



CEDAR RAPIDS, IOWA
VERMILLION, SOUTH DAKOTA
BILLINGS, MONTANA

Charlotte Hubbell, Chair
Iowa Environmental Protection Commission
DNR Air Quality Building
7900 Hickman Road
Windsor Heights, IA 50324

December 7, 2009

Dear Chairwoman Hubbell and EPC members:

On behalf of the staff and board of Plains Justice and the many Iowans who have spoken out in recent months about the need for more protective coal combustion waste regulation, I urge you to take the following immediate steps to protect Iowans' surface and groundwater and our health:

1. Pass a motion supporting federal regulation of coal combustion waste as hazardous waste;
2. Urge EPA to draft a final rule that fully addresses the public health risks associated with current disposal practices; and
3. Draft a letter to EPA, to be sent as soon as possible, detailing the actions taken by EPC and outlining some of the specific ways in which public health could be better safeguarded.

As we approach the first anniversary of the Tennessee Valley Authority Kingston Fossil plant coal ash spill, we must not forget the devastating and lasting effects of this catastrophe. Although the risks to human health may not be fully known for decades, the cleanup costs alone already approach a billion dollars. Sadly, the spill could have been prevented. Nationwide, EPA has identified case after case of proven groundwater contamination from leachate escaping from dry CCW fill sites. This damage too is preventable through proper federal regulation.

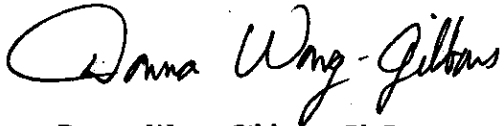
After decades of inaction, EPA is expected to release a draft rule before the end of 2009. It is crucial that the voices of concerned individuals, organizations, and government boards and commissions such as EPC be heard during the final days before this action. EPC has the power to communicate directly to EPA how important this rulemaking is to the health and safety of Iowans.

Plains Justice, Environmental Integrity Project, and Earthjustice have outlined proposed regulations that would reduce both the risk of a catastrophic spill and of undetected contamination of aquifers and drinking water supplies. Some of these proposed rules, which you may consider appropriate to include in a letter to EPA, are enclosed.

Thank you very much for your thoughtful consideration over the last several months of many viewpoints on this urgent issue. It is our hope that, having heard extensive testimony about various aspects of coal combustion waste disposal, EPC now feels prepared to make a statement on its own behalf to EPA. Iowans, and the governor, rely on EPC to exercise its judgment and authority as an

independent commission to weigh in on the critical regulatory issues of the day. We believe that the time has come for EPC to take a public position on this issue, and we hereby request that a motion be voted on at the December meeting.

Sincerely,

A handwritten signature in black ink that reads "Donna Wong-Gibbons". The signature is written in a cursive, flowing style.

Donna Wong-Gibbons, Ph.D.
Public Health Specialist
Plains Justice

Dianne Dillon-Ridgley
Chair, Board of Directors
Plains Justice

Jeff Stant
Director, Coal Combustion Waste Initiative
Environmental Integrity Project

Lisa Evans
Senior Administrative Counsel
Earthjustice

Recommendations for Reducing Human Health Risks Associated with Coal Ash Disposal

- 1. Stricter regulations regarding sites that are used for coal ash disposal.** "Beneficial use sites" that allow disposal of coal ash without the use of liners and without monitoring pose particularly high risks for contamination or pollution of surrounding areas, including aquifers when groundwater levels are not appropriately considered.
- 2. Improved monitoring of disposal sites both while coal ash is being actively disposed and following closure of a site.** Scientists estimate that the potential for contamination from a coal ash disposal site may continue for decades, yet monitoring for many sites (including several sites in Iowa) is still not required.
- 3. Clean up and abatement of existing unlined and clay-lined sites and requirements for impermeable liners at new or proposed disposal sites.** The TVA spill highlighted the potential dangers of "wet" coal ash storage ponds, but data from the EPA also shows that unlined and clay-lined sites pose a risk of contamination.
- 4. Reclassification of coal ash as a hazardous waste, reflective of its potential risks to human health.** Heavy metals such as arsenic, cadmium, lead and mercury found in coal ash all pose serious risks both to children and adults in terms of increased risk of cancer. Additionally, these toxins can be particularly dangerous for children, contributing to delayed or impaired behavioral and mental development.
- 5. Characterization and analysis of coal ash prior to disposal so that waste that poses particularly high risks to human health (as indicated by existing standards for compounds such as arsenic and mercury) is not sited near drinking water supplies or residential areas.** Since toxin levels can vary depending on the type of coal combusted, continuing to treat coal ash as a homogenous waste stream does not adequately consider the variations in risk. As testing of coal ash sources from Iowa and other states has shown, levels of compounds such as arsenic can exceed recommended safe standards in some sources of coal ash.