Congress of the United States
Washington, DC 20515

October 15, 2009

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

Dear Administrator Jackson:

Coal combustion waste (CCW), the byproduct of burning coal, is the second largest waste stream in the U.S. CCW contains a number of hazardous chemicals, including arsenic, lead, mercury, chromium and cadmium. As the catastrophic failure of a Tennessee Valley Authority (TVA) surface impoundment (an industrial-sized pond where a toxic mix of CCW and water is contained) in Kingston, Tennessee last December illustrated, improper disposal of CCW poses a serious threat to public health and the environment. We write to you today to thank you for your commitment to propose CCW regulations by the end of the year and to ask you to ensure that those regulations adequately protect public health. To accomplish this, we believe the regulations must, at minimum, phaseout dangerous CCW impoundments and establish federally enforceable regulations for the disposal of coal ash in landfills.

Surface impoundments have been responsible for many of the pollution problems associated with CCW, including the Tennessee disaster, a dam failure in Pennsylvania that fouled the Delaware River, and two pond breaks near Cartersville, Georgia, where millions of gallons of toxic ash flooded a stream and residential area. CCW ponds also pose a significant risk of leaching hazardous chemicals into groundwater. The EPA's own 2007 risk assessment concludes that wet ponds posed *up to 40 times higher cancer risks* from arsenic exposure than landfills with similar characteristics. Yet dry disposal of CCW, without proper safeguards, has also contaminated water sources at dozens of sites throughout the U.S. Because of these well-documented problems, we believe the EPA should prohibit the construction of new surface impoundments, phase out existing impoundments, and promulgate federally enforceable standards for dry disposal, including the requirement that landfills have appropriate liners and groundwater monitoring.

History shows that far too many states have allowed dangerous conditions to persist, and the public has paid the price in health and economic terms. A 2005 EPA report revealed that only about half of the states that rely most on coal-fired power have regulations that impose basic safeguards for coal ash ponds, such as liners and groundwater monitoring. Alarmingly, the EPA's 2007 risk assessment shows that, at the worst facilities, residents living near unlined CCW ponds have as much as a 1 in 50 chance of getting cancer from drinking water contaminated by arsenic. Such conditions cannot be allowed to continue. Furthermore, CCW mismanagement hurts the health of our economy and hurts the pocket books of the American taxpayer. According to the Tennessee Valley Authority and EPA,

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cleanup of the recent disaster will cost more than $1 billion. Therefore, national standards for disposal of CCW should be federally enforceable to ensure every citizen's health and livelihood is protected.

The EPA has recognized that low-income communities and people of color shoulder a disproportionate share of the health risks from CCW. The poverty rate of people living within one mile of CCW disposal facilities is twice as high as the national average and the percentage of non-white populations within one mile is 30 percent higher. Similar high poverty rates are found in 118 of the 120 coal-producing counties, where coal combustion wastes increasingly are being disposed in unlined, under-regulated mines, often directly into groundwater. The EPA can protect all communities by developing national, federally enforceable regulations that require all CCW be disposed of safely.

Allowing unregulated (or under-regulated) disposal undercuts the incentive for CCW generators to seek out alternative, safe uses for their wastes. Thus, more stringent regulation of disposal, which relies on the unique statutory authorities available to the EPA for addressing special, high-volume wastes like coal ash, would protect the public from exposure to dangerous chemicals while providing an incentive for legitimate recycling. The regulatory program can and should impose strict requirements on disposal activities, while allowing CCW that can be safely and legitimately reused to follow a different track.

We appreciate your consideration of our views and look forward to the Agency's timely action to deal with this issue of national concern.

Sincerely,

John Lewis

Donna F. Edwards

Jim McBrn

Phil Hare

Zoe Lofgren

Jackie Speier

Hayd Doggett

Peter Stark