permitting (NPDES) program. The solid waste landfill regulations contain design, location, operation, corrective action, closure, post-closure and financial assurance requirements that are appropriate for the disposal of CCW. Landfills that accept coal ash for disposal must perform a waste analysis to ensure that the waste is non-hazardous. The Department has implemented a solid waste landfill permitting program since 1972, and in 2008 amended the regulations to strengthen the landfill requirements consistent with the types of waste disposed in them. It is the Department's position that its solid waste and water permitting programs are adequate for the safe disposition of CCW.

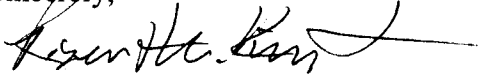
We believe that classifying CCW as a hazardous waste would create unnecessary barriers to the current management options for CCW without producing any greater degree of environmental or public health protection. The Department's experience with CCW is that this material is not typically hazardous in nature, and would not qualify as characteristically hazardous under RCRA Subtitle C. Regulating CCW as a hazardous waste would significantly impede the beneficial use of this material. Currently, the Department makes a case-by-case determination on beneficial use requests that requires Department review and approval of the waste characterization and associated data, proposed beneficial use, and other technical information associated with the proposed

use. This process ensures that the proposed beneficial use is environmentally safe and protective of the public. Designating CCW as a hazardous waste would not only prevent its beneficial use but would also place an even greater demand on already limited hazardous waste disposal capacity.

The Department understands the concerns about coal ash following the release at the Tennessee Valley Authority's Kingston Plant in Tennessee. The Department is supportive of EPA's current efforts to inspect and assess the 24 facilities in the country that have a high or significant hazard potential for downstream consequences of a failure of a CCW surface impoundment. Improved oversight of these types of units seems to be the more appropriate approach rather than a sweeping re-definition of CCW as a regulated hazardous waste.

Thank you for your consideration of this matter. If you have any questions or need additional information, please feel free to contact Daphne Neel at (803) 896-4007 or Claire Prince at (803) 896-4004.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert W. King, Jr.", with a long horizontal flourish extending to the right.

Robert W. King, Jr.  
Deputy Commissioner