



Unions for Jobs And the Environment

Address: PO Box 56173, Washington, DC 20040-6173 Voice and Fax: 301-585-5828 Email: ujae@rcn.com Website: www.ujae.org

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of America

President

Bill Cunningham

September 19, 2009

The Honorable Lisa Perez Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

The collapse of a dam at a coal ash pond operated by the TVA near Kingston, Tennessee was a major environmental event which will require an extensive cleanup effort which concerns us all. EPA deserves praise for its quick action following the spill, and for its initiative to review and determine the integrity and safety of other sites where coal combustion byproducts (CCB's) are stored.

The magnitude of this spillage has obviously raised public concern about storage of CCB's and the potential for accidents that might harm surrounding communities. And, understandably EPA has raised the issue of regulation of CCB's at the federal level and even the possibility of classifying CCB's as hazardous waste.

We believe the evidence shows that it would not be appropriate to classify CCB's as hazardous waste. In 1999, during the Clinton Administration, EPA submitted their finding to Congress that CCB's do not exhibit the characteristics of hazardous waste, which are: corrosivity, reactivity, ignitability and toxicity. The following year, EPA determined that CCB's should not be regulated as hazardous waste under Subtitle C of RCRA.

Classifying CCB's as hazardous waste would all but rule out their beneficial recycling and reuse which provides energy savings, greenhouse gas emissions reductions, and resource conservation. Currently, about 46% of these materials are used for beneficial purposes, a figure that is increasing, and with proper incentives could be raised much higher.

In the past, CCB's contributed to the construction of the Hoover Dam the San Francisco-Oakland Bay Bridge and more recently was used for the new I-35 bridge in Minneapolis, Minnesota. Their use for such purposes not only conserves resources and energy, but is often superior to the materials they replace.

At this time, CCB's are regulated primarily by state agencies. An argument for state regulation is that a one size fits all approach will not work. Flexibility and discretion by the states is needed due to the many differences in storage sites in each state. As a state environmental administrator pointed

out, states must be able to tailor standards based on the type of ash generated, the characteristics of that ash, the land disposal methods used, and the geology and groundwater conditions.

If EPA decides to regulate CCB's at the federal level, comprehensive and stringent measures are available to EPA without classifying them as hazardous waste. Levels of contaminants are similar in nature to low-hazard industrial wastes including kiln dust, wood ash, foundry sands, paper mill wastes, or steel mill waste.

CCB's can be regulated in the same way as municipal solid waste. They present less of an environmental concern than municipal solid waste which contains not only heavy metals, but also organic, acidic and alkaline materials. And the organics in municipal waste can be more problematic than industrial wastes. Regulation of CCB's as municipal solid waste would give the public sufficient protection from any environmental problem that might be posed by CCB's including the kind of spillage that occurred near Kingston.

Steps to regulate CCB's should be taken judiciously, given the importance of coal in providing secure and affordable energy for our nation. Coal currently provides about half of the electricity generated in the US and is the cheapest and most abundant domestic fuel. Regulations should recognize the importance of reuse of CCB's and ensure their continued beneficial use. The misclassification of CCB'S as hazardous waste would hurt the ability to use this resource and greatly increased the need for disposal sites.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Cunningham".

Bill Cunningham, President
Unions for Jobs and the Environment



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