August 1, 2022

Michael Regan, Administrator
U.S. Environmental Protection Agency
EPA Docket Center, Office of Land and Emergency Management
1200 Pennsylvania Avenue NW
Washington, DC 20460

Regan.Michael@epa.gov

Re: Call for Rulemaking to Stop Pollution from Legacy Coal Ash Ponds and Inactive Landfills

Dear Administrator Regan:

The undersigned 121 national, regional, and grassroots public interest groups and tribal communities from 30 states, the District of Columbia and Puerto Rico urge you to immediately undertake a rulemaking to strengthen the Coal Combustion Residuals (“CCR”) Rule\(^1\) to stop toxic pollution from legacy surface impoundments and inactive landfills. Dangerous loopholes in the current CCR Rule leave hundreds of polluting coal ash dumps outside the scope of the federal rule. The drinking water, health, well-being, and environment of communities across the nation are harmed by the failure of the U.S. Environmental Protection Agency (“EPA”) to address these dangerous sources of pollution.

Regulations requiring cleanup and safe closure of all toxic coal ash dumps are urgently needed and long overdue. The CCR Rule currently has no provision specifically regulating coal ash disposed in more than 200 surface impoundments (“legacy ponds”) located at power plants that ceased generating electricity before the effective date of the rule (October 19, 2015). Similarly, the CCR Rule exempts coal ash landfills \textit{at any location} from all regulatory safeguards if the landfills did not receive waste after such date. At least 285 inactive landfills are currently exempted. The CCR Rule’s dangerous loopholes leave nearly as much toxic coal ash unregulated as EPA currently regulates.

**EPA has a legal duty to take immediate rulemaking action to protect human health and the environment**

In August 2018, the D.C. Court of Appeals ordered EPA to address the looming threat posed by legacy ash ponds located at retired power plants.\(^2\) The court directed EPA to establish stringent safeguards requiring the safe closure and cleanup at hundreds of abandoned toxic ash ponds. Yet four years have passed since the court demanded action, and there are still no protective safeguards for these festering, unlined ponds. EPA is now in clear violation of the court’s

---


\(^2\) Utility Solid Waste Activities Grp. v. EPA, 901 F.3d 414 (D.C. Cir. 2018) ("USWAG").
landmark order designed to close the loophole and tackle the cleanup of millions of tons of leaking coal ash.

Further, RCRA requires EPA to review and, if necessary, revise each regulation at least every three years. However, seven years after EPA issued the CCR Rule, the agency has failed to review its dangerous exemption of all inactive landfills and to revise the rule to ensure protection of public health and the environment. EPA is in violation of its statutory duty, and its inaction places hundreds of communities at serious risk of harm. On May 17, 2022, on behalf of six public interest groups, Earthjustice sent a Notice of Intent to Sue EPA over this violation.

EPA must strengthen the CCR Rule to protect the nation’s drinking water and surface water

Across the nation, hundreds of old, leaking, unlined toxic coal ash ponds and landfills are releasing hazardous and radioactive substances and polluting groundwater, bays, lakes, rivers, and streams. Historically, coal plants used the cheapest, easiest – and most dangerous – method of disposal for their toxic waste: dumping it into unlined pits. The older the dump, the more likely the polluter avoided protective measures such as liners, leachate collection, and monitoring wells. These unlined ponds and landfills—containing nearly a billion tons of toxic waste—continue to release hazardous chemicals into our water and risk catastrophic spills. Federal rules requiring their safe closure and cleanup are long overdue.

Based on the utility industry’s own data, 91 percent of regulated coal ash dumps have severely polluted underlying groundwater with hazardous chemicals like arsenic, chromium, cobalt, lead, lithium, and radium to levels exceeding federal safe standards for drinking water. Hundreds of unregulated legacy ponds and inactive landfills are spewing the same hazardous chemicals, albeit with absolutely no cleanup requirements. For example:

- At NIPSCO’s Michigan City Generating Station in Michigan City, Indiana, an unregulated two-million-ton coal ash fill sits precariously behind corroding steel pilings on the shore of Lake Michigan. The toxic fill is leaking arsenic and other hazardous chemicals into the lake as well as into an adjacent creek used for fishing and boating.

- At TVA’s Bull Run Fossil Plant in Clinton, Tennessee, an unlined leaking landfill in use from 1982-2015 is contaminating groundwater with arsenic and boron, but it escapes EPA’s regulations and clean up requirements.

---

3 42 U.S.C. § 6912(b).
4 Clean Power Lake County, Environmental Integrity Project, Hoosier Environmental Council, Indiana State Conference and the Laporte County Branch of the National Association for the Advancement of Colored People, Sierra Club, and Statewide Organizing for Community eMpowerment.
- At the Stanton Energy Center in Orlando, Florida, an immense 90-acre coal ash landfill is contaminating groundwater, but the landfill evades all federal requirements because the plant’s owner, the Orlando Utilities Commission, stopped disposing of ash just 52 days before the effective date of the 2015 CCR Rule.

- In southeastern Puerto Rico, more than 2 million tons of coal ash was used for structural fill, embankments, and roads. In numerous areas coal ash is now exposed to wind and water near schools, hospitals, and homes, endangering the health of environmental justice communities.

- At Dynegy Midwest Generation’s retired Vermilion Power Plant near Oakwood, Illinois, three legacy ash ponds, not explicitly regulated by the CCR Rule, spew toxic leachate into the Middle Fork of the Vermilion River, Illinois’ only Wild and Scenic River.

The CCR Rule does not specifically require polluters to monitor the groundwater around the dumps at these and all other legacy coal ash ponds and unregulated landfills. Local residents are kept in the dark about the severity of the water contamination and the safety of their drinking water and water bodies.

**EPA must act to protect environmental justice communities**

Coal ash pollution is an environmental justice issue. Most coal ash dumps are located in low-income or BIPOC communities where residents suffer higher rates of cancer, asthma, and other adverse health effects, have poor access to health care, and have few or no resources to investigate environmental threats. The Biden administration has repeatedly announced its commitment to environmental justice and must demonstrate this commitment by promptly completing the necessary coal ash rulemakings to ensure environmental justice communities are protected from its toxic threats.

**Stopping coal ash pollution has widespread support of environmental groups and environmental justice communities**

The undersigned national, regional, and grassroots public interest groups represent hundreds of thousands of Americans concerned about coal ash pollution. While we applaud the EPA’s recent actions to crack down on utilities violating the CCR Rule, it is vital for EPA to move further and faster to stop the imminent and continuing threat from legacy ash ponds and unregulated inactive coal ash landfills. Our nation’s health and water resources depend on EPA’s swift action to comply with the 2018 order of the U.S. Court of Appeals and the statutory requirements under RCRA. We urge you to act quickly and boldly to protect our communities.

---

6 We strongly support the Biden administration’s interim and proposed decisions published on January 11, 2022, marking the first time the EPA cracked down on coal ash contamination. We strongly support the EPA’s proposals to require prompt closure of dangerous ponds and applaud the EPA’s first-time application of critical CCR Rule requirements, which, if finalized and applied nationwide, will protect communities across the nation from toxic coal ash pollution.
Respectfully submitted,

Timmy Boyle
Alianza Comunitaria Ambiental del Sureste (ACASE)
acasepr@gmail.com
Humacao, Puerto Rico

Jack West
Alabama Rivers Alliance
jwest@alabamarivers.org
Birmingham, AL

Mariana Salinas
American Federation of Government Employees Local 3354
Peterhugo5@yahoo.com
St. Louis, MO

Myrna Conty
Amigos del Río Guaynabo
gmch24@gmail.com
Guaynabo, Puerto Rico

Michelle Haverland
Appalachian Voices
mmercurio@hotmail.com
Thorn Hill, TN

Andrew Behar
As You Sow
abe@asyousow.org
Berkeley, CA

Dean Wilson
Atchafalaya Basinkeeper
enapay3@aol.com
Plaquemine, LA

Eliza Cava
Audubon Naturalist Society
eliza.cava@anshome.org
Chevy Chase, MD

Charles Scribner
Black Warrior Riverkeeper
cscribner@blackwarriorriver.org
Birmingham, AL

José Manuel Díaz Pérez
Campamento Contra las Cenizas en Peñuelas
noloseus@gmail.com
Peñuelas, Puerto Rico

Bill Kornrich
Care NET
Bkornrich@gmail.com
Sneedville, TN

Gaby Sarri-Tobar
Center for Biological Diversity
gsarritobar@biologicaldiversity.org
Washington, D.C.

Veronica Coptis
Center for Coalfield Justice
veronica@coalfieldjustice.org
Washington, PA

Elizabeth Evans
Church of Reconciliation
emevans500@aol.com
Carrboro, NC

Mary Ellen DeClue
Citizens Against Longwall Mining
jwmed@consolidated.net
Litchfield, IL
<table>
<thead>
<tr>
<th>Name</th>
<th>Organization</th>
<th>Email</th>
<th>City, State</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ellen Rendulich</td>
<td>Citizens Against Ruining the Environment</td>
<td><a href="mailto:emrrealty@comcast.net">emrrealty@comcast.net</a></td>
<td>Lockport, IL</td>
</tr>
<tr>
<td>Aimee Erickson</td>
<td>Citizens Coal Council</td>
<td><a href="mailto:aimee@citizenscoalcouncil.org">aimee@citizenscoalcouncil.org</a></td>
<td>Washington, PA</td>
</tr>
<tr>
<td>Celeste Flores</td>
<td>Clean Power Lake County</td>
<td><a href="mailto:Celestef2014@gmail.com">Celestef2014@gmail.com</a></td>
<td>Waukegan, IL</td>
</tr>
<tr>
<td>Curtis Baysinger, M.D.</td>
<td>Clean Up TVA</td>
<td><a href="mailto:cbaysinger2@gmail.com">cbaysinger2@gmail.com</a></td>
<td>Nashville, TN</td>
</tr>
<tr>
<td>Jennifer Peters</td>
<td>Clean Water Action</td>
<td><a href="mailto:jpeters@cleanwater.org">jpeters@cleanwater.org</a></td>
<td>Washington, D.C.</td>
</tr>
<tr>
<td>Deborah Bahr</td>
<td>Clean Water Expected in East Tennessee</td>
<td></td>
<td>Cosby, TN</td>
</tr>
<tr>
<td>Amanda Strawderman</td>
<td>Clean Water for North Carolina</td>
<td><a href="mailto:amanda@cwfnc.org">amanda@cwfnc.org</a></td>
<td>Asheville, NC</td>
</tr>
<tr>
<td>Beto Lugo-Martinez</td>
<td>CleanAirNow</td>
<td><a href="mailto:betomtz.lugo@gmail.com">betomtz.lugo@gmail.com</a></td>
<td>Kansas City, KS</td>
</tr>
<tr>
<td>Yoca Arditi-Rocha</td>
<td>CLEO Institute</td>
<td><a href="mailto:Yoca@CLEOInstitute.org">Yoca@CLEOInstitute.org</a></td>
<td>Miami, FL</td>
</tr>
</tbody>
</table>
Clark Bullard
Committee on the Middle Fork Vermilion
cwbullard3@gmail.com
Urbana, IL

Penny Dryden
Community Housing & Empowerment Connections Inc.
drydenp2015@gmail.com
Bear, DE

Chad Hoffman
Coosa Riverkeeper
chad@coosariver.org
Birmingham, AL

Joe Franklin
Democratic Socialists of America
jgfranklin2010@gmail.com
Knoxville, TN

Robyn Jackson
Diné C.A.R.E.
Robyn.jackson@dine-care.org
Navajo Nation Territory, AZ, NM, UT

Bobby Jones
Down East Coal Ash Environmental and Social Justice Coalition/Goldsboro Resilience Hub
bibija@ail.com
Goldsboro, NC

Mary Gutierrez
Earth Ethics, Inc.
earthethicsaction@gmail.com
Pensacola, FL

Lisa Evans
Earthjustice
levans@earthjustice.org
Marblehead, MA

Bob Jorgensen
East Peoria Green
jestpr@aol.com
East Peoria, IL

Pam Richart
Eco-Justice Collaborative
prichart@ecojusticecollaborative.org
Champaign, IL

Quinn Biever
Elevate
quinn.biever@elevatenp.org
Chicago, IL

Federico Cintrón Moscoso
El Puente
fcintronmoscoso@elpuente.us
San Juan, Puerto Rico

Gabrie Melendez
El Puente de Williamsburg
Gmelendezcardona@elpuente.us
Salinas, Puerto Rico

John Rumpler
Environment America Research & Policy Center
jrumpler@environmentamerica.org
Boston, MA

Jennette Gayer
Environment Georgia
jennette@environmentgeorgia.org
Atlanta, GA

Lisa Hallowell
Environmental Integrity Project
lhallowell@environmentalinegrity.org
Washington, D.C.
Ann Mesnikoff
Environmental Law & Policy Center
amesnikoff@elpc.org
Chicago, IL

Mollie Michel
Environmental Protection Network
mollie.michel@environmentalprotectionnetwork.org
Washington, D.C.

Lena Mofitt
Evergreen Action
lena@evergreenaction.com
Washington, D.C.

Kenzley Defler
Fairbanks Climate Action Coalition
kenzley@fbclimateaction.org
Fairbanks, AK

Cindy Shepherd
Faith in Place
cindy@faithinplace.org
Urbana, IL

R. John Dawes
Foundation for Pennsylvania Watersheds
Rjdawes1@pennsylvaniawatershed.org
Alexandria, PA

Codi Norred
Georgia Interfaith Power and Light
Codi@gipi.org
Decatur, GA

Kay Ahaus
Greater Highland Area Concerned Citizens
kayahaus@yahoo.com
Trenton, IL

James M. Redwine
Harpeth Conservancy
jimredwine@harpethriver.org
Brentwood, TN

Lynn Nadeau
HealthLink
lynnnadeau@gmail.com
mailto:lynnnadeau@aol.com
Salem, MA

Karen Tuddenham
Healthy Environment Alliance of Utah
lexi@healutah.org
Salt Lake City, UT

Henry S. Cole, PhD
Henry S. Cole Environmental Associates
hcole@hcole-environmental.com
Croom, MD

Tim Maloney
Hoosier Environmental Council
tmaloney@hecweb.org
Indianapolis, IN

Wendy Bredhold
Indiana Beyond Coal
wendy.bredhold@sierraclub.org
Evansville, IN

Jennifer Thurston
Information Network for Responsible Mining
jennifer@informcolorado.org
Broomfield, CO

Maria López-Nunez
Ironbound Community Corporation
Mlopeznunez@ironboundcc.org
Newark, NJ
Ashley Williams
Just Transition Northwest Indiana
ashley@jtnwi.org
Michigan City, IN

Patricia Schuba
Labadie Environmental Organization
Prsmail@gmail.com
Labadie, MO

Madeleine Foote
League of Conservation Voters
madeleine_foote@lcv.org
Washington, D.C.

Dr. Terrie Griffin
League of Women Voters of Pennsylvania
tegriffin.president@palvw.org
Harrisburg, PA

Toni Oplt
Metro East Green Alliance
opltocc@ezl.com
Alton, IL

Charlotte Jameson
Michigan Environmental Council
charlotte@environmentalcouncil.org
Lansing, MI

Juan Jhong-Chung
Michigan Environmental Justice Coalition
juan@michiganej.org
Detroit, MI

Barbara Jennings
Midwest Coalition for Responsible Investment
midwest.coalition@yahoo.com
St. Louis, MO

Cheryl Nenn
Milwaukee Riverkeeper
cheryl_nenn@milwaukeeriverkeeper.org
Milwaukee, WI

Melissa Vatterott
Missouri Coalition for the Environment
mvatterott@moenvironment.org
St. Louis, MO

Cade Kistler
Mobile Baykeeper
ckistler@mobilebaykeeper.org
Mobile, AL

Anne Hedges
Montana Environmental Information Center
Ahedges@MEIC.org
Helena, MT

Julie Mayfield
MountainTrue
julie@mountaintrue.org
Asheville, NC

Maritza Maymí
MVC
maritzamaymi2020@gmail.com
Caguas, Puerto Rico

Rebecca Hammer
Natural Resources Defense Council
rhammer@nrdc.org
Washington, D.C.

Jodi Lasseter
NC Climate Justice Collective
jodi@ncclimatejustice.info
Durham, NC
Carrie Clark
North Carolina League of Conservation Voters
Carrie@nclcv.org
Raleigh, NC

Isabel Geffner
Neighbors on Call
irgeffner@gmail.com
Chapel Hill, NC

Rev. Rodrick Burton
New Northside Missionary Baptist Church
rkburton@msn.com
St. Louis, MO

Maple Osterbrink
No Coal UNC
maplemaryann@protonmail.com
Chapel Hill, NC

Savi Horne
North Carolina Association of Black Lawyers
Land Loss Prevention Project
savihorne@gmail.com
Durham, NC

Belinda Joyner
Northampton County Concern Citizens
joynerjb60@yahoo.com
Garysburg, NC

Joanie Kresich
Northern Plains Resource Council
bronya@northernplains.org
Billings, MT

Heather Brown
On a journey with Poorly Differentiated Thyroid Cancer in Indiana
Heatherbrown04@yahoo.com
Greenwood, IN

Aleta Toure
Parable of Sower Intentional Community Cooperative
withjusticepeace@gmail.com
Richmond, CA

Monserrate Méndez
Partido Independentista
Monserrateramos@gmail.com
Camuy, Puerto Rico

Shannon Anderson
Powder River Basin Resource Council
sanderson@powderriverbasin.org
Sheridan, WY

Karen Kane
Prairie Rivers Network
Karen.kane@gmail.com
Champaign, IL

Kristin Camp
Protect the Middle Fork Citizens Advocacy Group
kristincorncamp@gmail.com
Collison, IL

Vincent Koers
Protect The Middlefork (Wild & Scenic River)
Vincekoers@aol.com
Danville, IL

Angel M. Trinidad
Puerto Rico Libre
trotamontes4u@gmail.com
Camuy, Puerto Rico

George Matthis
River Guardian Foundation
george@riverguardfdn.org
Raleigh, NC
DeShawn Blanding  
Rural Coalition  
deshawn@ruralco.org  
Washington, D.C.

Susan Wind  
SAFE  
susan@parentsknowmore.com  
St. Johns, FL

Jonathan Levenshus  
Sierra Club  
jonathan.levenshus@sierraclub.org  
Washington, D.C.

Nicole Saulsberry  
Sierra Club-IL Chapter  
nicole.saulsberry@sierraclub.org  
Springfield, IL

Hernaliz Vazquez  
Sierra Club-PR  
Hernaliz.Vazquez@sierraclub.org  
Puerto Rico

Dr. Cris Corley, Chair  
Sierra Club-Tennessee Chapter  
drcriscorley@gmail.com  
Lebanon TN

Barbara J Jennings  
Sisters of St. Joseph of Carondelet  
midwest.coalition@yahoo.com  
St. Louis MO

Frank Holleman  
Southern Environmental Law Center  
fholleman@selcsc.org  
Charlottesville, VA

Suzanne Smith  
Stand Up To Coal  
suzanne56smith@gmail.com  
Homer, IL

Isabella Killius  
Sunrise Knoxville  
sunrisemvmtknoxville@gmail.com  
Knoxville, TN

Alexandra Rodriguez Romero  
Taller Psicologia Social Comunitaria  
Universidad de Puerto Rico  
tallersocialcomunitario@gmail.com  
Puerto Rico

Catherine Lutin  
Team Taylor  
Cstoreylutin@gmail.com  
Concord, NC

David Whiteside  
Tennessee Riverkeeper  
dwhiteside@tennesseeriver.org  
Decatur, AL

Lyndsay Tarus  
The Alliance for Appalachia  
Lyndsay@theallianceforappalachia.org  
London, KY

William J. Barber III  
The Climate Reality Project  
william.barber.iii@climatereality.com  
Washington, D.C.

Caroline Armijo  
The Lilies Project  
Caroline.armijo@gmail.com  
Greensboro, NC

Larry Evans  
United Congregations of Metro East  
evans.larry9@gmail.com  
Glen Carbon, IL
John Blair
Valley Watch, Inc.
Blair@valleywatch.net
Evansville, IN

Vivian Satterfield
Verde
viviansatterfield@verdenw.org
Portland, OR

Patrick Calvert
Virginia Conservation Network
pat@vcnva.org
Richmond, VA

Chris Leyen
Virginia League of Conservation Voters
cleyen@valcv.org
Richmond, VA

Daniel E. Estrin
Waterkeeper Alliance
destrin@waterkeeper.org
New York, NY

Sara Kendall
Western Organization of Resource Councils
sara@worc.org
Billings, MT

Lib Hutchby
Women's International League for Peace and Freedom- Triangle Branch
libhutchby5@gmail.com
Chapel Hill, NC

Kimberly Weaver
WyCo Mutual Aid
kimweaverscott@gmail.com
Kansas City, KS

cc: Barry Breen, Acting Assistant Administrator, Office of Land and Emergency Management, U.S. Environmental Protection Agency
Carlton Waterhouse, Deputy Assistant Administrator, Office of Land and Emergency Management, U.S. Environmental Protection Agency