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May 17, 2011

RE: Refrain from Signing the Coal Ash Dear Colleague Letter from Senators Conrad and Enzi

Dear Senator:

On behalf of our millions of members and supporters nationwide, we are writing to ask you to refrain from signing the Dear Colleague letter being circulated by Senators Enzi and Conrad

regarding disposal of coal ash. This letter asks the Administration to finalize a coal ash standard that is dangerous to public health and the environment.

Coal ash is a dangerous waste left over after burning coal for energy, and it contains many toxic chemicals like arsenic, hexavalent chromium, lead, mercury and selenium. Despite its hazardous characteristics, coal ash is not subject to federal regulations, and state laws governing coal ash disposal are usually weak or non-existent. Scientific evidence shows that coal ash can readily exceed the toxicity threshold of a hazardous waste, and there are more than 135 damage cases in 34 states where the health of communities and their environment have been compromised. Yet common household trash is more stringently regulated than coal ash.

Across the country, millions of tons of coal ash are being stored in unlined ponds, landfills and mines. Many of these sites lack adequate safeguards leaving nearby communities at great risk from potential large-scale disasters, like the massive coal ash spill in Tennessee in 2008, and from gradual yet equally dangerous contamination as coal ash toxins seep into drinking water and become airborne as fugitive dust. The threats to health and the environment from unsafe coal ash dumping have been known for many years; they include increased risk of cancer, learning disabilities, neurological damage, birth defects, reproductive failure, asthma and other sicknesses. The toll on human health is great and the damage to our economy from spills can be devastating, as evidenced by the \$1 billion clean-up in Harriman, Tennessee.

In June 2010, the U.S. Environmental Protection Agency (EPA) proposed two options for regulating coal ash under the Resource Conservation and Recovery Act (RCRA):

(1) Regulation as a “special waste” under subtitle C, which would:

- Phase out wet disposal in ponds, which can leach and collapse;
- Establish health-protective federally enforceable national standards, including permitting requirements; and
- Increase beneficial reuse, because if dumping is no longer permitted in unlined pits and ponds, there will be far greater incentive to reuse coal ash and avoid disposal costs.

(2) Regulation as a non-hazardous waste under subtitle D, which would:

- Create voluntary “guidelines” that states can choose not to adopt, thereby perpetuating a status quo of inadequate and unequal standards; and
- Allow continued disposal in dangerous wet ponds.

Designation as a subtitle C special waste is the only way to ensure that all Americans living near coal ash sites will finally be protected from this toxic waste. Thousands of Americans voiced their preference for a health-protective subtitle C rule at the eight public hearings held by EPA last fall and in the 450,000 written comments the Agency received on the proposed rule. We ask you to abstain from joining the Dear Colleague letter being circulated by Senators Conrad and Enzi and instead encourage the EPA to move forward with this rulemaking based on the best-available science and their mandated responsibility to protect public health.

Sincerely,

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