

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE  
OFFICE OF RESOURCE CONSERVATION AND RECOVERY

PUBLIC HEARING ON EPA'S PROPOSED RULE ON  
Hazardous and Solid Waste Management System;  
Identification and Listing of Special Wastes;  
Disposal of Coal Combustion Residuals from  
Electric Utilities

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28 Evening Session:  
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## 1 P R O C E E D I N G S

2 (10:00 a.m.)

3 MR. DELLINGER: Good morning and thank  
4 you for attending today's public hearing on the  
5 Environmental Protection Agency's proposed rule  
6 regarding the regulation of coal combustion  
7 residuals that are disposed of in landfills and  
8 surface impoundments. Before we begin, I'd like  
9 to thank you for taking time out of your busy  
10 schedules to address our proposed rule, and we  
11 look forward to receiving your comments.

12 This is the last of eight public  
13 hearings that we will be conducted -- conducting.  
14 We had seven very successful hearings in  
15 Washington D.C., Denver, Dallas, Charlotte,  
16 Chicago, Pittsburgh, and Louisville. Well over a  
17 thousand people provided testimony.

18 My name is Bob Dellinger. I'm the  
19 director of the Materials Recovery and Waste  
20 Management Division in the EPA's Office of  
21 Resource Conservation and Recovery. I'll be  
22 chairing this session of today's public hearing.

1 With me on the panel, to my right in order, Laurel  
2 Celeste of our Office of General -- General  
3 Counsel, Frank Nay of our Atlanta regional office,  
4 and Steve Hoffman who works with me at EPA  
5 headquarters.

6 Before we begin the public hearing, I'd  
7 like to provide a brief description of the  
8 proposed rule, as well as the -- describe the  
9 logistics on how we plan to run today's public  
10 hearing. Coal combustion residuals, or CCRs, are  
11 residues from the combustion of coal at electric  
12 utilities and include fly ash, bottom ash, boiler  
13 slag and flue gas desulphurization materials.  
14 Coal combustion residuals contain problematic  
15 contaminants such as mercury, cadmium, selenium,  
16 and arsenic.

17 In 2008, 136 million tons of coal  
18 combustion residuals were generated by electric  
19 utilities and independent power producers.

20 Of that total, approximately 46 million  
21 tons were landfilled, 30 million tons were  
22 disposed in surface impoundments, 50 million tons

1 were beneficially used, and 11 million tons were  
2 used in mine fill operations. EPA estimates that  
3 there are approximately 300 landfills and more  
4 than 600 surface impoundments where coal  
5 combustion residuals are placed.

6 We have proposed to regulate these coal  
7 combustion residuals to insure their safe  
8 management when they are disposed of in landfills  
9 and surface impoundments. Without proper  
10 protection, the contaminants in these residuals  
11 can leach into groundwater and migrate the  
12 drinking water sources posing public health  
13 concerns.

14 In addition, the structural failure of a  
15 surface impoundment in -- at the Tennessee Valley  
16 Authority's plant in Kingston, Tennessee in  
17 December 2008 released more than 5 million cubic  
18 yards of coal -- coal ash over approximately 300  
19 acres of land and contaminated portions of the  
20 Emory and Clinch Rivers. With this proposal, EPA  
21 has opened a national dialogue by calling for  
22 public comment on two different regulatory

1 approaches available under the Resource  
2 Conservation and Recovery Act that would address  
3 the risks from disposal of CCRs.

4 One option presented in the proposed  
5 rule draws from the authorities available under  
6 Subtitle C of RCRA. This will create a  
7 comprehensive program of federally-enforceable  
8 cradle to grave requirements for waste management  
9 and disposal. The other option is based on the  
10 authorities of Subtitle D of RCRA which gives the  
11 EPA the authority to set minimum federal criteria  
12 for waste management facilities that must be met  
13 under a schedule established in the regulation  
14 where it can be finalized. The regulation would  
15 be enforced through citizen suits. Under this  
16 scenario, states qualify as citizens.

17 The EPA decided to co-propose these two  
18 rules to encourage a robust dialogue on how to  
19 address the human health concerns and structural  
20 integrity associated with the disposal of coal  
21 combustion residuals in landfills and surface  
22 impoundments. EPA wants to ensure that our

1 ultimate decision is based on the best available  
2 data and is made with the substantial input of all  
3 stakeholders. Therefore, we ask that you provide  
4 us your comments not only at today's hearing but  
5 any other comments and supporting information that  
6 you want to provide in writing.

7 I'd like to say a few words about the  
8 beneficial use of coal combustion residuals. The  
9 proposed rule maintains the Bevill exemption for  
10 coal combustion residuals that are beneficially  
11 used, and therefore, would not alter the  
12 regulatory status of these residuals when used  
13 properly. The EPA continues to strongly support  
14 the safe and protective beneficial use of CCRs.  
15 However, the proposal also indicates that concerns  
16 have been raised with some coal combustion  
17 residuals, particularly when used in an  
18 unencapsulated form. Therefore, we request  
19 comments, information and data on specific aspects  
20 of beneficial use, particularly those activities  
21 that deal with unencapsulated applications.

22 We also make clear in the proposal that

1 coal combustion residuals that are placed in sand  
2 and gravel pits, quarries and other large-scale  
3 fill operations are not examples of beneficial  
4 use. EPA views this placement as akin to disposal  
5 and would regulate these sites as disposal sites  
6 under either of these regulatory options.

7 Now I'm going to switch over to covering  
8 some logistics for the comment portion of today's  
9 public hearing. Today's public hearing will work  
10 as follows: Speakers, if you pre-registered, you  
11 were given a 15-minute slot -- time slot when you  
12 were scheduled to give your three minutes of  
13 testimony. To guarantee that slot, we have asked  
14 that you sign in 10 minutes before your 15-minute  
15 slot at the registration desk.

16 All speakers who have pre-registered and  
17 walk-ins were given a number when you signed in  
18 today, and this is the order in which you will  
19 speak: I will call speakers to the front of the  
20 room by number four or five at a time. There are  
21 chairs behind the speaker's podium for those  
22 speakers who are waiting to provide testimony.



1 And that's over on my right side of the room, your  
2 left side of the room.

3           When your number is called, please move  
4 to the microphone and state your name and your  
5 affiliation. We may ask you to spell your name  
6 for the court reporters who are transcribing your  
7 comments for the official record. Because there  
8 are many people who have signed up to provide  
9 testimony today and to be fair to every one,  
10 testimony is limited to three minutes.

11           We will be using an electronic  
12 timekeeping system and will also hold up cards to  
13 let you know when your time is getting low. When  
14 we hold up the first cards, this means that you  
15 have two minutes left. When we hold up the second  
16 card, you will have one minute left. When the  
17 third card is held up, you have 30 seconds left.  
18 And when the red card is held up, you're out of  
19 time and you should not continue with your  
20 remarks.

21           Remember you can provide any written  
22 material to our court reporters and the material

1 will be entered into the rule-making record. We  
2 will not be answering questions on the proposal;  
3 however, from time to time, any of us on the  
4 hearing panel may ask questions of you to clarify  
5 your testimony.

6 As I just mentioned, if you have brought  
7 a written copy of your testimony, please leave a  
8 copy in the box by our court reporters on my left,  
9 your right. If you are only submitting written  
10 comments today, please put those in the box at the  
11 registration desk. If you have additional  
12 comments after today, please follow the  
13 instructions on the yellow handout and submit  
14 comments by November 19th, 2010, which is the  
15 close of the comment period.

16 Our goal is to ensure that everyone who  
17 was come today to present testimony is given an  
18 opportunity to provide comment. To the extent  
19 allowable by time constraints, we'll do our best  
20 to accommodate speakers who have not pre-  
21 registered.

22 Today's hearing is scheduled to close at

1 10:00 p.m., but we will stay later if necessary.  
2 If, however, time does not allow you to present  
3 your comments orally, we have prepared a table in  
4 the lobby where you can provide a written  
5 statement in lieu of oral testimony. These  
6 written statements will be collected and entered  
7 into the docket for the proposed rule and will be  
8 considered the same as if you presented them  
9 orally. If you would like to testify but have not  
10 registered to do so, please sign up at the  
11 registration table.

12 We are likely to take occasional breaks,  
13 but we are prepared to eliminate or shorten the  
14 breaks in order to allow as many people as  
15 possible to provide their oral testimony.  
16 Finally, if you have a cell phone, we would  
17 appreciate it if you would turn it off or turn it  
18 to vibrate. If you need to use your phone at any  
19 time during the hearing, please move to the lobby.

20 We ask for your patience as we proceed.  
21 We may need to make some minor adjustments as the  
22 day progresses. Thanks again for participating

1 today. Let's get started.

2 And with that, I'd like to call Numbers  
3 1, 2, 3, 4, and 5 to the front. Go ahead.

4 MR. SCARBOROUGH: My name is Steve  
5 Scarborough. I live in Roane County, Tennessee.

6 First, I want to thank the folks at the  
7 Environmental Protection Agency for having this  
8 meeting and taking comments on the results of  
9 their hard work. The work they produced has  
10 produced a regulation that is reasonable and  
11 effective in handling coal waste. And you guys  
12 have scheduled a 13-hour meeting today and, you  
13 know, that's a tough job. I appreciate it.

14 As I read the proposed regulations, one  
15 thought kept coming back to me. Why is anyone  
16 opposed to this? Particularly after the disaster  
17 that we in Roane County are suffering through and  
18 are trying to recover from. It's a result of  
19 improperly handled and stored coal ash.

20 Why would anyone not want -- an industry  
21 not want a level playing field for all of the  
22 businesses that make money from coal and coal ash?

1 Why would these corporations and their lobbyists  
2 not willingly accept oversight that would  
3 guarantee to the public that they are operating  
4 safely and that the health and welfare of the  
5 people living near coal sites is being watched out  
6 for?

7 This army of hired corporate spokesmen  
8 has come before you and whined that adequately  
9 protecting the public will cost too much or cost  
10 jobs or make coal ash seem like a bad -- bad  
11 thing. We even heard the word "stigma" on coal  
12 ash as a result of this regulation. Well, if you  
13 want to see stigma, just come out to Roane County  
14 and see what it's like trying to put your life,  
15 business and property values back together when --  
16 after you get hit by the mother of all stigmas.

17 All of their testimony against doing the  
18 right thing will boil down to five words: It will  
19 cost too much. The corporations opposed to Option  
20 C argue against having solid federal oversight  
21 saying they can be trusted to do the right thing.  
22 They can't.

1           I come here to speak as strongly as I  
2           can for Option C. The -- when I read the EPA cost  
3           benefit analysis, I thought, of course. Why not?  
4           Why is anyone opposed to this? The reason it is  
5           is that it makes the people who make the money  
6           creating coal ash waste and processing coal ash  
7           waste will have to pay more of the true cost of  
8           coal power instead of as it is now, they shift it  
9           to the people who live on the shores of Watts Bar  
10          Lake in rural Alabama, and even in your personal  
11          neighborhood. Nobody in this room or anywhere in  
12          America can escape the consequences of this  
13          decision. This stuff is everywhere.

14                 Roane County is my home. It's the most  
15          beautiful part of America. And it's also the  
16          site of the largest disaster -- coal disaster in  
17          American history. This disaster was caused by  
18          incompetency, willful negligence at mul --  
19          multiple levels, but mainly in the financial  
20          decisions of a corporate bureaucracy focusing on  
21          short-sided cost savings and a complicit state  
22          agency that allowed it to operate a massive coal

1 storage facility without adequate oversight.

2 For a savings of \$20 million, they now  
3 have a 1.2 billion-dollar clean-up mess. And the  
4 people in -- in our area can never be made whole.  
5 They have taken 2 to 7 years out of their lives,  
6 200 hundred homes plus sit empty. But this --

7 MR. HOFFMAN: Excuse me. Your -- your  
8 time is up.

9 MR. SCARBOROUGH: I'm sorry. Thank you.

10 MR. DELLINGER: Thank you.

11 MR. SMITH: Good morning. My name is  
12 Steven Smith, and I'm the executive director of  
13 the Southern Alliance for Clean Energy. And I  
14 wanted to first thank you all for coming and  
15 having the meeting here in Knoxville. We were  
16 very pleased that you-all decided to come close to  
17 where the largest coal ash disaster has ever been  
18 and actually hear from the people in the area.

19 Back in December of 2008 as I was  
20 getting ready for Christmas with my -- my family,  
21 and as untold other people in our area were, we  
22 experienced the largest coal ash disaster and one

1 of the largest disasters in the history of the  
2 United States out in Harriman County (sic) in  
3 Kingston. When I came out there and saw the  
4 devastation that was unleashed on the communities  
5 out there, it was -- it was devastating. It was  
6 really quite -- quite amazing what had happened.  
7 And it -- it reminded me that we have got to  
8 protect human health and the environment first and  
9 foremost, and that is -- should be our highest  
10 priority in this country. We should not allow  
11 this kind of devastation to be unleashed.

12 So what we did was we engaged -- I was  
13 asked to come up and speak before the  
14 Environmental Public Works Committee the first  
15 week of January. Talking to that committee, we --  
16 and the chairman, Chairman Barbara Boxer, she  
17 basically said, "Look, Lisa Jackson is going to be  
18 up. We're going to talk to her during her  
19 confirmation hearing." And sure enough, two weeks  
20 later she was up there, made a commitment to  
21 actually do something about coal ash once and for  
22 all.



1           And it's been long in coming, because we  
2           came very close to regulating coal ash back in the  
3           late 1990s. And O & B, at that time, held it up.  
4           O & B this time has delayed the proceedings now  
5           for over six months as they've wrangled with and  
6           been lobbied by those who have a financial  
7           interest and are willing to put that financial  
8           interest above and beyond the health and -- and  
9           safety of citizens.

10           So what we did was, now that the new ash  
11           rules are out, we've actually written a report  
12           where we've taken a look at what the state of  
13           Tennessee, which has basically been ground zero  
14           for coal ash. And what we did was we saw, what  
15           are they doing in the regulations. I want to  
16           submit this as part of the record. But the bottom  
17           line is that under Subtitle D, you defer  
18           tremendously to the states. And what we're seeing  
19           is the states aren't stepping up.

20           EPA has a role, has a responsibility to  
21           be a backstop. And that's why we are strongly in  
22           support of Subtitle C, because we need that

1 backstop, we need that agency to make sure that  
2 the rules are enforced. And if they're not  
3 enforced, then what -- what we see is we see these  
4 kind of devastation that we saw in Oak Ridge -- I  
5 mean, in Harriman.

6 So we'll submit this as part of the  
7 record. My colleague Josh Galperin is going to  
8 get into the specifics on the report, but I'm here  
9 to strongly encourage that Subtitle C be the  
10 course. That is the only way that we can protect  
11 public health and the environment. That's the  
12 only way that we can assure that the kind of  
13 accidents that happened in Harriman will not  
14 happen again. And I appreciate your time and  
15 opportunity to speak. Thank you very much.

16 MR. DELLINGER: Thank you.

17 MR. GALPERIN: Thank you, ladies and  
18 gentlemen. My name is Josh Galperin and I am a,  
19 as Dr. Smith said, a policy analyst and research  
20 attorney with the Southern Alliance for Clean  
21 Energy.

22 The Southern Alliance for Clean Energy

1 strongly supports Subtitle C as the means of  
2 regulating coal ash because the fed --  
3 federally-enforceable backstop provided by the  
4 special waste designation is the only way to  
5 assure that people and the environment are  
6 protected from the physical and toxic dangers of  
7 coal ash.

8 Now, as Dr. Smith said, we've compiled  
9 this report on the state of coal ash regulation in  
10 Tennessee. It's important to understand how  
11 states regulate coal ash in order to understand  
12 the differences between what will happen --  
13 whether Subtitle C or Subtitle D is ultimately  
14 promulgated.

15 This report shows a surprising lack of  
16 oversight in Tennessee, a state that should be  
17 very proactive on coal ash regulation because of  
18 the Kingston disaster. So I want to just point  
19 out a few specifics that I've found in researching  
20 Tennessee's laws in some depth.

21 First, the laws only specifically  
22 address coal ash in two instances. The first

1 instance happens to also be the only -- the one  
2 and only change that has been made to Tennessee's  
3 coal ash regulations since the Kingston disaster.  
4 And as it happens, this particular change has  
5 nothing to do with the disaster itself.

6           The change that I'm talking about, the  
7 first time that coal ash is mentioned in  
8 Kingston's law -- excuse me, in Tennessee's laws  
9 is a provision in the solid waste laws which  
10 requires a liner and final cap on coal ash  
11 landfills. Sounds great. It's a very important  
12 provision, except unlike much of the rest of the  
13 solid waste laws, the exemptions contained therein  
14 swallow the entire rule. The liner and cap is not  
15 required for structural fill; it's not required  
16 for agricultural uses or engineered uses; and most  
17 importantly, the "new safeguard" -- I'm putting  
18 quotes around that for the record -- the "new  
19 safeguard" doesn't apply to surface impoundments,  
20 which are the type of ash storage that is clearly  
21 the most dangerous.

22           The second specific mention of coal ash

1 in Tennessee's law is with regards to permits by  
2 rule. Certain uses of coal ash are allowed  
3 without a true permit in Tennessee, without being  
4 subject to public scrutiny, and without the more  
5 stringent provisions of the normal permit by  
6 application process. So this is two instances  
7 only where Tennessee's laws actually address coal  
8 ash specifically, and both provide for broad  
9 exemptions over permissive uses of coal ash  
10 without substantial safeguards.

11 Moreover, Tennessee does not regulate  
12 ash at all when it's stored in surface  
13 impoundments. So, to be clear, surface  
14 impoundments like the one in Kingston, the ash  
15 that's stored in those impoundments and those  
16 impoundments themselves are completely  
17 unregulated. The Safe Dam Act does not regulate  
18 these impoundments, the solid waste laws exempt  
19 impoundments, and NPDES permits only regulate the  
20 discharges of wastewater from those impoundments.

21 So there is no requirement for  
22 structural stability, groundwater monitoring, unit

1 citing, leachate collection, closure, post-closure  
2 care, financial assurances on impoundments like  
3 the one at Kingston.

4 So, rather than going into further  
5 details, Dr. Smith submitted a copy of this  
6 report. If you have any further questions on it,  
7 please feel free to contact me at the Southern  
8 Alliance for Clean Energy. And please understand  
9 that --

10 MR. HOFFMAN: Your time is up.

11 MR. GALPERIN: -- Subtitle C is the only  
12 effective option. Thank you.

13 MR. DELLINGER: Thank you.

14 MR. WARD: Good morning. My name is  
15 John Ward, and I'm chairman of Citizens for  
16 Recycling First, an organization of more than 1500  
17 individuals who believe that the best solution for  
18 coal ash disposal problems is to quit throwing  
19 coal ash away.

20 I've attended all eight of EPA public  
21 hearings on the proposed coal ash disposal  
22 regulations, and I'd like to thank EPA for

1 providing such ample opportunity for citizens to  
2 speak out. In all of these hearings, one point of  
3 consensus stands out. Coal ash disposal  
4 regulations should be improved and incidents like  
5 the Kingston coal ash spill should never be  
6 allowed to happen again.

7           Beyond that, the citizen comments have  
8 been divided. One group of citizens has been  
9 vocal in calling for Subtitle C, hazardous waste  
10 designation for coal ash. This group, for the  
11 most part, has gained its knowledge of coal ash  
12 from large, well-funded anti-coal environmental  
13 groups. These well-meaning citizens end up being  
14 only partially informed, because those major  
15 environmental groups completely ignore options for  
16 the safe and responsible recycling of coal ash. I  
17 challenge you to find even a mention of coal ash  
18 recycling in any of their publications.

19           The other group of citizens you've heard  
20 from is comprised of people who have spent decades  
21 doing what's right for the environment creating  
22 safe and environmentally beneficial uses for coal

1 ash that keep it out of landfills in the first  
2 place. These people are recyclers, architects,  
3 engineers, concrete producers, farmers, and more.  
4 Most of them are small business people, and all of  
5 them consider themselves to be environmentalists,  
6 too, because they're working every day to conserve  
7 energy and materials and reduce greenhouse gas  
8 emissions.

9 This group of citizens has been  
10 unanimous in stating that Subtitle C hazardous  
11 designation for coal ash will wreck recycling of  
12 the material in this country, and possibly  
13 worldwide. I urge you to remember these facts:  
14 Coal ash does not qualify as a hazardous waste  
15 based on its toxicity. And its toxicity is  
16 similar to that of the materials it replaces when  
17 it's recycled.

18 The landfill engineering standards being  
19 proposed by EPA are essentially the same under  
20 both EPA's hazardous and non-hazardous approaches.  
21 So you're not giving the environment more  
22 protection with a hazardous label.



1                   Finally, EPA's non-hazard approach can  
2           be implemented years sooner giving greater  
3           protection to our environment now instead of  
4           later. It is absurd to state that people will  
5           want to use more of a material in their homes and  
6           communities if EPA considers it's hazardous waste  
7           on the property of the people who produced it.

8                   Hundreds of citizens who actually work  
9           to recycle coal ash have told you at these  
10          hearings that Subtitle C will not work. Please  
11          listen to the citizens who have working knowledge  
12          of this subject and remember that they care about  
13          environmental protection just as much as people  
14          who issue scary press releases and fundraising  
15          appeals that improperly label coal ash as toxic  
16          waste. Thank you.

17                                   (Applause)

18                   MR. DELLINGER: Thank you. While  
19          speaker Number 5 is moving forward, could Speakers  
20          6, 7, 8, 9, and 10 move forward?

21                   MR. MELLON: Good morning. My name is  
22          Paul Mellon. I'm with Novetas Solutions. We

1 manufacture new age blast media, which is an  
2 industrial abrasive for grit blasting.

3           This is the fourth time I've had the  
4 opportunity to come to these EPA hearings, in  
5 addition to a meeting that I had in January in  
6 Washington D.C. And much of my comments have  
7 centered around the beneficial use program and  
8 specifically that the beneficial use program,  
9 while it has many merits, unfortunately contains  
10 products that, in fact, do not meet the criteria  
11 of the EPA and should not be included in the  
12 program. I've tried to lay -- lay out a factual  
13 documented case as to why that is.

14           In coming to this meeting today, I  
15 intended to recap Novetas' position on the  
16 beneficial use program and why coal slag abrasives  
17 should not be in it. But ironically, two weeks  
18 ago today the Office of Inspector General of the  
19 EPA issued an early warning report which in many  
20 ways mirrors almost exactly our arguments about  
21 the beneficial use program and how it has been  
22 misused by certain companies with their products

1 in the program.

2 Specifically, the OIG found two major  
3 issues with the C2P website, which is the  
4 partnership program between the coal industry and  
5 the EPA to come up with the beneficial use  
6 program. The report basically states that the  
7 website contained an incomplete picture regarding  
8 potential damage as a result of unencapsulated  
9 coal slag prod -- coal -- coal products.

10 And secondly, that you cannot use the  
11 logo or the seal of the EPA to promote commercial  
12 products. Specifically you see on Page 3 of the  
13 report the OIG talks about the -- the hazards of  
14 unencapsulated uses and how these unencapsulated  
15 uses can leach contaminants into the groundwater,  
16 drinking water, and obviously are not good for  
17 human health or the environment.

18 Well, if you look at the next page, you  
19 can see that Harsco Corporation is currently, as  
20 of this Monday, on their website sending chain  
21 e-mails, or they're asking people to click on  
22 e-mails to send to the EPA.

1           And then one of the e-mails makes a very  
2 curious statement. It says that the EPA has  
3 confirmed in 2000 and 2009 no change in the  
4 science -- that there is no change in the science  
5 that would require boiler slag regulation, no  
6 scientific data exists. Well, the fact is that  
7 the EPA in 1997 has already labeled Black Beauty  
8 Abrasives as a hazardous airborne pollutant.  
9 There are several studies by OSHA and NIOSH that  
10 all say that these products are in fact hazardous.

11           Second major issue is the EPA logo.  
12 Again, I'll quickly kind of get through this.  
13 Specifically it says the EPA logo is prohibited to  
14 be used to sell commercial products. Well, again,  
15 on the same Harsco website that you can click on  
16 today, you can see that they have the prominently  
17 seal of the EPA next to Black Beauty Abrasives and  
18 they're basically allowing people to think that  
19 the EPA is, in fact, promoting Black Beauty  
20 Abrasives.

21           I guess the question is: If the EPA  
22 cannot stop Harsco Corporation after the OIG told

1       you that you can't allow companies to use the logo  
2       to sell products, what kind of faith are people  
3       going to have in the beneficial use program when  
4       you finally issue your -- your -- your public  
5       ruling? Do the right thing. Tell companies that  
6       they can't use your logo to -- to sell products.  
7       And I appreciate the opportunity to talk to you  
8       today.

9                   MR. HOFFMAN: Time is up.

10                  MR. WARD: Thanks.

11                  MR. WALLACE: My name is Craig Wallace.  
12       I'm a fly ash marketer.

13                  The best coal ash plan for the  
14       environment is recycling, keeping coal ash out of  
15       the landfills. The EPA and others have studied  
16       coal ash for 30 years determining a hazardous  
17       waste designation is not warranted. A hazardous  
18       waste designation unnecessarily puts all coal ash  
19       recycling at great risk.

20                  In 2008, 144 million tons of coal ash  
21       was produced. 44% of the coal ash was used safely  
22       in beneficial applications equating the 63 million

1 tons of coal ash recycled.

2           There are 495 coal-burning power plants  
3 depositing coal ash into 194 landfills and 161  
4 ponds. According to the National Science Academy  
5 and the EPA, only 24 landfills are problematic or  
6 proven to compromise water supplies. This is only  
7 6.7% of the landfills currently accepting coal  
8 ash.

9           The majority of the problematic coal ash  
10 ponds -- or coal ash sites are ponds, which are  
11 being phased out with Subtitle D. Under Subtitle  
12 D, the EPA will specify and design criteria and  
13 standards for all coal ash storage in the U.S.  
14 Any state not in compliance with Subtitle D  
15 standards will be subject to litigation. Clearly,  
16 Subtitle D addresses the engineering failures of  
17 problematic coal ash deposit sites and gives the  
18 federal government the teeth to enforce the new  
19 standards.

20           Coal ash recycling is the number one  
21 recycling success program in the U.S.  
22 Stigmatizing coal ash as a hazardous material will

1       expose everyone using the product to liabilities  
2       from less than ethical attorneys. We are already  
3       experiencing the stigma as a result of these  
4       hearings. In addition, the mere cost of defending  
5       oneself in court is enough to discourage future  
6       beneficial use of coal ash.

7                       This discussion is not about burning  
8       coal or the toxicity of coal ash. This discussion  
9       has determined the best way to engineer and  
10       standardize coal ash landfills to protect the  
11       public safety. Subtitle D accomplishes this end  
12       goal without putting coal ash beneficial use at  
13       risk. If it did not address the issue, the Office  
14       of Management and Budget would not state it has a  
15       coal equal option to Subtitle C. Thank you.

16                      (Applause)

17                      MR. SCOGGAN: Thank you for this  
18       opportunity to address the EPA. My name is John  
19       Scoggan. I work for Boral Material Technologies  
20       where I've been employed for 29 years. We manage  
21       coal combustion products, principally fly ash for  
22       use in concrete and have been in business for over

1 50 years.

2 We support the EPA's effort to protect  
3 the human health and the environment. We don't  
4 want another disaster like TVA Kingston spill. We  
5 support regulation to ensure responsible disposal,  
6 but don't want to kill recycling in the process.  
7 Therefore, we support EPA's ruling for RCRA  
8 Subtitle D. The Kingston problem was a result of  
9 an engineering failure that can be addressed with  
10 a Subtitle D non-hazardous regulation.

11 Fly ash has been used in concrete since  
12 the 1920s. The federal government and the EPA  
13 have encouraged and supported the use of fly ash  
14 in concrete for over two decades. The  
15 environmental benefits of using fly ash in  
16 concrete have been detailed by others at previous  
17 hearings and include: the reduction of CO2  
18 estimated to be 11 million tons annually; the  
19 reduction of waste placed in landfills estimated  
20 to be 51 million cubic yards of landfill space  
21 saved annually; the red -- reduce requirement for  
22 excavation or quarrying of an equal amount of



1 virgin raw material. Other benefits include  
2 substantial water and energy savings.

3 The recycling of coal combustion  
4 products is a suc -- is a success story with  
5 utilization growing from 30% in the year 2000 to  
6 44% in 2008, representing the use of over 60  
7 million tons of material annually. The EPA's  
8 strategic plan calls for a further increase of  
9 beneficial use of coal combustion products up to  
10 50% by the year 2015.

11 The EPA has already reviewed coal waste  
12 several times and in 1993 and 2000 formed a  
13 conclusion that it did not warrant a hazardous  
14 label. Nothing has changed. The EPA believes  
15 that recycling won't be hurt with a Subtitle C for  
16 disposal and that there is no stigma. We believe  
17 the EPA is wrong in this assumption.

18 A significant number of speakers  
19 presenting at previous hearings have indicated  
20 that coal ash was responsible for health issues,  
21 disease and even death. If engaged people feel  
22 this way, imagine how uninformed the general

1 public will react to having a product labeled by  
2 the EPA as hazardous in their homes, schools,  
3 churches, and offices. The stigma is real and  
4 will cripple the recycling of coal ash.

5 The EPA's own scientific data shows that  
6 coal ash is non -- non-hazardous. By EPA's own  
7 admission, a RCRA Subtitle D non-hazardous  
8 designation will provide an equal amount of  
9 protection to the public health and the  
10 environment. Please regulate coal combustion  
11 waste under RCRA Subtitle D and avoid any  
12 reference to a hazardous waste. Thank you for  
13 your time.

14 MR. DELLINGER: Thank you.

15 (Applause)

16 MR. PETERSON: Good morning. My name is  
17 Terry Peterson. I also work for Boral Material  
18 Technologies. I've been employed in the coal  
19 combustion product industry for the past 27 years.

20 BMTI is a company dedicated to finding  
21 environmentally-acceptable beneficial reuses for  
22 coal combustion products, as well as proper

1 landfill management services. We have 161  
2 employees working at 22 sites across 18 states.

3 I'd like to open my statement by  
4 commending the EPA for maintaining their position  
5 concerning CCRs since enactment of the Beville  
6 amendment in 1980 and reconfirming that position  
7 through regulatory determinations of 1993 and  
8 2000. EPA's longstanding position has underpinned  
9 the establishment and development of arguably the  
10 most successful recycling program in U.S. history.

11 BMTI alone has been able to place in  
12 excess of 53 million tons of coal combustion  
13 products into beneficial uses over at the past 20  
14 years. Obviously, that's 53 million tons that  
15 avoided landfills. But, just as importantly,  
16 that's 53 million tons of CO2 emissions that would  
17 have resulted if natural materials had been used  
18 in lieu of CCPs. I argue that this would never  
19 have occurred if CCRs were classified as hazardous  
20 or under Subtitle C.

21 Further benefit of the EPA's  
22 longstanding position is reflected in BMTI's R & D

1 program. For the past ten years, we've invested  
2 in excess of \$30 million developing new coal  
3 combustion product applications outside of Ready  
4 Mix and cement. Additionally, we've developed  
5 three beneficiation processes that enable coal  
6 combustion products to meet performance  
7 specification when environmental modifications to  
8 plants are put in place for clean air.

9 This is important, and the only reason  
10 it did take place is because it is not -- it is  
11 classified as a non-hazardous material. If it  
12 were classified as hazardous or under Subtitle C,  
13 I argue again that these investments would never  
14 take place. Again, I speak just on behalf of  
15 BMTI, but obviously, there are many other people  
16 in this room who have had the same -- have the  
17 same success stories.

18 I recognize during these hearings the  
19 undercurrent associated with generating power  
20 without burning coal as well as citizens' concern  
21 over inadequate state regulation. Obviously,  
22 generating power by burning coal has been an

1 integral part of U.S. society and will remain so  
2 for many years. So I think it's important that we  
3 deal with this process by maintaining or recycling  
4 efforts in coal combustion residues. I suggest  
5 that as long as we are burning coal, the right  
6 thing to do is to encourage continuation and  
7 expansion of current recycling efforts.  
8 Supporting Subtitle D is a way to maintain this  
9 momentum.

10 Just importantly, creating confidence  
11 among citizens that government agencies, whether  
12 federal or state, are protecting their interests  
13 is critical. I suggest that we can gain public  
14 confidence and achieve the necessary safeguards  
15 for proper landfilling -- properly landfilling  
16 CCRs through cooperation between the EPA and state  
17 regulators using a Subtitle D classification.

18 In closing, I recommend that the best  
19 option going forward for U.S. citizens is for the  
20 EPA to continue support by designating CCRs under  
21 a Subtitle D classification. Thank you.

22 (Applause)

1 MR. DELLINGER: Thank you.

2 MR. ADAMS: Good morning. My name is  
3 Thomas Adams. I'm the executive director of the  
4 American Coal Ash Association of Rural Colorado.  
5 I want to thank you for the opportunity to  
6 participate in today's hearing.

7 The Environmental Protection Agency's  
8 proposal for regulating the coal -- disposal of  
9 coal combustion products, or CCP, provides two  
10 basic paths creating rules which will improve the  
11 protection of human health and the environment.  
12 Under the provisions of the Resource Conservation and  
13 Recovery Act, the agency has suggested that CCP be  
14 regulated as a hazardous waste under Subtitle C,  
15 or as a non-hazardous waste under Subtitle D.

16 The level of protection provided under  
17 either disposal scenario is virtually identical.  
18 The distinction between describing CCP as  
19 hazardous waste or non-hazardous waste has very  
20 serious implications for the continued beneficial  
21 use. The stigma of being associated with  
22 hazardous waste is real and is already affecting

1 markets. The safe recycling of CCP is a major  
2 environmental success story that is in serious  
3 jeopardy with a looming threat of a Subtitle C  
4 rule.

5           When faced with the choice of purchasing  
6 a product containing a hazardous waste or  
7 purchasing a product without this stigma  
8 associated with it, the rational consumer will  
9 choose the non-hazardous option. The EPA claims  
10 it can construct a rule exempting favored  
11 beneficial uses, and under this construct,  
12 recycling will actually increase. After all, the  
13 agency has 13 examples of such a scheme  
14 demonstrating this result.

15           We've continually pointed to the  
16 difference between these 13 processed industrial  
17 materials and the unprocessed CCP used in consumer  
18 products such as carpet, wallboards, shingles,  
19 concrete foundations, and concrete slabs.  
20 Hazardous waste is not something consumers invite  
21 into their homes, schools, healthcare facilities,  
22 or workplaces. In an effort to regulate disposal,

1 the EPA is threatening to destroy an industry  
2 which provides the only rational solution to  
3 disposal, which is recycling.

4 I'd like to pose a final question for  
5 your consideration. What if you are wrong about  
6 beneficial use under Subtitle C regulation? The  
7 following are some of the outcomes: Millions of  
8 tons of coal combustion products currently safely  
9 consumed in a broad range of applications will be  
10 diverted to disposal. Since the year 2000 alone,  
11 over 400 million tons of CCP have been recycled.  
12 Current landfills will have to be expanded where  
13 possible, and new landfills will be required where  
14 capacity cannot be increased.

15 Another impact, 15,000 green jobs will  
16 be eliminated. The vast majority of these jobs  
17 are in small businesses, not large utilities.  
18 Another impact would be the industry which  
19 contributes as much as \$25 billion directly and  
20 indirectly to the U.S. economy will be lost, and  
21 millions of tons of greenhouse gas emissions  
22 currently being avoided through the use of fly ash



1 in concrete mixtures will be released into the  
2 atmosphere. Since the year 2000, this beneficial  
3 use has accounted for over 125 million tons of  
4 greenhouse gas avoidance.

5 These are just some of the impacts of a  
6 Subtitle C hazardous waste rule in the continued  
7 recycling of CCP. So I repeat the question: What  
8 if you're wrong about beneficial use under  
9 Subtitle C rules? How do you restore decades of  
10 recycling success? How do you remediate the  
11 environmental damage of increased disposal? How  
12 do you remediate the damage of millions of tons --

13 MR. HOFFMAN: Sorry. Your time is up.

14 MR. ADAMS: -- of greenhouse gas  
15 reduction? The citizens deserve a -- a  
16 responsible and thoughtful answer.

17 (Applause)

18 MR. DELLINGER: Thank you.

19 MR. HOFFMAN: Thank you.

20 MR. BROWNHILL: Good morning. My name  
21 is Ryan Brownhill, operations manager for Sphere  
22 One, Incorporated. We are the largest marketer of

1       domestically sourced cenospheres in the United  
2       States.

3                   I work in an industry that is based  
4       solely on taking a waste stream that would  
5       otherwise go to a landfill, reduces the need for  
6       other natural resources, lowers CO2 emissions,  
7       create jobs, and makes the products that we go  
8       into better. I'm proud to work in an industry  
9       that does all that. That seems like the kind of  
10      industry that the EPA and environmental groups  
11      would support.

12                  This hearing is not about whether coal  
13      should or should not be used to generate power.  
14      The reality is that coal is used to generate power  
15      and will be for the foreseeable future. The  
16      question in front of us is: How can the waste  
17      best be handled?

18                  If the 76 million tons of ash that is  
19      currently landfilled is as big a problem as is  
20      advertised, do we really want to landfill 136  
21      million tons annually? And what about the 12  
22      million tons of CO2 emissions that are avoided by

1 the use of fly ash? Does anyone here really  
2 support a proposal that could increase the amount  
3 of landfilled material by 60 million tons and CO2  
4 emissions by 12 million tons annually?

5 I have attached letters from several of  
6 our customers expressing their concerns in laying  
7 out their plans to evaluate other materials. I've  
8 talked to numerous other customers saying the same  
9 thing. Every company that is involved in  
10 recycling these byproducts has said that a  
11 Subtitle C ruling would be extremely detrimental  
12 to continued recycling. Why would we lie about  
13 that? If there's no potential impact on our  
14 business, we wouldn't spend the time and money to  
15 be here. We're here because we are very concerned  
16 about the huge negative economic and environmental  
17 impact of a Subtitle C ruling.

18 We're not arguing against new  
19 engineering standards. My heart goes out to the  
20 people whose lives and health have been affected  
21 by the improper storage of CCRs. The EPA must  
22 take action to protect them and the environment.

1 The fact is that the engineering requirements for  
2 Subtitle D and Subtitle C are the same. So the  
3 protections provided to those people would be the  
4 same. The states all have programs that are  
5 effective in hand -- handling solid waste and  
6 monitoring solid waste landfills which have  
7 significantly higher concentrations of known  
8 carcinogens than CCRs.

9           Once we acknowledge that coal ash is  
10 going to be generated, what's the best way to make  
11 sure that people aren't harmed? Recycle  
12 everything we can. If we could recycle 100% of  
13 the ash that is generated, no one would ever have  
14 to worry about how a landfill might affect their  
15 health. I know a Subtitle C ruling will seriously  
16 diminish recycling. I have the letters from our  
17 customers telling us exactly that. If you don't  
18 want to listen to me, listen to them.

19           A Subtitle D ruling protects people in  
20 the same way as Subtitle C. A Subtitle D ruling  
21 will have no effect on the continued efforts to  
22 find new, innovative, safe uses for CCRs. The

1       protections are the same. The ability to recycle  
2       as much of this waste stream as possible is only  
3       viable with a Subtitle D ruling.

4               I'm proud to work in an industry that  
5       recycles, conserves natural resources, reduces CO2  
6       emissions, and create jobs. My sincere hope is  
7       that the EP -- EPA does exactly what it has set  
8       out to do: protect people from improper storage of  
9       CCRs and maintain the beneficial use that exists  
10      today. Subtitle D is the only solution that does  
11      both. Thank you for your time.

12                        (Applause)

13               MR. DELLINGER: What --

14               MS. CELESTE: Sir?

15               MR. DELLINGER: We're -- we've got out  
16      of order here. Tom Adams must have spoken for  
17      Bill Gehrman, Number 9. Is that right? And then  
18      --

19               MR. BROWNHILL: For Melissa Hendricks.

20               MR. DELLINGER: Okay. And your name --  
21      I missed your name at the beginning.

22               MR. BROWNHILL: My name is Ryan, R-y-

1 a-n --

2 MR. DELLINGER: Okay.

3 MR. BROWNHILL: -- Brownhill.

4 MR. DELLINGER: All right. Thank you.

5 All right. Could we have Numbers 11, 12, 13, 14,  
6 and 15 to come to the front, please?

7 MR. EDENS: My name is Tom Edens. I am  
8 the administrative Coal Combustion Products  
9 Utilization at Santee Cooper, South Carolina's  
10 state-owned electric and water utility serving  
11 over 2 million South Carolinians. Santee Cooper's  
12 most successful environmental stewardship program  
13 has been the marketing of coal combustion  
14 byproducts.

15 The Subtitle C option represents the  
16 most extreme, costly and burdensome option without  
17 proportional environmental benefit. Regulating  
18 CCRs under RCRA hazardous waste controls would  
19 have an impact on beneficial use. FGD gypsum,  
20 which is predominantly calcium sulfate, can be  
21 safely used in production of drywall and indust --  
22 and in agricultural soil amendment.

1           Gypsum does not meet the criteria set  
2           forth under RCRA as being a hazardous waste. Why  
3           should an environmental friendly recycling program  
4           be unfairly stigmatized? Santee Cooper also  
5           successfully recycles coal ash, both fly ash and  
6           bottom ash to minimize the use of ash ponds and  
7           landfills as much as possible. When ash is  
8           encapsulated in concrete, it is one of the most  
9           responsible reuse programs.

10           EPA awarded Santee Cooper under the  
11           EPA's Coal Combustion Partnership Enhanced  
12           Utilization Award in 2006. Despite of the rules  
13           claiming to the contrary, the labeling gypsum and  
14           other CCRs as a hazardous waste will impact sales.  
15           Negative results have already been seen as  
16           lightweight aggregate market -- market is already  
17           touting their prod -- product as non-hazardous.

18           The Subtitle C option would overwhelm  
19           existing Subtitle C disposal facilities,  
20           especially in South Carolina where there are no  
21           facilities. This would cause an undue economic  
22           burden without beneficial use. It will impact the

1 cost of power, and this cost will be transferred  
2 to those customers who buy electricity.

3 The Subtitle D option appears to be the  
4 most reasonable way to reduce the cost burden  
5 while still being protective of the environment.  
6 We request EPA to consider the comments from  
7 industry in regard to the actual pro --  
8 projections of cost. South Carolina DHEC has a re  
9 -- robust program that is protective of the  
10 environment. They already require groundwater  
11 monitoring around our ponds and our ash landfills,  
12 groundwater is monitored by Santee Cooper by a  
13 professional geologist and analysis are sent to  
14 DHEC semi-annually.

15 Santee Cooper urges EPA to consider the  
16 Subtitle D option. and we appreciate the  
17 opportunity we had to speak. Thank you very much.

18 MR. DELLINGER: Thank you.

19 (Applause)

20 MR. JOHNSON: Good morning. My name is  
21 Kris Johnson, owner of AspenGold Consulting  
22 Company out of Woodland Park, Colorado. Our



1       company specializes in assisting utilities and  
2       research -- for the research and implementation of  
3       beneficial uses in programs for all coal  
4       combustion products: fly ash, bottom ash and FGD  
5       gypsum.

6                   I oppose any form of Subtitle C  
7       designation for coal combustion products. I've  
8       been in the CCP industry for 21 years and been re  
9       -- and been responsible for the successful  
10      completion of a multitude of beneficial projects  
11      constructed entirely of CCPs. All these projects  
12      utilize millions of tons of CCPs diverting them  
13      from municipal landfill disposal. All these  
14      projects I have been involved in and numerous  
15      other mentions today and at other public hearings  
16      across the country would not have been possible  
17      without the current regulations allowing industry  
18      to recycle CCPs and beneficial in many -- many  
19      methods.

20                   Subtitle D, as it stands today, allows  
21      industry to willingly participate in beneficial  
22      projects as a way of diverting portions of their

1       CCPs into projects which contribute significantly  
2       to the reduction of greenhouse gas emissions and  
3       the preservation of our natural resources by  
4       conserving virgin materials otherwise used for  
5       construction and other product purposes. Any  
6       change to the -- to the current CCP regulation  
7       such as a proposal for Subtitle C designation will  
8       cripple the CCP industry by eliminating the useful  
9       and beneficial utilization of CCPs in many  
10      applications.

11                During my career, I've been involved in  
12      the marketing of CCPs, explaining their benefits,  
13      their engineering properties, and the actual  
14      dollar savings compared to other construction  
15      materials on the market. With the designation of  
16      Subtitle C, hazardous waste, or even a special  
17      waste designation, the marketing of these CCPs  
18      will be extremely difficult, if not next to  
19      impossible.

20                In my business, I have seen utilities  
21      delay or cease specific CCP projects for fear the  
22      Subtitle C designation becoming implemented. My

1 clients are holding back projects where CCPs would  
2 be beneficially used outside of their property due  
3 to the possibilities of long-term litigation from  
4 customers who have used CCPs in beneficial  
5 projects only to find out the material that they  
6 purchased is now designated as a hazardous waste  
7 under Subtitle C. The stigma could be  
8 insurmountable to maximize utilities of CCPs.

9           Some have said Subtitle C designation  
10 will increase the utilization of CCPs, forcing  
11 utilities to increase their utilization efforts  
12 due to the increased cost of disposal. Those of  
13 us who market CCPs daily disagree and see the  
14 demand decreased to a point where utilization will  
15 cease. Utilities will have little incentive to  
16 release CCPs into beneficial applications  
17 incurring -- incurring the increased disposal  
18 costs and passing this cost on to the consumer,  
19 you and me. Currently, the United States has  
20 insuf -- insufficient hazardous waste landfill  
21 space to accommodate the amounts of CCPs generated  
22 on an annual basis.

1           I sincerely hope the EPA will digest the  
2 science which has been presented to it by  
3 industry, academia, government, and even the EPA's  
4 own staff finding Subtitle C as inappropriate for  
5 future promotion and beneficial utilization of  
6 CCPs. Thank you for this opportunity.

7           MR. DELLINGER: Thank you.

8           MR. RHODES: Good morning. I'd like to  
9 thank you for the time you've allotted us to  
10 convey our position on the subtitle change for  
11 coal ash this morning. For the record, my name is  
12 Doug Rhodes. I've worked with -- I've worked in  
13 research and development for Headwaters Resources  
14 for the past 16 years.

15           And I wanted to take the time allotted  
16 me to discuss the positive effects of fly ash as a  
17 replacement for Portland cement in concrete. The  
18 beneficial use will be negatively impacted, as  
19 you've been informed by the stigma already  
20 occurring. The belief that fly ash can have a  
21 dual designation as hazardous for disposal and  
22 non-hazardous for beneficial use is absolutely

1 untrue. Years of work has gone into establishing  
2 the technical data, relationships, distribution  
3 and product development that validates beneficial  
4 use.

5           The stigma of hazardous designation  
6 would simply destroy the marketability of the  
7 environmental, financial and technical use of fly  
8 ash in concrete. The positive technical  
9 attributes of fly ash in concrete construction are  
10 very well documented by private industry,  
11 universities, as well as local and federal  
12 agencies.

13           The beneficial use of fly ash in  
14 concrete construction has been used in the United  
15 States since the early 30s. The use of fly ash  
16 as a cement replacement in concrete has benefit to  
17 both the fresh and hardened properties. The fly  
18 ash affects the fresh properties of concrete by  
19 improving workability, reducing water demand,  
20 reducing segregation and bleeding, and lowering  
21 heat of hydration.

22           Fly ash increases strength -- excuse me.

1 Fly ash in -- fly ash increases strength, reduces  
2 permeability, reduces corrosion of reinforcing  
3 steel, increases sulfate resistance, and reduces  
4 alkali aggregate reaction. The only solution for  
5 the concrete producer will be to increase the use  
6 of cement and chemical add mixtures to fill the  
7 beneficial void that -- which will be left by the  
8 absence of fly ash.

9 Not only does fly ash improve the  
10 performance and quality of concrete, it offers  
11 environmental advantages. Just the use of 1 ton  
12 of fly ash in concrete conserves enough landfill  
13 space for 455 days of solid waste for the average  
14 American, reduces a -- reduction of CO2 emissions  
15 is equal two months of emissions from an  
16 automobile, energy savings is enough to provide  
17 electricity to the average American home for 24  
18 days.

19 The stigma placed on fly ash by  
20 hazardous designation will negate the use and this  
21 benefit will be lost. I will take this  
22 opportunity to remind you of the negative impacts

1 on marketing, technical, financial, and the legal  
2 implications for the beneficial use of fly ash.

3 So, in closing, I urge you to maintain  
4 the past technical findings that CCR regulation  
5 under Subtitle C is unnecessary and unwarranted.  
6 Thank you for your time and attention.

7 MR. DELLINGER: Thank you.

8 (Applause)

9 MR. BLEVINS: Morning. I'm John Blevins  
10 with Sphere One. I've been there about 29 years  
11 in maintenance at the Chattanooga plant. And we  
12 process the cen -- the sale of cenospheres for the  
13 entire time I've worked there. I've had -- I've  
14 worked -- I've come to work and been around  
15 cenospheres every day, tell -- and I've been  
16 regularly tested over the years and around  
17 hazardous materials.

18 Like I say, I've worked in there --  
19 material for 29 years and I don't have any medical  
20 problems that the EPA has talked about. The stuff  
21 is -- if the stuff is so bad as the EPA says it  
22 is, how come I'm not sick?

1           I also have enough common sense to know  
2       that if the -- that if it's called hazardous  
3       waste, no one is going to buy it. Our products go  
4       -- go into a lot of building materials. Who is  
5       going to put something in their house that the EPA  
6       says is hazardous?

7           As far as I can tell, the biggest  
8       problem with the coal ash is the storage. The  
9       spill at the Kingston plant is about -- is a prime  
10      case of the problem with storage. These questions  
11      is: Why should I lose my job because of a failure  
12      at an ash pond? Just because the dock failed  
13      doesn't make the material automatically hazardous.

14           We will continue to sell our products  
15      like it is -- have for the 29 years. The people  
16      have live near the storage sites get the same  
17      protection in either case. So I will ask again:  
18      Why should I lose my job so the EPA can have  
19      control over the sites?

20           Thank you for letting me speak today.

21                    (Applause)

22           MR. BARGAHEISER: My name is Keith



1       Bargaheiser. I'm with Headwaters Resources.

2                   And my comments today are related to the  
3 observations while reading the document and its  
4 definitions. One has to be puzzled as to why the  
5 EPA has created the term "coal combustion  
6 residue." By EPA's definition, the CCR means  
7 bottom ash, fly ash, boiler slag and flue gas  
8 desulphurization materials that are destined for  
9 disposal. CCRs are also known as coal combustion  
10 waste and fossil fuel combustion waste when  
11 destined for disposal.

12                   The commonly accepted terms of CCWs and  
13 FFC definitions are clear and concise on what is  
14 happening to the material and have existed for  
15 many years. So, again I ask: Why add to the  
16 confusion with this new term?

17                   By the EPA's definition, the term "coal  
18 combustion products" means fly ash, bottom ash,  
19 boiler slag and flue gas desulphurization  
20 materials that are beneficially used. This def --  
21 this definition is in no way interchangeable with  
22 the term "CCR."

1           As I reviewed the EPA document, it  
2 became clear the writers of the document did not  
3 grasp the meaning of the CCR, for throughout they  
4 used the term "CCR" for both beneficial use and  
5 disposal. The EPA has stated they have seen no  
6 evidence of damages from beneficial uses of CCRs.  
7 I ask you: How am I to characterize the term  
8 "CCR" in this sentence?

9           If we use the EPA's definition  
10 previously discussed, then the CCRs are destined  
11 for disposal and beneficial use cannot occur. The  
12 correct terminology would be "CCPs" rather than  
13 "CCRs." This is just one example of the confusion  
14 caused by the misuse of terms within this  
15 documentation.

16           If recycling is truly the national  
17 priority, I challenge you to embrace the use of  
18 CCPs for what they are: a national resource. We  
19 can start by opening a dialogue between the EPA,  
20 environmentalists and industry with a committee of  
21 stakeholders to resolve the issues. Under the  
22 existing draft, there will be no winners. We can

1       only expect lawsuits and years of confrontation.

2                    If preventing disposal of CCPs and  
3       elimination of landfill ashes, everyone's goal,  
4       this can be done. Today technologies exist where  
5       we can take landfill ash and process it for  
6       beneficial use. With everyone's cooperation, our  
7       tomorrows can be giving back these sites to the  
8       public so they can enjoy it as nature intended it.

9                    The only true sustainable answer to this  
10       issue is Subtitle D. Thank you.

11                   MR. DELLINGER: Thank you.

12                                (Applause)

13                   MR. DELLINGER: Could we have Numbers  
14       215, 17, 18, 19, and 20 come forward?

15                    If you have written notes, can you put  
16       them in the -- in the box over here? Thank you.  
17       Number 215.

18                   MS. EVANS: Thank you for this  
19       opportunity. My name is Barbara Evans. I  
20       represent a group of people that live right in the  
21       mouth of the Perry County dump, the Black Belt  
22       Citizens Fighting for Health and Justice. I'm a

1 community organizer that lives one county over in  
2 Lownsdes County. I'm the deputy coroner. I  
3 brought the respirator, because you're killing us  
4 with the coal ash.

5 We are poor people. And we tried to get  
6 you- all to have the hearing where we could get to  
7 it. But -- because our folks are -- are -- are  
8 poor, they've got a bunch of part-time jobs, they  
9 could not afford to come here today, so I'm  
10 representing them. I'm representing the vast  
11 majority of the people that live all around this  
12 landfill in Perry County that's taken the coal ash  
13 from the Tennessee spill.

14 They have small houses and trailers on  
15 the road that surrounds that dump. Most of them  
16 get their acreage, they got it from family. It's  
17 all they own. And now it's worthless. They plant  
18 gardens for survival and fruit trees. And they're  
19 afraid to eat the crops now because coal ash is  
20 everywhere. It covers the -- the cars, and it  
21 covers their little houses. It's everywhere.  
22 Children are kept away from the fruit trees, and

1       grandparents worry that the people will -- that  
2       the kids will cross the road to the dump, because  
3       that dump is as close to a residential area as  
4       that wall over there.

5                You know, these are good people. They  
6       -- they work hard to survive and they have strong  
7       faith. The only thing they have is their land.  
8       And this is the area where people fought and died  
9       to give all Americans the right to vote and the  
10      civil rights movement. And even that is being  
11      jeopardized by the huge amount of absentee ballots  
12      manipulated by the power structure, the same power  
13      structure that invited this coal ash in. You  
14      can't even have a fair election in the black belt.

15               Local county government, the ones that  
16      begged for the coal ash to get the money, is run  
17      like a gang. If you cross them, none of your  
18      family and friends will ever get a job in Perry  
19      County. If you cross them, you'll get ostracized.  
20      If you cross them, you can bet the police  
21      departments will be on your back. People are  
22      afraid, and I can tell you it's with good reason.

1 People are threatened with arrest if they speak  
2 out even at public meetings. And right now it's  
3 being litigated because the Perry County  
4 Commission has violated the Alabama Open Meetings  
5 Act.

6 The state -- the Alabama Department of  
7 Environmental Management is weak and underfunded.  
8 It's a permit machine. It's political. They  
9 never should have issued a permit for that  
10 landfill in the first place. Already the landfill  
11 owners have filed for bankruptcy. Already there's  
12 been illegal dumping of the leachate. We can't  
13 count on them.

14 And so what I'm saying to you today,  
15 like -- just like in the civil rights movement, we  
16 need --

17 MR. HOFFMAN: Sorry, ma'am, your time is  
18 up.

19 MS. EVANS: -- federal intervention.  
20 Thank you.

21 (Applause)

22 MR. CROSSLIN: Good morning. And I

1       thank you for the opportunity to come this morning  
2       and speak on behalf of recycling.

3                 Recycling, what would this country be  
4       and what kind of shape would it be in if we didn't  
5       have recycling?

6                 MR. DELLINGER:  Could you state your  
7       name and affiliation, please?

8                 MR. CROSSLIN:  Yes.  My name is Jerry  
9       Crosslin, and I'm an employee at Sphere One,  
10       Incorporated in Chattanooga, Tennessee.  We  
11       manufacture by a product -- a byproduct from the  
12       coal-fired power plants that we sell to our  
13       customers.

14                Currently, we're buying products, the  
15       floating ash off the ponds at the power plants.  
16       And if the Environmental Protection Agency  
17       classifies what we call the cenosphere as a  
18       hazardous material, we will lose our customers  
19       because they have said that they will not use a  
20       hazardous product in their products.  So they will  
21       write out their formulas and not use the  
22       cenospheres.

1           We will be forced to shut our doors, our  
2 jobs will be lost. And this is not just the  
3 company that I work for, that I have been working  
4 with in this company for 30 years, working with  
5 the floating ash off of these ponds. I do not  
6 have health problems. I have not been to the  
7 doctor for any problems concerning fly ash,  
8 cenospheres. I've been to the power plants, I've  
9 worked at the power plants, and I've got 30 years  
10 in the plant with this floating ash. So, if this  
11 -- this would also force us to cut back  
12 economically, lose our jobs, and none of us can  
13 afford to lose our jobs in this day and time.

14           But recycling is a benefit to the whole  
15 world. It -- it makes money. It helps keep the  
16 environment going. The EPA has to have rules and  
17 regulations. They have to make these rules and  
18 regulations for me and you to go by. But some of  
19 them does not need to be classified as a hazardous  
20 product.

21           So let me urge upon you today, please do  
22 not classify this as a hazardous product, because



1       it's going to cost jobs. And like I say, I've  
2       been in this business daily for 30 years and the  
3       doctors say that my lungs are good, I'm good -- in  
4       good health and have no health problems at all.  
5       Thank you.

6                   MR. DELLINGER: Thank you.

7                   (Applause)

8                   MR. MINKARA: Good morning. My name is  
9       Rafic Minkara. I'm an environmental engineer. My  
10      past experience includes hazardous waste  
11      treatment, disposal and remediation. In the last  
12      18 years, I've been involved in almost all aspects  
13      of CCP management from generation to disposal and  
14      beneficial use at Headwaters.

15                  The TVA at Kingston spill was a bad  
16      event that caused damage to property and the  
17      environment. It is unacceptable. I applaud EPA  
18      response to the spill and the prompt survey of  
19      other ash impoundments. I also understand the  
20      need to do something to prevent similar spills.  
21      Hazardous waste designation is not the answer.  
22      Good engineering practices are.

1           Even prior to regulatory changes, some  
2 utilities have taken notice of the risks and  
3 potential liabilities involved in operating a  
4 Kingston-like ash management operation. Utilities  
5 are risk averse. Many are planning dry  
6 conversation projects and to do away with ponds.  
7 The EPA should work with the utilities and the  
8 beneficial use industry to increase utilization.

9           C2P2 was a good start. EPA and the  
10 federal government can do more, a lot more to  
11 increase beneficial use. For example, power  
12 plants air regulation should minimize the impact  
13 on CCP quality. Another example, Congress can  
14 provide tax and other financial incentives for  
15 resource conservation and recovery. Carrots are  
16 more effective than sticks.

17           In my review of the regulatory impact  
18 analysis, I noticed that EPA has not taken the  
19 impact of stigma too seriously. EPA's own  
20 analysis show the impact of the stigma at 51%  
21 reduction in beneficial use in 2012. This is the  
22 wrong time to wipe out half of an industry as we

1 try to recover from this near depression.

2           Regaining beneficial use volume is not  
3 as simple as driving the ash delivery truck an  
4 extra hundred miles to the next town. EPA's logic  
5 on increased beneficial use under RCRA C is  
6 archaic. It is obvious that industry expert was  
7 not involved on this part of the analysis.

8           The analogy to waste oil is also  
9 irrelevant. When waste oil is burnt, the stigma  
10 goes up in smoke. In the case of fly ash, the  
11 stigma stays in that concrete driveway and home  
12 carpeting. There's also the real risk of consumer  
13 product liability lawsuits that would discourage  
14 the use of CCPs.

15           RCRA C will destroy an industry -- an  
16 industry that should be applauded by EPA for  
17 making a real difference in reducing the amount of  
18 CCPs going to landfills and proving durability of  
19 infrastructures and reducing the amount of  
20 manufactured Portland cement with its related  
21 environmental impact. RCRA C makes no scientific  
22 or engineering sense. Subtitle D will provide the

1 same level of protection as C.

2 (Applause)

3 MR. MCCAMEY: Good morning and thank  
4 you. My name is Wayne McCamey, and in the Ready  
5 Mix concrete business, producer in Morristown,  
6 Tennessee.

7 I started working this industry in the  
8 early 70s, and at that time in this part of the  
9 country not too people used fly ash. Not too many  
10 knew very much about the product at all.

11 In today's market, almost everybody uses  
12 fly ash. My question is: Why? And that's pretty  
13 easy. Fly ash makes our products better, makes it  
14 more durable, easier to place, whether we're doing  
15 so physically or with a concrete pump or any other  
16 mechanical method.

17 Concrete with fly ash has better  
18 workability, it's easier to pump, it's easier to  
19 get in place, and we can make far higher strength  
20 concrete when fly ash is used. Yes, all this can  
21 be done with fly ash, and every yard of concrete  
22 containing fly ash is produced at a cost savings

1 of approximately 2 to \$3 a cubic yard compared to  
2 a lower quality non-fly ash mix.

3 The Tennessee Department of  
4 Transportation, as well as the Federal Highway  
5 Authority, they saw the benefits and began  
6 incorporating fly ash into their concrete they  
7 were using. In fact, fly ash today is used in  
8 about 98% of the concrete being used in this area  
9 of the country.

10 In a normal year, about 7 million cubic  
11 yards of concrete is produced in Tennessee.  
12 That's about 525,000 tons of fly ash being used in  
13 concrete in Tennessee alone. That equates to  
14 about 21,000 tractor-trailer loads of ash that  
15 never goes to a landfill anywhere.

16 If fly ash receives a designation as  
17 hazardous, can our companies assume the  
18 responsibility of hauling, handling and using this  
19 product? Could our em -- could our employees who  
20 develop cancer, the same cancer that they received  
21 50 years ago, could that be tied to a problem of  
22 us using a hazardous material? Our customers

1       could start saying, "Your concrete contains  
2       hazardous waste and has made me sick." Is it  
3       possible lawyers looking or pursuing business  
4       would go after a case such as this?

5                   I'm concerned that my company will be  
6       forced to stop using fly ash if it is labeled  
7       hazardous. Technology in our industry would back  
8       up 30 years. Yes, it's a problem to dispose of  
9       fly ash. Kingston is a perfect example. I  
10      suggest we learn how to properly store and keep  
11      our landfills intact and put regulations in place  
12      to make this happen.

13                   But please do not pass regulations that  
14      will be extremely detrimental to our industry, as  
15      well as the coal industry and utilities across the  
16      nation. How much more will all of us be paying  
17      for electricity when coal cannot be burned? Thank  
18      you.

19                   (Applause)

20                   MR. DELLINGER: Thank you. While Number  
21      20 -- while Number 20 is coming to the microphone,  
22      could we have Numbers 21, 22, 24, 250, and 251

1 move forward?

2 MR. CLAYTON: My name Kip Clayton, and I  
3 have worked in the byproducts industry for -- as a  
4 marketer of ash, basically cenospheres, for over  
5 eight years.

6 I would like to address the issues of  
7 stigma impact and give a statement regarding what  
8 I really feel like is going on. A quote from  
9 Politico: "I do very much believe that it's time  
10 for us to get past this tired dance where folks  
11 inside this beltway get paid a lot of money to say  
12 things that aren't true about public health  
13 initiatives that this agency is charged by law  
14 with undertaking."

15 This quote bothers me because we keep  
16 seeing propaganda touting that these materials are  
17 hazardous but with no scientific data to back it  
18 up. We are an industry keep taking -- we, as an  
19 industry, keep taking it on the chin by scare  
20 tactics that these materials will kill you. Like  
21 many things, plain old mud can kill you. I do  
22 think better regulations on impoundments are

1       necessary, but don't slate it hazardous material  
2       because of engineering issues and inspection  
3       issues. Fix the problem, not the sum of it.

4               The second quote, EPA spokesman Brandon  
5       Gilfillan said, "Jackson's comment to open this  
6       compares particularly well to the lack of  
7       transparency during the previous administration."  
8       Well, for years the EPA was working well in  
9       utilization of byproducts, even creating a  
10       website-based group called C2P2 which promoted the  
11       use of these materials. They even gave out awards  
12       for innovations for usage in projects that were a  
13       tremendous success. Then one day the site was  
14       taken down without any notice to -- to its members  
15       whatsoever.

16              The science has not changed, the  
17       material is the same, and when we work together on  
18       recycling these materials, it's better for  
19       everybody. Just by shutting down the site, it has  
20       caused stigma among -- amongst the industry.  
21       Because of my time in the industry, I have seen  
22       many impoundment ponds and I have marketed this



1 material across the U.S. and abroad. One of the  
2 things I look at is how our neighbors are  
3 handling such issues. It appears that most of the  
4 countries that are next to us and -- and aboard  
5 market this material and market it well.

6 I work in all sectors of the industry  
7 that market materials from coal-fired plants. We  
8 take waste material and utilize it in various  
9 products. It is the des -- if it's designated as  
10 hazardous waste and it's assigned to our material,  
11 it will kill the marketability, it will increase  
12 and have more taxing effect on our natural  
13 resources, and by doing this, will have an adverse  
14 effect on the carbon footprint just by the  
15 equipment used to mine these natural resources.  
16 All this is simply an attack on coal in general,  
17 and by doing this, will only hurt the common rate  
18 payer and probably do more damage to the  
19 environment than what is taking place now.

20 As we move forward to alternative power  
21 solutions, we will still need coal to power us.  
22 Let's be good stewards and reuse as much of the

1 material as we can regulated on a state level, and  
2 let us recycle the material without a stigma of  
3 hazardous waste. Thank you.

4 (Applause)

5 MR. DELLINGER: Number 21.

6 MR. WALTERS: My name is Nick Walters,  
7 and I work for the Choctaw County Mississippi  
8 Economic Development Foundation, and we're here to  
9 talk about the disastrous effects that could  
10 happen with this rule change.

11 Many of you probably will never have the  
12 opportunity to meet Ms. Willie May Guidry. Ms.  
13 Willie May is a person who dreamed for the longest  
14 time of owning her own business. And recently  
15 this -- earlier this year our foundation and the  
16 local county NAACP sponsored a small and  
17 minority-owned business seminar to help small  
18 business people learn how to start their own  
19 business.

20 Ms. Willie May attended, and now has not  
21 only this dream been realized, but she's starting  
22 to employ more people. She actually has figured

1 out a way to produce some very tasty meals that  
2 help diabetics and so that diabetics can come to  
3 conferences and to events and to meetings and be  
4 able to eat a meal that is good for them and does  
5 not harm them in their -- in their cases with  
6 diabetes. Because of what she learned at our  
7 conference and because of what she learned about  
8 how to market herself -- she didn't know how to  
9 fill out an invoice, she didn't know how to create  
10 one, she didn't know how to participate in these  
11 -- in these projects like this and how to do  
12 things that most business people know how to do.

13 She now has a contract with the  
14 Mississippi State Department of Health to provide  
15 meals in a 15-county area for diabetics. This  
16 would not have happened if she had not come to our  
17 seminar. We are able to keep our doors open at  
18 our foundation because of the sale of this very  
19 productive use of fly ash. And fly ash enables us  
20 to do many things in our county, many things in  
21 our community that we would not be able to do  
22 otherwise.

1           So Ms. -- Ms. Willie May is not part of  
2           the power industry, Ms. Willie May is not -- does  
3           not work for the coal industry, Ms. Willie May  
4           does not work for the fly ash industry. Ms.  
5           Willie May works for herself. And she is able to  
6           work for herself and be able to provide a valuable  
7           service because of things that we at our  
8           foundation are able to do. We are able to keep  
9           our lights on and be able to provide services for  
10          people like Ms. Willie May because of the  
11          revenues that we generate by the great use of fly  
12          ash.

13                 So, when you take into consideration  
14          changing things of regulations like this, you're  
15          not just only hurting the direct jobs and the rate  
16          payers and other entities like this, you're  
17          hurting people like Ms. Willie May. And we hope  
18          that you will give that strong consideration as  
19          you deliberate on this. Thank you.

20                         (Applause)

21                 MR. BERGMAN: Good morning. I'm Robert  
22          Bergman. I'm a chemist, and I'm concerned because

1 I've analyzed a lot of samples of coal combustion  
2 materials.

3 And I want to ask the audience today:  
4 Who here wants to have coal combustion residuals  
5 regulated in a lined landfill with groundwater  
6 monitoring?

7 (Applause)

8 MR. BERGMAN: Okay. Who wants to have  
9 the CCRs landfilled starting tomorrow? Okay.  
10 Well, who wants a new Subtitle C waste landfill  
11 next to their property? I don't think anybody  
12 does.

13 Those of you who are asking for CCRs to  
14 be disposed in Subtitle C think the battle just to  
15 get CCRs in a lined landfill has been difficult,  
16 just wait until the power companies have to  
17 acquire permits to dispose of one of the largest  
18 industrial waste streams in America. And the  
19 groups represented here today will gladly take up  
20 your battle with your money.

21 According to the EPA, the amount of all  
22 listed and characteristic hazardous waste disposed

1 across the country in 2007 was just under 50  
2 million tons. How much CCRs are produced each  
3 year? Two and a half times that amount, over 125  
4 million tons annually.

5 Imagine what is going to have to happen  
6 to dispose of all that material? Not only will  
7 land be -- have to be permitted, but the material  
8 may have to be transported on highways and  
9 railways through your towns in order to get to a  
10 qualified landfill. Do you want to start  
11 tomorrow?

12 Even EPA admits that qualifications for  
13 permitting a Subtitle C landfill will take at  
14 least twice as long or longer to complete than it  
15 would a Subtitle D landfill which is constructed  
16 to the same liner and groundwater monitoring  
17 standards. The difference between -- the  
18 difference being the cost that power companies  
19 will pass on to you in order to meet whatever  
20 requirements the EPA puts on them.

21 You say industry is not listening.  
22 Industry is listening. Industry is asking for the

1 same construction standards as a Subtitle C  
2 landfill. They are just asking for administration  
3 of the program that will not use the same language  
4 that is applied to hazardous waste.

5 Industry is just money -- money hungry?  
6 Every person here works to make a profit to live.  
7 Polluting our lands. Every coal ash marketer here  
8 considers themselves an environmentalist because  
9 their business is keeping coal ash out of  
10 landfills and into durable, sustainable products  
11 that are used every day.

12 I'm asking everyone here today to take  
13 the opportunity to educate yourselves on what  
14 industry is asking the EPA for and why it believes  
15 that Subtitle D is the best option. Please visit  
16 the hospitality room for the American Coal Ash  
17 Association and Citizens for Recycling First which  
18 is located behind the conference room down the  
19 hallway to learn how your desires for a safe  
20 landfill can be met --

21 MR. HOFFMAN: Your time is up.

22 MR. BERGMAN: -- in a quicker fashion by

1 asking for Subtitle D.

2 (Applause)

3 MR. DELLINGER: Number 24.

4 MR. HUNT: Good morning. I'm Reverend  
5 Douglas Hunt, executive director of Tennessee  
6 Interfaith Power and Light. We work with  
7 congregations across the state of Tennessee on  
8 issues of faith and sustainability. I want to  
9 thank EPA for being here and being such good hosts  
10 for this hearing.

11 I'm really pleased to be here to support  
12 implem -- implementation of Subtitle C of the  
13 proposed regulations as a critical first step to  
14 meet our moral and ethical responsibilities to  
15 protect people and our planet from the hazardous  
16 contents of coal ash. I'm here this morning not  
17 to talk about technical issues, not to talk about  
18 economic issues, but to talk about moral and  
19 justice issues that have to do with disposal of  
20 this product.

21 The Kingston spill itself was a grave  
22 injustice to the people of Roane County and



1 surrounding communities. The people of Perry  
2 County, Alabama where 30% of residents live below  
3 the poverty line are now recipients of this toxic  
4 laden mess. This disaster and dramatically  
5 expanding -- expanding the issues of justice and  
6 morality that surround the disaster.

7           People of all faiths have always been  
8 among the first to respond to a disaster such as  
9 created by the Kingston spill and its relocation  
10 to Alabama. We are also called to speak loudly  
11 and clearly on the moral, ethical and justice  
12 issues raised by the decisions which led to the  
13 ash being transported and stored in ways that led  
14 to this tragedy and will probably continue without  
15 Subtitle C.

16           Children, family and nature are at the  
17 center of spiritual teachings around the world.  
18 They are what people value most. The handling of  
19 coal ash as a non-hazardous waste puts all of  
20 these at terrible risk needing implementation of  
21 Subtitle C as a first step to protect these.

22           Regarding the issue of stigma, those

1 from Muslim, Jewish and Christian traditions know  
2 the story of the two sons of Adam. But like Cain,  
3 if the coal industry bears a stigma, it is one  
4 marking lives lost, futures destroyed and creation  
5 poisoned. People of faith also know how important  
6 it is to name what we encounter. The people of  
7 Kingston and elsewhere know that "hazardous" is  
8 the name for coal ash.

9 What we can do now is to treat coal  
10 combustion residues and the wastes they contain as  
11 the hazard they are to people's lives and futures.  
12 Subtitle C is a first and critical step to making  
13 policy reflect our values and meeting our moral  
14 and ethical responsibilities to protect the people  
15 and our planet --

16 MR. HOFFMAN: Your --

17 MR. HUNT: -- from more coal ash  
18 disasters. Thank you so much.

19 MR. DELLINGER: Thank you.

20 (Applause)

21 MR. DELLINGER: Number 250.

22 MR. HARDIN: My name is Chris Hardin.

1 I'm from North Carolina -- Huntersville, North  
2 Carolina. I'm a private citizen and part-time  
3 sustainable ag farmer from Huntersville.

4 I'm a registered professional engineer  
5 in the states of North Carolina, Tennessee, and  
6 five of the neighboring state. I work full time  
7 as an engineer for Haley & Aldrich, and I'm  
8 provide my comments on behalf of Haley & Aldrich,  
9 as well as myself, a technically-minded engineer,  
10 common sense sustainable ag farmer, and a  
11 concerned citizen.

12 Haley & Aldrich supports development of  
13 federal regulations for CCRs. And that's defined  
14 as coal combustion residuals, or in many cases  
15 products, under RCRA Subtitle D, non-hazardous  
16 waste program. We agree with the EPA substantive  
17 standards in Subtitle D and Subtitle C are  
18 essentially the same. They both provide for safe  
19 management of coal ash through the use of liner  
20 systems, groundwater monitoring and corrective  
21 action.

22 However, Subtitle D will provide a

1 regulatory platform that would accomplish these  
2 goals without severely impacting CCR beneficial  
3 reuse, threatening jobs, and increasing  
4 electricity costs for customers by imposing  
5 unnecessary costs on the utility industry.

6 We agree with the EPA that CCR units  
7 that are not fully protected must be updated,  
8 upgraded, or closed. However, CCR impoundments  
9 that can be demonstrated to be safe and protective  
10 of the environment should be allowed to continue  
11 operating. We believe that the Subtitle D prime  
12 option with appropriate adjustments is the best  
13 pass forward and will enable EPA to establish an  
14 environmentally-protective program that meets the  
15 objectives of EPA, namely enforceable standards of  
16 CCRs, that are protective of human health and the  
17 environment.

18 We oppose the Subtitle C option, a  
19 position which we believe is consistent with the  
20 views of virtually all states and the regulatory  
21 agencies, CCR marketers, beneficial users who feel  
22 that regulating CCRs under a record hazardous

1 waste program does not provide the additional  
2 protection to human health and the environment  
3 than a Subtitle D option. In fact, Subtitle C  
4 regulations would cripple the CCR reuse industry  
5 that already has a strong track record -- track record of  
6 successfully recycling coal combustion products  
7 for beneficial reuse.

8 In closing, Haley & Aldrich and this  
9 common sense sustainable ag farmer, and concerned  
10 citizen feels that a reasonable and protective  
11 path forward for the EPA is to move forward with a  
12 Subtitle D option that ensures the safe disposal  
13 of CCPs and CCRs that is protective of human  
14 health and the environment. Thank you.

15 MR. DELLINGER: Thank you.

16 (Applause)

17 MR. DELLINGER: While Number 251 is  
18 moving forward, could we have Numbers 26, 27, 29,  
19 30, and 121?

20 MR. TODD: My name is Sean Todd. I'm  
21 speaking on behalf of the Boiler Slag Consortium,  
22 and this is my fourth EPA meeting. I'd like to

1       thank you for the opportunity.

2                   It's very heartening, Mr. Dellinger, to  
3       hear you open up each meeting by saying the EPA  
4       will consider the best available data in making  
5       its rule -- in determining its rule-making,  
6       because science is the best friend that boiler  
7       slag has in this process.

8                   It is essential for EPA and others to  
9       understand that there are different types of coal  
10      combustion residuals. Boiler slag is only one of  
11      them. It is, however, only 1% by volume of CCRs,  
12      but over 90% is reused and recycled. Over 90% is  
13      used in abrasive applications, roofing shingles,  
14      roads, and building materials.

15                  No slag is stored in impoundment ponds  
16      such as the one in Kingston that was breached in  
17      that terrible tragedy. Boiler slag is collected  
18      and used in the economy, over 90%. How is it  
19      made? Boiler slag is made at the bottom of the  
20      furnace in wet bottom ash boilers. It's vitrified  
21      when it's quashed with water. So it's bound at  
22      the molecular level. All of it is inert material

1 -- it is inert, environmentally benign material.  
2 Again, those heavy metals are bound at the  
3 molecular level.

4           We have three third-party laboratory  
5 independent analytical studies which we have been  
6 submitted for the record. By way of example,  
7 mercury has found to have in our finds the  
8 smallest particle size, less than .01 milligram per  
9 liter mercury concentration. The threshold level  
10 for -- or action level for EPA action is .1  
11 milligram per liter. So that's an order of  
12 magnitude lower than your threshold level. That's  
13 just from mercury.

14           So our science is our best friend in  
15 this rule-making for boiler slag. We're being  
16 lumped in with other types of CCRs. We believe  
17 that, you know, for structural integrity and  
18 engineering requirements -- are a good thing for  
19 impoundment ponds. Our product is not in any  
20 impoundment ponds. But the chemical constituents  
21 and the physical characteristics of boiler slag do  
22 not require at le -- in the least, Subtitle C RCRA

1 regulation. In fact, boiler slag should be exempt  
2 as a protective status for -- for its beneficial  
3 reuse.

4 This is an apples and oranges case.  
5 Good public policy uses the right and appropriate  
6 tool for its goals and objectives. Do not use a  
7 sledgehammer when a surgical knife is -- is a  
8 better tool. Thank you for your time. Thank you  
9 for the extensive opportunities for comments.  
10 And we do encourage the protective status  
11 exemption for boiler slag for beneficial reuse.  
12 Thank you.

13 MR. DELLINGER: Thank you. Number 26.

14 MS. BIRD: My name is Cathie Bird. I am  
15 chair of the Energy, Ecology and Environmental  
16 Justice Committee of Statewide Organizing for  
17 Community Empowerment.

18 Coal ash is a dangerous, toxic material  
19 that should be regulated under Subtitle C of RCRA  
20 as a special waste with all safeguards that apply.  
21 Since many qualified people will testify to the  
22 scientific and the legal and technical data that



1 support this claim, I'd like to speak more to coal  
2 ash as a matter of human experience and  
3 environmental justice for those who live near coal  
4 mines and near power plants and ash dumps.

5           From mountaintop removal mining to  
6 disposal of coal ash, power generated from coal  
7 exacts a terrible price in terms of the  
8 environmental integrity, human health, and the  
9 unspeakable psychological loss that happens when  
10 the natural bond between people and a place on  
11 earth that is meaningful to them is broken. When  
12 we experience the disruption that such events  
13 bring into personal and community life, most of us  
14 do whatever we need to heal and get our lives back  
15 in order. But in some cases, this process may  
16 take years. In other cases, we may enjoy brief  
17 success only to be re-traumatized by new projects,  
18 chronic pollution, or discoveries that toxic  
19 material has moved beyond the boundaries of safe  
20 containment.

21           For me it's been unbelievably hard to  
22 see friends, neighbors and colleagues getting

1 tired, getting sick, giving up, or moving away  
2 from their homes. I'll never forget the first  
3 time I heard a friend describing her experience of  
4 life near a mountaintop removal mine with the same  
5 words that people from other countries use to tell  
6 what it's like living in a war zone. That's when  
7 it really hit me that mountaintop removal mines at  
8 one end and coal ash dumps at the other end of  
9 power generation represent nothing less than a  
10 breach of homeland security aimed at the very  
11 infrastructure of land, air and water on which  
12 human life depends.

13           So would corporate spokespeople offer to  
14 drink water from a coal ash pond or say it's okay  
15 to sprinkle coal ash on their Cheerios or  
16 otherwise assure us that coal ash is harmless?  
17 We're not fooled. When people start to feel like  
18 they're collateral damage, their community is  
19 becoming a national sacrifice zone, it's harder to  
20 sell the idea that there's really such a thing as  
21 an acceptable level of poison.

22           I'm very grateful that the EPA is

1 looking at environmental justice. What we need,  
2 though, right now is to see some evidence that  
3 you're hearing what we say. And I think your  
4 decision to regulate coal ash as a hazardous waste  
5 might be a welcome sign that we're finally being  
6 heard. Thanks.

7 (Applause)

8 MR. DELLINGER: Thank you.

9 MS. MILLER: I'm Cheri Miller with  
10 Gypsum Parameters. I'm also the proud recipient  
11 of a 2008 C2P2 lifetime achievement award from EPA  
12 recognizing my 30 years of work in coal combustion  
13 product recycling.

14 My company, Gypsum Parameters, is a  
15 small woman-owned business which specializes in  
16 working with electric utilities that produce FGD  
17 gypsum and ash and with manufacturers such as  
18 wallboard and cement companies that use these  
19 materials in their manufacturing processes. Since  
20 EPA published its proposed rule-making earlier  
21 this year, I've seen my business significantly  
22 decline as the stigma of a potential hazardous

1 waste determination has caused clients to delay or  
2 cancel projects.

3           You will no doubt hear many passionate  
4 but ill-informed testimonials at these hearings  
5 urging you to regulate these materials as  
6 hazardous wastes. EPA administrator Lisa Jackson  
7 has repeatedly stated that it is EPA's policy to  
8 make, quote, "science-based decisions," unquote.  
9 I challenge you now to do that.

10           These materials are neither toxic nor  
11 hazardous, which is the conclusion that EPA itself  
12 has reached in all of its previous regulatory  
13 determinations. Please do the right thing and  
14 stand by your own past analyses of the sound  
15 science surrounding these materials which should  
16 be regulated as Subtitle D. Thank you.

17                           (Applause)

18           MR. SCHMALTZ: Thank you for the  
19 opportunity to address you today. My name is Tom  
20 Schmaltz. I'm the environmental director of  
21 Headwaters, Incorporated, the largest manager of  
22 coal combustion products in the United States.

1           Today EPA is asking whether coal  
2           combustion residual wastes should be regulated as  
3           Subtitle C, hazardous waste, or Subtitle D,  
4           non-hazardous waste. Over the past 30 years, this  
5           question has been answered by the federal  
6           government over and over again. First it was  
7           answered by Congress with the Bevill amendment to  
8           RCRA in 1980. For a second and third time it was  
9           answered by EPA in 1993 and 2000 with a regulatory  
10          determination stating that coal ash wastes do not  
11          warrant Subtitle C regulation.

12           The question has been answered thousands  
13          of times by the results of EPA tests that  
14          routinely show that CCRs failed to meet the  
15          hazardous waste toxicity thresholds established by  
16          EPA. There's little question then, based on the  
17          instincts of Congress, based on previous EPA  
18          determinations, and based on EPA tests, that CCRs  
19          destined for disposal should be a Subtitle D  
20          waste.

21           But we can't ignore the damage cases  
22          that EPA cites as a potential need for Subtitle C

1 regulation. No one can downplay the tragedy of  
2 the Kingston impoundment failure. But the  
3 Kingston impoundment failure and other damage  
4 cases cited are engineering failures, and we must  
5 distinguish between engineering failures and the  
6 nature of a waste. This is particularly true  
7 since the current Subtitle D disposal facility  
8 standards can be just as protective of the  
9 environmental as Subtitle C standards.

10           It seems counterproductive to mislabel a  
11 waste in order to gain enforcement and permitting  
12 authority no matter how convenient. Such an  
13 action for convenience sets a dangerous precedent  
14 and may be considered an unwise use of EPA's  
15 authority. It prepares a slippery slope towards  
16 negative outcomes and unintended consequences,  
17 especially in creating a stigma towards CCP  
18 utilizations.

19           The chasm between hazardous waste  
20 designation and encouraging beneficial use only  
21 creates this stigma -- not only creates this  
22 stigma but also raises uncertainty and confusion

1 around issues of worker safety, transportation,  
2 liability, public perception, sustainability  
3 goals, alleged -- allied industry jobs, product  
4 quality, the list goes on. EPA's asking the wrong  
5 question. If it wishes to gain enforcement and  
6 permit authority -- permitting authority under  
7 Subtitle D, why doesn't it ask Congress to change  
8 RCRA?

9 We need to feel confident that our  
10 federal agencies wield their authority properly  
11 under well-crafted laws. We need  
12 properly-engineered landfills, we need to  
13 encourage safe utilization, and all this can be  
14 done under Subtitle D.

15 MR. DELLINGER: Your -- your time is up.  
16 Thank you.

17 (Applause)

18 MR. REYNOLDS: Good morning. My name is  
19 Rob Reynolds. I am responsible for management of  
20 coal byproducts for Progress Energy, an  
21 investor-owned electric utility holding company  
22 headquartered in Raleigh, North Carolina.

1                   Progress Energy owns and operates nine  
2 facilities located in North Carolina, South  
3 Carolina and Florida. We have a combined electric  
4 power generating capacity of over 7400 megawatts  
5 that would be impacted by the proposed  
6 regulations. In our service territories, we  
7 provide retail service to over 3 million customers  
8 who could see their monthly electric bills  
9 adversely affected by the costs incurred as -- as  
10 a result of this proposed regulation.

11                   Progress Energy supports the development  
12 of federal regulations for CCRs under Subtitle D.  
13 The development of rules under this approach will  
14 establish a federal standard for all CCR  
15 facilities to meet. Many states already have  
16 effective solid waste statutes and regulatory  
17 programs that will provide an additional layer of  
18 regulatory oversight for management, reuse and  
19 disposal of CCRs.

20                   Progress Energy strongly opposes the  
21 regulations of CCRs under Subtitle C. The  
22 comparatively stringent and costly Subtitle C



1 program is not necessary to manage the relatively  
2 low toxicity of CCRs. An important aspect of the  
3 CCR regulation issue in terms of both cost and  
4 effective disposal is the availability of adequate  
5 infrastructure, specifically landfills that can  
6 and will accept hazardous waste.

7 There are 21 commercial hazardous waste  
8 landfills currently operating nationwide and the  
9 last one was permitted many years ago. The  
10 remaining capacity of these facilities would  
11 quickly be consumed if use of such a landfill was  
12 required. In addition, transportation and  
13 infrastructure requirements would see unparalleled  
14 changes due to increased volumes of material  
15 movement to such facilities.

16 Nonetheless, reliable and nearby  
17 hazardous waste landfills must be available if  
18 Subtitle C is applied to CCRs. The EPA's proposal  
19 to not regulate CCRs that are beneficially used is  
20 appropriate for a regulatory program under  
21 Subtitle D. Most utilities endeavor to market as  
22 much of their CCRs as possible. This is better

1 for the environment than land or pond disposal and  
2 provides unique and valued materials for many  
3 manufactured products, including high quality  
4 cement and wallboard.

5 The EPA should be aware that the  
6 beneficial use market for CCRs is susceptible to  
7 market variations which limit reliance on  
8 beneficial uses. Today the supply for fly ash for  
9 cement and concrete and the supply of synthetic  
10 gypsum for wallboard far exceeds market demand.  
11 We need to find ways to increase the consumption  
12 of CCRs in these markets. Over the past couple of  
13 decades, CCR uses in markets other than these have  
14 been key drivers to increasing reuse volumes.

15 In 2008, over 30% of the nearly 61  
16 million tons of CCRs used were in other market  
17 applications.

18 MR. HOFFMAN: I'm sorry. Your time is  
19 up.

20 MR. REYNOLDS: Thank you.

21 (Applause)

22 MR. REYNOLDS: With the proper

1        engineering design, controls and quality assurance  
2        programs in place, Progress Energy supports other  
3        market applications. While we are working  
4        diligently to beneficially use CCRs, there will  
5        remain a significant quantity of CCRs that must be  
6        disposed of in landfills. It should be considered  
7        that even with strong efforts to beneficially use  
8        CCRs, a permanent disposal option at a reasonable  
9        cost will still be needed.

10                MR. RAMSEY: Ladies and gentlemen, my  
11        name is Boyd Ramsey of GSE Lining Technology, LLC,  
12        a company based in Houston, Texas.

13                Today I am representing the Geosynthetic  
14        Materials Association, a trade group of 80  
15        companies that manufactures, distributes and  
16        installs geosynthetic materials, including liner  
17        systems. We're the liner guys. Our industry  
18        employs about 12,000 people throughout the United  
19        States.

20                Our comment to the EPA is very simple.  
21        We request that EPA mandate the geosynthetic  
22        lining of coal ash facilities using composite

1 lining systems. In the shortest terms, use liners  
2 because they work. The concerns of safety  
3 regarding coal combustion residuals are mitigated  
4 if landfill storage sites are lined with a  
5 composite liner system consisting of a geomembrane  
6 and a geosynthetic clay liner.

7           The American Society of Civil Engineers  
8 does a regular report card on America's  
9 infrastructure. The last three report cards  
10 represent over a decade and solid waste has  
11 received the highest grade of any category. My  
12 industry does a good job of taking care of  
13 America's waste and properly storing it to protect  
14 the environment. The materials, technology and  
15 people exist, the engineers, engineering  
16 techniques and standards, general contractors and  
17 installers that can build the proper facilities,  
18 and regulators and inspectors to ensure that the  
19 work is done correctly. We urge EPA to use what  
20 exists and is working today.

21           Further, our industry has continually  
22 improved over time, and EPA has been a part of

1 that effort. Over the years, EPA has commissioned  
2 nearly 80 studies in the design and performance of  
3 lining systems. We call your attention to a 2002  
4 EPA study titled "Assessment and Recommendations  
5 for Optimal Performance of Waste Containment  
6 Systems."

7 Most illustrated for today is a graph  
8 from that study illustrating the leakage rate of  
9 different designs over the life cycle of nearly  
10 200 facilities. The composite system of  
11 geomembrane and geosynthetic clay liner was  
12 demonstrated to have the lowest leakage rate over  
13 all life cycles, including a near zero leakage  
14 rate after the facilities are closed and final  
15 cover placed. Our materials work. The use of  
16 composite liners will achieve the EPA mission to  
17 protect human health and environment for all  
18 Americans.

19 A brief word on the hazardous,  
20 non-hazardous question. While coal ash does  
21 contain heavy metals, it lacks the traditional  
22 characteristics of hazardous materials,

1       radioactivity, the presence of infectious medical  
2       waste, et cetera. In the opinion of our trade  
3       organization, coal ash can be properly stored  
4       using Subtitle D regulations, a non- hazardous  
5       solid waste with composite lining systems.

6                I've done four of these, folks. I'm  
7       going to add a personal note. As a result of my  
8       career path, I arguably know more about our  
9       country's waste than almost anyone. The Kingston  
10      coal ash spill was tragic. However, the potential  
11      for far more serious and more damaging incidents  
12      at dozens of Superfund sites contaminated with  
13      truly hazardous materials that are currently  
14      seeing zero mitigation activity is a gross error  
15      in our collective national judgement. Thank you,  
16      sir.

17                        (Applause)

18                MR. DELLINGER: Can Numbers 31, 32, 33,  
19      34, and 252 come forward?

20                MR. KNOWLES: Hello. My name is Jimmy  
21      Knowles. I am the vice president of research and  
22      market development for the SEFA Group. We are a

1 small family-owned and operated business with 154  
2 employees operating in Tennessee and throughout  
3 the southeast and mid Atlantic states.

4 Managing and marketing coal combustion  
5 residues is our only business. We market over 1  
6 million tons of coal fly ash annually which  
7 recycle into concrete. We analyze and  
8 characterize fly ash in a number of different  
9 ways, including the quantification of trace  
10 elements and the determination of toxicity  
11 characteristics.

12 Over the last 33 years, I have developed  
13 an intimate understanding of coal fly ash. The  
14 facts are clear. Fly ash is not hazardous, and  
15 therefore, the disposal of fly ash should not be  
16 regulated under Subtitle C. Fly ash is very  
17 similar to other competitive materials. It is not  
18 more hazardous than these other materials.

19 Listing and regulating the disposal of fly ash  
20 under Subtitle C will reduce the volume of fly ash  
21 that is beneficially used in the United States.

22 Now I'm going to give three examples of

1 -- of how this is -- the Subtitle C proposal is  
2 currently damaging our -- our -- our industry.  
3 And I'm just going to summarize them. They're in  
4 -- the full information is in my written comments  
5 that I'll submit.

6           But first off, I want to mention that  
7 importation of coal ash into the United States is  
8 actually increasing and people are beefing up  
9 their infrastructure to import more coal ash to  
10 the United States. Now, specifically, this is  
11 high value functional fillers that would be used  
12 in plastics, paints, rubbers, and other  
13 composites. And it's typically being done by  
14 mineral processing companies.

15           So they'll take coal ash, in the example  
16 one company prominent in the industry right now  
17 from the United Kingdom, they're processing the  
18 ash over in the United Kingdom and then importing  
19 it to the United States for these markets. And  
20 they recognize that the companies that have  
21 traditionally done this type of thing in the  
22 United States are backing off. They recognize



1       that Subtitle C is going to hurt their opportunity  
2       to continue being competitive in the marketplace,  
3       mainly not due to stigma, because most people  
4       don't even know that coal ash is being in these  
5       products already, but because of the legal  
6       liability associated with it.

7                 Funding for that research came from U.S.  
8       Taxpayers, and it does -- also, I would mention  
9       that our company, our in-house R & D has atrophied  
10      to practically non-existent. But thirdly, I'd  
11      like to mention that some interesting research at  
12      Pacific Northwest Laboratories, which our company  
13      and another other U.S. companies co- funded along  
14      with DOE money and other federal money that went  
15      into the research, but basically what they came up  
16      with is taking ash and they got -- through  
17      carbothermal nitridation of the fly ash, they were  
18      able to make a slow-release fertilizer that is  
19      very environmentally-friendly relative to the  
20      other -- more -- more environmentally-friendly  
21      than the other fertilizers that are being used.

22                 Basically, the bottom line is American

1 companies are not going to do that. However,  
2 other companies, Australia specifically, is trying  
3 to take that research and continue funding it with  
4 federal money from the United States at Pacific  
5 Northwest Laboratories to --

6 MR. HOFFMAN: Your time -- I'm sorry.  
7 Your time is up.

8 MR. RAMSEY: Oh, okay. I only had 30  
9 seconds. All right. Thank you.

10 MR. DELLINGER: Thank you.

11 (Applause)

12 MR. SIMON: My name is Don Simon. I  
13 retired and moved to Tennessee approximately five  
14 years ago.

15 I'm not here to thank the EPA. I'm  
16 basically here to chastise them. I would like  
17 them to give our community -- our -- our community  
18 back our natural resources. But their oversight  
19 has let the -- the largest natural disaster before  
20 the Gulf oil spill and other situations.

21 My concern is the trust and confidence  
22 in the EPA. The river -- the river dredging

1 information, there's no 3 million cubic yards came  
2 out of that river. That's a combination of dirt  
3 and ash. How much ash is left in that river yet  
4 today? There's an arbitrary figure arrived at by  
5 the EPA. Tell us from zero to how many cubic  
6 yards is left in that river. The quantity dredged  
7 from the river which I said is not complete,  
8 that's because they had three different mapping  
9 systems. Each time it's another lip service  
10 excuse why it's not accurate.

11 In communication or trying to  
12 communicate with EPA officials, Lisa Jackson snuck  
13 in here, had a quick meeting, said she didn't want  
14 to meet with the press, she wanted to meet with us  
15 as residents. After calling her five times and  
16 being told I had to call another number so I could  
17 be put on a list so she would call me back, I  
18 haven't heard from her.

19 Stanley Meiberg never returned a phone  
20 call, three calls. The only one that called me  
21 back was Franklin Hill from the Superfund. Dana  
22 Tulis, whoever she is, transferred or no response.

1 Debbie Dietrich, no response or transferred.

2           You know, it -- it -- it's really  
3 surprising. At your home, you don't put gas next  
4 to your furnace. We're sitting here today, some  
5 are going to go dry ash, we're going to go gypsum,  
6 we're going to put the gypsum next to the Clinch  
7 River. That's like putting gas next to a fire.  
8 They've already had a leak they call a storm water  
9 retention pond. They learned that they must line  
10 it after it leaked.

11           It gets a little disappointing. I'm  
12 living in that valley of the spill. It's Russian  
13 roulette leaving my neighborhood every day. The  
14 errors are so numerous, if I tried to repeat how  
15 many things have been so poorly handled by the  
16 EPA, it would be shocking to you people, the  
17 newspapers articles that EPA doesn't regulate the  
18 stuff properly.

19           The different examples across the United  
20 States of EPA results is an absolute tragedy for  
21 the people we pay to do the job for us. I don't  
22 have the expertise. I have no business

1 relationship whatsoever. I'm just a citizen that  
2 wants my community back. Thank you.

3 (Applause)

4 MR. DELLINGER: 252.

5 MR. LAUDEMAN: I'm Paul Laudeman. I  
6 live here in Knoxville.

7 The billions of tons of ash that spilled  
8 and now goes in landfills is not being recycled.  
9 It poses a huge environmental and economic danger.  
10 The spill in Roane County destroyed tourism jobs.

11 This economic damage is personal to me.  
12 I grew up swimming, boating and hiking in Roane  
13 County, and I will not do any of these things  
14 until the -- the dust from this spill settles. In  
15 Knoxville, the University of Tennessee heats its  
16 buildings with a coal-fired plant. The ash is  
17 thrown in the dumpster with the garbage. It is  
18 not recycled.

19 If profit and money were the highest  
20 good to Anderson County where I grew up in the  
21 shadow of the dangerous Bull Run steam plant,  
22 Roane County, Perry County and other sites of coal

1 plants and ash ponds would all be economically  
2 stable. They are not. The longstanding failure  
3 of industry and government to safely deal with  
4 this ash requires decisive action by the EPA to  
5 prevent further damages.

6 The proposed Title C is a start, but it  
7 is inadequate because it does not require rapid  
8 closure of dangerous ash ponds such as the one in  
9 Roane County. It does not require timely  
10 investigation of all toxic coal ash dumps. Title  
11 C does not require clean-up of all contaminated  
12 coal ash sites. It does not require polluters to  
13 ensure the healthy air and water of communities  
14 such as Roane County near coal ash ponds.

15 I ask the EPA to regulate coal ash more  
16 strongly than Title C and require more oversight.  
17 Thank you.

18 (Applause)

19 MR. DELLINGER: We -- we had called  
20 Numbers 32 and 33 to come forward. Have they? 32  
21 and 33, are they in the room?

22 MR. HOFFMAN: Are they coming up right

1 now?

2 MR. DELLINGER: Okay. You can start --

3 MR. HOFFMAN: Okay. Thank you.

4 MR. DELLINGER: -- and -- so we don't  
5 lose any more time.

6 MS. LEAGUE: Okay. Thank you. My name  
7 is Ann League. I represent Statewide Organizing  
8 for Community Empowerment, a 2500 member statewide  
9 organization in Tennessee. I also represent the  
10 Alliance for Appalachia, which has approximately  
11 14,000 members across central Appalachia.

12 And I would like to thank the EPA for  
13 finally coming to Knoxville and having a public  
14 hearing on the coal ash. I also want to say that  
15 three minutes is not a long time to discuss an  
16 issue that can have an impact on people and  
17 communities for a lifetime.

18 I would like to ask that the EPA  
19 remember Executive Order 12898 from 1984,  
20 President Clinton, that to take the environmental  
21 justice concerns into all accounts and to all of  
22 the EPA's considerations. I would also to say --

1       like to say that this is about people and  
2       communities. It's about protecting families from  
3       the present and future impacts of a material that  
4       is composed of toxic heavy metals and that sound  
5       science has said these heavy metals are very  
6       dangerous when they accumulate.

7                 I'd also like to address some of the  
8       things that industry has said and to let -- ask  
9       people to remember what the lead paint industry  
10      said when we were -- they were trying to take lead  
11      paint off the market. They said the paint  
12      industry was going to die. But I'd like to say  
13      now that the paint industry is one of the fourth  
14      bearers going on and getting sustainable  
15      emission-free products, and the paint industry is  
16      going strong.

17                I'll make it very quick. I would like  
18      you to choose Subtitle C, but please, it needs to  
19      be made stronger. And please take people,  
20      families and communities into account. This is an  
21      environmental justice issue. And please take the  
22      sound science into account. Thank you.



1 (Applause)

2 MR. DELLINGER: Number 32.

3 MS. GEPPI: Hi. My name is Erica Geppi,  
4 and I'm regional conservation organizer for the  
5 Sierra Club.

6 As a native east Tennessean, I would  
7 like to thank the EPA for adding this eighth and  
8 final hearing here in Knoxville, Tennessee. It  
9 seems only fitting that we stand here today  
10 discussing the need for stronger regulations that  
11 will protect our communities from the impacts of  
12 toxic coal ash in a town just miles away from  
13 ground zero for coal ash, the site of the 2008 TVA  
14 coal ash spill in Roane County.

15 After seeing close family, friends have  
16 their homes destroyed, their health threatened,  
17 and their lives changed forever, coal ash became  
18 an issue on the forefront of everyone's minds in  
19 this region and across the country. While the  
20 Harriman community affected by the catastrophic  
21 spill will never be the same, we can look ahead to  
22 the future to ensure that safeguards and

1 regulations are put in place to address the  
2 threats that toxic coal ash pose all around the  
3 country. If the BP oil disaster and the Tennessee  
4 coal ash tragedy have taught us anything, it is  
5 that we cannot just take the polluter's word for  
6 it anymore.

7           At the seven previous hearings, and  
8 undoubtedly throughout the day today, you will  
9 hear comments from various industry  
10 representatives and lobbyists that will speak to  
11 the stigmas created by designating coal ash as a  
12 hazardous or special waste and how it might hurt  
13 their bottom line. I strongly urge you to have  
14 the courage to do the right thing by regulating  
15 coal ash based on what it truly is, a hazardous  
16 waste. In a state with over 17 unlined ponds and  
17 over 3.8 million -- million tons of coal ash  
18 generated each year, it is of particular interest  
19 that strong regulations are put in place to  
20 regulate coal ash from cradle to grave.

21           On behalf of the over 1.2 million  
22 members and supporters of the Sierra Club, we

1 realize that coal ash is an issue that impacts us  
2 all. The public hearings and public comment  
3 period on these proposed regulations have allowed  
4 hundreds of thousands of people across the country  
5 to make their voices heard on this pivotal issue.

6 On behalf of the Sierra Club and over  
7 6,000 concerned citizens, I would like to present  
8 the EPA with these boxes of over 6,000 public  
9 comments in support of Subtitle C, Subtitle C to  
10 regulate coal ash as a hazardous toxic waste, and  
11 please protect our communities from the threats  
12 that it presents. Thank you so much.

13 (Applause)

14 MS. MOSELEY: My name is Lyndsay  
15 Moseley, and I am also speaking on behalf of the  
16 1.2 million members and supporters of Sierra Club.  
17 I also speak as a native Tennessean who grew up  
18 not far from the community devastated by coal ash  
19 in December 2008.

20 Coal ash disposal sites across the  
21 country pose a clear and increasing threat to  
22 communities around them. The risk of cancer from

1       arsenic alone, which is only one of the many heavy  
2       metals in coal ash, can be as high as 1 in 50 for  
3       people living near an unlined coal ash pond. We  
4       join with citizens from more than 30 states who  
5       have traveled to public hearings to urge you to  
6       adopt Subtitle C safeguards. We also urge you to  
7       resist pressure to weaken the rule any further.

8                You've heard concerns from coal ash  
9       recyclers worried that a hazardous designation  
10       would create a stigma on their products. These  
11       continuing claims are actually puzzling to me,  
12       because they deny or are ignorant of steps that  
13       EPA has already taken to protect coal ash  
14       recycling.

15               Before the rule was even proposed, EPA  
16       eliminated the option to designate coal ash as a  
17       hazardous waste and instead created a Subtitle C  
18       special waste designation. More importantly, all  
19       of the options in the proposed rule exempt coal  
20       ash from regulation when it is recycled in  
21       encapsulated uses like concrete, drywall, et  
22       cetera. What more could they want? And if their

1 products are safe, what are they afraid of?

2           Sierra Club is not opposed to safe and  
3 legitimate coal ash recycling when there's  
4 scientific evidence to prove such practices are  
5 safe, but it is critically important that EPA keep  
6 in mind the vast majority of the 140 million tons  
7 of coal ash generated every year don't end up as a  
8 replacement for Portland cement in concrete or in  
9 bricks or roofing materials, but as a dangerous  
10 threat to drinking water because of lax state  
11 regulations across the country that allow coal ash  
12 to be dumped or reused carelessly in communities.  
13 This must end.

14           Sierra Club supports EPA -- the EPA  
15 proposal to permanently phase out wet storage  
16 impoundments, to require groundwater monitoring at  
17 all landfills -- existing landfills so that  
18 communities can be confident that they're not  
19 exposed to heavy metals in their water. We  
20 support federally-enforceable safeguards at every  
21 new site. Safeguards like composite liners to  
22 prevent coal ash contamination in the first place,

1 leachate collection systems to capture toxic  
2 runoff, groundwater monitoring to detect problems  
3 early, and financial assurance to ensure polluters  
4 clean up in the case of accidents.

5 We urge you to adopt these safeguards,  
6 we urge you to hold polluters accountable and  
7 protect people living near coal ash disposal  
8 sites. This will take courage and leadership and  
9 commitment to the people. Please don't let the  
10 people down. Thank you.

11 (Applause)

12 MR. DELLINGER: Thank you. Can Numbers  
13 37, 46, 48, 49, and 51 come forward? That's 37,  
14 46, 48, 49, and 51.

15 MR. HOFFMAN: 49. That's 49.

16 MR. DELLINGER: All right. Number 49 is  
17 speaking now.

18 MR. HOFFMAN: Okay.

19 MR. ENGLAND: Thank you for this  
20 opportunity to address the EPA. My name is Gary  
21 England. I'm a concerned citizen and a utility  
22 rate payer.

1           I would like to address a couple of  
2 issues that have been presented and discussed in  
3 public hearings prior to this. The first is  
4 whether or not coal ash can even be considered a  
5 hazardous waste and be regulated as such. Since  
6 the Kingston accident, coal ash is continually  
7 referred to as a toxic waste.

8           The metals that are consistently  
9 referred to that many feel make coal ash toxic are  
10 also present in most everyday products that we all  
11 use. We have arsenic in treated lumber. Mercury  
12 is in lightbulbs and in fillings in our teeth.  
13 Selenium is in a multivitamin that most of us  
14 probably took this morning.

15           Under the toxicity characteristic  
16 leaching procedure, or more commonly referred to  
17 as the TCLP test, which is the standard tests that  
18 EPA uses to determine whether a substance is toxic  
19 or not, coal ash does not meet that toxic material  
20 classification. EPA does not claim that coal ash  
21 is tox -- qualifies as a hazardous waste based  
22 upon its toxicity. Their justification for a

1 hazardous waste regulatory approach is based upon  
2 damage cases related to failed disposal  
3 impoundments, not on the toxic nature of the  
4 material.

5           There have been other catastrophic  
6 failures in releases of material that have  
7 resulted in much greater damage and death than  
8 those experienced at Kingston, but the EPA never  
9 considered to labeling material released as  
10 hazardous based upon damage claims. In 1976, the  
11 Teton Dam failed and killed 11 and damaged most of  
12 the town of Rexburg -- Rexburg, Idaho. The water  
13 that -- that was behind the dam was never  
14 considered hazardous.

15           In 1919, a storage tank containing 2.3  
16 million tons of molasses ruptured in Boston. It  
17 claimed 21 lives and destroyed an entire portion  
18 of lower Boston. The EPA never considered making  
19 molasses a hazardous waste. These are extreme  
20 illustrations, and I don't want to in any way  
21 discount or minimize the impact of the Kingston ac  
22 -- Kingston accident. My point is: Let's address



1 the disposal standards, not the material.

2 In 2008, the industry recycled over 10  
3 million tons of coal ash, reducing over 10 million  
4 tons of CO2, saving almost 160 trillion BTUs of  
5 energy, and generating over \$7 billion in economic  
6 benefit. If coal ash is classified as a hazardous  
7 waste, these benefits will be lost.

8 The unified school district of Los  
9 Angeles has already removed coal ash from many of  
10 their projects. A major block manufacturer is  
11 advertising their block as 100% free of coal ash.  
12 The stigma is real, and a hazardous classification  
13 will stop most of the beneficial use of coal ash.

14 So there's no question that we need to  
15 protect --

16 MR. HOFFMAN: Excuse me. Your time --  
17 your time is up. I'm sorry.

18 MR. ENGLAND: Thank you.

19 (Applause)

20 MR. HOFFMAN: 46.

21 MR. DELLINGER: This is Number 46?

22 MR. HOFFMAN: Yes. One -- one moment.

1                   MR. COMPTON: My name is Randy Compton,  
2                   and I'm a resident of -- a lifelong resident of  
3                   Knoxville, Tennessee, and I've been in the CCR  
4                   management and marketing for over 30 years. I'm  
5                   currently the vice president of Charah, a  
6                   Louisville-based company.

7                   It is my honest opinion both as a  
8                   concerned citizen, as an informed material  
9                   marketer that regulation of CCRs as hazardous  
10                  would cause great harm to the years of progress  
11                  made in one of the most successful recycling  
12                  programs in the world. The term "special waste"  
13                  will carry a stigma impact to the construction  
14                  industry that will be impossible to overcome. And  
15                  I live with that every day. Ever since this came  
16                  out, I've had customers that used to be big  
17                  supporters and big users of coal combustion  
18                  byproducts are no using because of the threat of  
19                  lawsuits with the word "hazardous" attached to it.

20                  When the EPA came in and took over the  
21                  clean-up at Kingston, which is physically a  
22                  catastrophic event no doubt, that's when the word

1 started getting synonymous when -- when coal ash  
2 was used, it was "toxic" and "hazardous" were the  
3 two words that followed it, right behind it, every  
4 letter I've -- every article that I've ever seen.

5 The EPA position that if they -- if they  
6 make it punitive enough to the utilities or cost  
7 them enough, they'll find a way to get away with  
8 or get rid of the coal ash in some form, shape, or  
9 fashion by recycling. It's flawed. That won't  
10 work. That is truly not what the market's going  
11 to do. It will not be accepted.

12 There's no good reason to risk  
13 destroying this recycling, as I said before,  
14 because the EPA's own proposed rules acknowledge  
15 that the landfill standards between C and D are  
16 basically the same. The Portland cement industry,  
17 the American concrete industry have both embraced  
18 and used and recognized the use of CCRs in  
19 concrete as it makes their product less permeable,  
20 more dense, less heat of hydration, and requires  
21 less water to make stronger products.

22 The Tennessee DOT supports the use of

1 fly ash in all the concrete, all the concrete here  
2 and the James White area and all that all had fly  
3 ash in that particular concrete. If CCRs are  
4 labeled hazardous or special waste, we risk losing  
5 the environmental impacts and environmental  
6 benefits that come from recycling millions of tons  
7 of this material and driving up costs of  
8 construction, the costs to the utility industry,  
9 and ultimately, the rate payers. Not to mention  
10 the millions of tons of greenhouse gases that will  
11 be generated by virgin products to replace the  
12 loss of CCPs to market.

13 EPA can -- EPA can enact new regulations  
14 while encouraging the safe recycling of CCRs as a  
15 preferred alternative to disposal. Do not use the  
16 C with a special waste because that stigma will  
17 basically kill the recycling business. Thank you.

18 MR. DELLINGER: Thank you.

19 (Applause)

20 MR. DELLINGER: 51.

21 MR. NUNN: My name is Burt Nunn. I've  
22 worked for the SEFA Group since 1991. The SEFA

1 Group is a small, family-owned and operated  
2 business with 154 employees. We're located in the  
3 Carolinas, and we operate throughout the southeast  
4 and mid Atlantic states.

5 Managing and marketing coal combustion  
6 products is our only business. We market over a  
7 million tons of environmentally-friendly fly ash  
8 which are recycled into concrete products and  
9 structures each year. I've worked in and around  
10 fly ash for nearly 20 years, and in that time, our  
11 company has recycled literally -- literally  
12 millions of tons of coal ash. And I have never  
13 witnessed, nor heard of anyone claiming to have  
14 gotten sick nor suffered any negative effects as a  
15 -- as a result of exposure to fly ash.

16 Fly ash has been recognized by the U.S.  
17 EPA, the U.S. Green Building Council, and LEEDS,  
18 the internationally recognized Green Building  
19 certification system, as a beneficial  
20 post-industrial recycled environmentally-friendly  
21 green product. So it strikes me as odd that fly  
22 ash would be considered to be classified under

1       Subtitle C as hazardous waste for the sole purpose  
2       of giving the federal government control over  
3       regulating the disposal of the material.

4                 Our industry is  
5       environmentally-friendly, and while some  
6       environmental extremists seem to be in favor of  
7       this Subtitle C designation, they fail to realize  
8       that if fly ash is designated as hazardous, we'll  
9       be creating an environmental problem, not  
10      eliminating one. The millions of tons of coal  
11      combustion products that are currently being  
12      recycled and used beneficially in concrete  
13      products will be redirected to landfills and  
14      storage sites that are already overstressed.

15                Most of the concrete produced will not  
16      have fly ash as a constituent if the material is  
17      designated as hazardous for disposal, even if the  
18      EPA says that beneficial use is exempt from that  
19      designation. Concrete producers say that the  
20      potential for lawsuits and negative press is not  
21      worth the risk of using fly ash in their products.  
22      Their legal counsel and insurance company have

1 already advised against using fly ash because of  
2 the negative stigma and potential for litigation.

3 I urge you to please consider the  
4 science behind the material. By the EPA's own  
5 definition, fly ash is not hazardous. In fact,  
6 the trace amounts of heavy metals found in fly ash  
7 are not dissimilar from what we find in our own  
8 backyards and -- and waterways naturally.

9 In summary -- in summary, fly ash is not  
10 hazardous; and therefore, the disposal of fly ash  
11 should not be regulated under Subtitle C. Listing  
12 and regulated fly ash under Subtitle C will create  
13 a tremendous reduction in the volume of fly ash  
14 and -- that is beneficially used and redirect  
15 millions of tons to landfills instead of away from  
16 overstressed landfills.

17 I implore the EPA to implement an  
18 alternative to Subtitle C if it deems Subtitle D

19 --

20 MR. HOFFMAN: Excuse me. Your time is  
21 up.

22 MR. NUNN: -- to be inadequate.

1 MR. DELLINGER: Thank you.

2 (Applause)

3 MR. DELLINGER: Is there anybody in the  
4 audience with a number between 37 and 42?

5 MR. LANDON: Yes.

6 MR. DELLINGER: All right. Come  
7 forward, please.

8 MR. HOFFMAN: This is 37.

9 MR. DELLINGER: 37 to 42.

10 MR. LANDON: Yes. My name is Matt  
11 Landon, and I'm a volunteer with the United  
12 Mountain Defense based here in Knoxville,  
13 Tennessee. I was one of the first responders that  
14 showed up at the TVA coal ash disaster on December  
15 22nd of 2008.

16 You know, there's a lot of people  
17 talking in here about beneficial use and recycling  
18 and stuff. That's all money. But, you know, the  
19 thing that nobody's -- that very few people are  
20 acknowledging are the people that are directly  
21 impacted, the people that are stuck down there in  
22 Roane County and stuck down there in Perry County



1 and across all -- around all these coal fly ash  
2 dumps around the entire country.

3 Coal fly ash is toxic based on the heavy  
4 metals and various constituents, the silica and  
5 the particle size. And I'm going to ask that the  
6 EPA at least go with Subtitle C, and if not, go  
7 with Subtitle C prime.

8 Also, a lot of folks have been talking  
9 about the -- the Oak Ridge Associated University  
10 study, health study, the long-term health study  
11 that showed that there's not going to be any  
12 long-term health impacts from this coal fly ash.  
13 And I would say that this study is completely  
14 flawed and it's based on falsely -- you know,  
15 falsely scientific -- scientifically manipulated  
16 data and collection tactics.

17 On January 3rd of 2009, there was a  
18 public meeting where 220 residents of Roane County  
19 and Swan Pond area specifically attended. 100% of  
20 those residents had emotional stress from this  
21 disaster. 100%. Roughly, 60% of those people had  
22 respiratory issues. The reason -- one of the

1 reasons that the study is flawed is because many  
2 of the directly affected people didn't actually  
3 participate in the study, so you had a lot of  
4 people that either moved out of the area or, you  
5 know, did not participate because of fears for,  
6 you know, retribution and stuff like that.

7 I'd also like to say that worker safety  
8 has been a major problem that's occurring at the  
9 TVA disaster site, according to TVA's own MSDS  
10 sheet that, you know, you should be wearing  
11 respirators during a spill. And, you know, the  
12 fact that nobody is wearing respirators down there  
13 is pretty ridiculous.

14 Also, safety precautions that are being  
15 taken in Kingston by -- and being enforced by the  
16 EPA are not being enforced down at -- down in  
17 Alabama. And this is definitely a problem. I  
18 would like to definitely say shame on the EPA for  
19 telling the folks of Perry County that coal fly  
20 ash was safe, and I'd like to call for an  
21 investigation into the actions of the EPA in  
22 Alabama.

1           Also, the person that had the bag of  
2 coal fly ash and dipped their finger in it, well,  
3 here's a real test for you. Open that bag up, put  
4 your face in there, take a real deep breath, and  
5 just think, that's what the folks in, you know,  
6 Roane County and Perry County are having to do.

7           MR. HOFFMAN: I'm sorry. Your time is  
8 up.

9                           (Applause)

10          MR. HOFFMAN: This is 38.

11          MR. ROBINSON: I'm Jason Robinson, and  
12 I'm a graduate student at the University of  
13 Tennessee.

14                 I'd like to urge EPA to adopt C prime  
15 and take a position of scientific skepticism.  
16 There's been a lot of industry claims here today  
17 and all across the board about the innocuous  
18 properties of fly ash. And I'd just say that we  
19 really don't know that much about fly ash in order  
20 to say this sort of thing.

21                 We know that the constituent elements,  
22 that we can find heavy -- heavy metals, the

1 silica, we know those things have health issues  
2 for folks. We don't know that they are. There's  
3 been -- we just -- I'm urging that we study this  
4 more carefully.

5           And in the meantime, in the interim  
6 while we're trying to find out whether or not  
7 there are these health issues, whether they're  
8 human health or ecological health, that we treat  
9 this thing as if it were a hazardous waste. That  
10 may cause some industries to have to readjust  
11 their relationships with insurance and litigation.  
12 That's fine. That happens all the time. We can  
13 even look at that as job creation if you want to.  
14 But what we don't need to do is spread this  
15 problem out to low impact -- to poor communities,  
16 to places like Kingston.

17           In my own neighborhoods where I grew up  
18 there's a coal ash pond, and the people there have  
19 complained for years about the team fears blowing  
20 over onto their property from there. And I  
21 realize that, you know, this is a big mess. We  
22 don't know what happens when we burn coal.

1           TVA is moving away from coal. So it  
2 could see at some point in the future we are going  
3 to have a bunch of landfills that are inactive.  
4 Why not make them inactive now? Study this. Stop  
5 giving handouts to -- in the name of recycling.

6           Well, maybe it is -- maybe you guys are  
7 right. Maybe this recycling thing is a good deal.  
8 It's saving money. We should study that a little  
9 more carefully than just across the board saying  
10 it's innocuous waste. And I'd like to --  
11 solidarity for Kingston. Thank you.

12                           (Applause)

13           MR. DELLINGER: Thank you.

14           MR. HOFFMAN: 41.

15           MR. DELLINGER: 41.

16           MR. WILSON: My name is William Wilson.  
17 I'm not getting paid to do this. I'm just  
18 concerned.

19           I'm just going to jump right into this.  
20 The state of Tennessee has no effective  
21 regulations in place to protect our communities  
22 from the danger of coal ash. And the evidence is

1       seen in the Kingston coal ash disaster. It's  
2       documented that Tennessee has no laws designed  
3       specifically to address the dangers of coal ash.  
4       Because of this lack of state regulation,  
5       obviously, Subtitle D is not acceptable.

6               In fact, Subtitle C in its current form  
7       is not strong enough to deal with the dangers of  
8       coal ash. Subtitle C does not require rapid  
9       closure of dangerous ash ponds; it does not  
10      require a timely investigation of all toxic coal  
11      ash dumps; it does not require immediate clean up  
12      of all contaminated coal ash sites, despite the  
13      threat to health and the environment from toxic  
14      waste; and Subtitle C does not require polluters  
15      to ensure the healthy air and water of communities  
16      near dumps or fill sites.

17             I demand that the EPA does its job to  
18      protect the health of Americans and take swift  
19      and decisive action before we see another Kingston  
20      disaster. Therefore, I demand the EPA to require  
21      under Subtitle C without delay that polluters:  
22      Immediately shut down all coal ash ponds and

1 unlined landfills; immediately investigate all  
2 coal ash dump sites; immediately clean up all  
3 sites contaminated by coal ash when contamination  
4 is discovered; immediately determine the nature  
5 and extent of exposure of human populations to the  
6 toxic materials in coal ash, including instituting  
7 medical monitoring when the contamination is  
8 discovered; immediately provide safe drinking  
9 water to all impacted communities when  
10 contamination threatens water supplies;  
11 immediately identify all past coal ash dump sites  
12 and fill sites and investigate these sites for  
13 contamination; immediately commence monitoring at  
14 all former and operating coal ash disposal sites  
15 and fill sites; and publicly disclose all  
16 monitoring data; install composite liners for all  
17 expanded and new landfills; eliminate fugitive  
18 dust by immediately employing daily cover for all  
19 coal ash landfills; immediately comply with  
20 hazardous material transportation requirements for  
21 all shipments; immediately cease use of coal ash  
22 as fill; test fly ash, bottom ash, slag, bottom

1 ash, FGD sludge using EPA's new leach test.

2 And finally, regarding the beneficial  
3 use part of the Subtitle C, there should be a  
4 comprehensive investigation of how coal ash is  
5 being reused. People can say it's safe all day  
6 long, but we do not know the potential long-term  
7 effects of leaching from wallboard and concrete,  
8 bricks. These uses that are environmentally  
9 benign should continue. Those that pose a threat  
10 should be reviewed to determine any and all  
11 potential risks to our health.

12 And I'm going to just tell people if  
13 anybody is looking for more information from the  
14 other side, you can go up to the Andrew Jackson  
15 Room on the first floor. The Citizens for  
16 Responsible Coal Ash Regulation have some  
17 information up there. And that's it.

18 (Applause)

19 MR. DELLINGER: This is Number 40.

20 MS. MCCOIN: I'm not a professional  
21 speaker at all. I'm a little nervous, so please  
22 forgive me for that. My name is Sarah McCain. I



1 am probably one of two people in this room that  
2 might have been here even as of this morning that  
3 actually resides in Harriman, Tennessee  
4 approximately -- I live approximately one and a  
5 half miles from the disaster zone. I am from the  
6 Kingston fossil plant.

7 I am a ninth generation living on the  
8 farm. Interesting enough, I just moved here back  
9 home, June of 2008, just a few months before the  
10 coal ash spill. And where I moved from is near  
11 Labadie, Missouri. And I'd like to address both  
12 of those issues this morning.

13 Before I do so, I would like to hand you  
14 all this committee report from Roane County.  
15 Before we found out that there was going to be an  
16 EPA hearing, we had our own hearing.

17 (Applause)

18 MS. MCCOIN: So let me get started  
19 because I need to talk fast. Household garbage is  
20 not classification coal ash. It's different. And  
21 I challenge any of you that have household garbage  
22 in your home, would you like for that to be coal

1 ash? Bet not.

2 On the evening on December 22nd, our  
3 lives changed forever. Basically, the periodic  
4 table was dumped into our rivers unexpectedly.  
5 And let me preface all of this by saying that I am  
6 not an environmentalist extremist. In fact, I'm  
7 embarrassed to say that I didn't even recycle  
8 before this happened.

9 My property, my family's property, my  
10 relatives, over 800 acres of property around my  
11 home has been purchased by TVA as a result of the  
12 TVA ash spill. There are some of us that still  
13 remain. It washed six miles upstream to my  
14 backyard along the Emory River. Six miles. And  
15 there was denial that it was there until this past  
16 summer when they finally dredged nearly a year and  
17 a half later.

18 We were told it was a mudslide and it  
19 would take, by Tom Kilgore's words, six to eight  
20 weeks to clean it up. We are going on year number  
21 two. 300 acres of our water has been -- riverways  
22 has been filled with what looks like a moonscape.

1 Tons and tons of coal ash.

2           Where did the lakes go? Where did the  
3 wildlife go? Where did the birds go? Where did  
4 the people go? They're gone. Why? No one wants  
5 to live around this type of household garbage  
6 classified D.

7           Now, my prior home near Labadie,  
8 Missouri where I lived for years, I just have  
9 recently learned -- it's along the Missouri River,  
10 it floods constantly, and actually the Ameren UE  
11 plant is in the flood zone. We get our corn, our  
12 wheat. Nobody lives there because it's in the  
13 flood plain. But now Ameren UE would like to  
14 build a hundred foot retaining wall to hold their  
15 coal ash.

16           And it also sits on the New Madrid  
17 fault. So, no matter how strong you build the  
18 thing --

19           MR. HOFFMAN: Ma'am, I'm sorry. Your  
20 time is up.

21           MS. MCCOIN: Thank you.

22                           (Applause)

1                   MS. MCCOIN: Without protection thru  
2                   classification of Coal Ash as "Level C," Labadie,  
3                   Missouri, the Missouri River, the farm lands,  
4                   wildlife, humans will soon be exposed to exactly  
5                   what we in my community have experienced... the  
6                   "oh, it will never be harmful or damaging."

7                   Would you like to live next to me?  
8                   Would you like to live by my friends in Missouri  
9                   or anyplace else who has experienced Class D  
10                  household garbage at its finest?

11                  Please classify Coal Ash as a hazardous  
12                  material to protect your/our environment.

13                  We have only one earth, we have only one  
14                  life, let us leave our environment in a better  
15                  state for our children for our environmental  
16                  future. Thank you.

17                  MR. DELLINGER: Let's -- let's try  
18                  Numbers 42 through 45. Anybody here with Numbers  
19                  42 through 45?

20                  MR. HOFFMAN: Okay. This is Number 45  
21                  about to speak. Go ahead.

22                  MR. STORMS: Thank you for allowing me

1 to come and speak today. My name is Carl Storms.  
2 I'm with Concrete Materials in Morristown,  
3 Tennessee.

4 I've listened to some of these speakers  
5 this morning already. The problem in Kingston is  
6 a problem of storage and disposal. It had nothing  
7 to do with it being hazardous. The concrete  
8 industry and the recycling industry has plenty of  
9 uses for fly ash.

10 My company uses fly ash every day. It  
11 improves the quality of our concrete, makes it  
12 stronger, more durable. Without fly ash, the  
13 price of the concrete we rise at least 10%, if not  
14 more. We need to make sure that the industry can  
15 continue to use fly ash, and declaring it a  
16 hazardous material would almost eliminate that  
17 possibility because the increased cost would make  
18 it uneconomical.

19 We do need to address the fact that ash  
20 needs to be kept safe as it is being stored. It  
21 needs to be disposed of properly. I will not  
22 argue with that. But we do need to recycle it.

1 We need to reuse it so that there is not as much  
2 to be stored and disposed of.

3 Fly ash is one of the materials that is  
4 used in bricks now to make bricks. There are many  
5 other products being research to use the fly ash.  
6 Some day I hope that we do eliminate fly ash  
7 totally by going to some other form of energy, but  
8 that day is a long way off. And until that time,  
9 we need to reuse as much of the ash as we possibly  
10 can. And classifying it a hazardous material  
11 would not help that, it would hurt that effort and  
12 only cause there to be more ash to be stored and  
13 disposed of. Thank you very much.

14 MR. DELLINGER: Thank you.

15 (Applause)

16 MR. HOFFMAN: 44.

17 MR. GRAY: Good morning. My name is  
18 Danny Gray. I'm executive vice president of  
19 Charah, Incorporated.

20 And my comments are based on over three  
21 decades of experience in the compliance, recycling  
22 and management of coal combustion residues. My

1        comments today are directed at a crucial base  
2        assumption that EPA made in calculating the  
3        perceived impacts for implementing Subtitle C  
4        program as opposed to the more logical Subtitle D  
5        approach.

6                    I believe that the base assumption in  
7        the regulatory impact analysis, RIA, is incorrect  
8        and contrary to what actual experience has been in  
9        the marketplace. Specifically, when EPA prepares  
10       -- the EPA did prepare multiple analysis on the  
11       regulation impacts on recycling. It states that  
12       -- that, based on its past experience, it is  
13       likely that the recycling rates will increase  
14       under a C approach. Apparently, the assumption is  
15       that Subtitle C will drive up disposal costs which  
16       will induce utilities to take steps to increase  
17       utilization.

18                    Of the total benefits that EPA  
19        calculates, 83 to 97% of the -- of calculated  
20        benefits are attributable to one basic false  
21        assumption in our opinion, that recycling will  
22        increase as disposal costs increase. Our

1       experience is different in contrary. We know that  
2       there are technical limitations on util --  
3       utilities to drive utilization of coal combustion  
4       byproducts regardless of what the disposal costs  
5       are.

6               The mere association with hazardous  
7       terminology in consumer products -- products is  
8       problematic and invalidates this base assumption.  
9       We have already seen the negative impacts of the  
10      association of a C option. Currently, there are  
11      many companies in the industry that are removing  
12      coal ash from their product manufacturing process  
13      just because of the public debate and the  
14      potential ruling.

15              Other companies are aggressively  
16      marketing competing products while using the  
17      reference to hazardous or toxic as a sales tactic  
18      to scare users of CCRs. Ironically, many of the  
19      competing products that are replacing coal  
20      combustion products actually cause harm to the  
21      environment through their manufacturing processes.  
22      To assure that recycling of CCRs will increase as



1 a result of Subtitle C is simply not consistent  
2 with our experience since December 2008.

3 Our company has, along with others, CCP  
4 recycling industry have invested substantial  
5 capital and expanding the use. If -- if the CCRs  
6 are regulated under a Subtitle C approach, our  
7 efforts, our recycling programs will be harmed.

8 We support the EPA's effort -- efforts  
9 to strengthen the -- the management regulations,  
10 but we support it under a Subtitle D only  
11 approach. Thank you.

12 (Applause)

13 MR. DELLINGER: Could Numbers 52, 55,  
14 56, 57, and 58 move forward? And 47 can come  
15 forward, too.

16 MR. HOFFMAN: This is 47 speaking.

17 MR. BISHOP: Hello. First of all, I'd  
18 like to thank you for the time today to convey my  
19 position on proposed subtitle change for coal ash.  
20 For the record, my name is Shane Bishop. I've  
21 worked for Quality Assurance at Headwaters  
22 Resources for over eight years.

1           I would like to use this time to discuss  
2           the inescapably negative impression the beneficial  
3           use of fly ash will be consumed by if Title -- if  
4           Subtitle C is adopted. Fly ash has been reviewed  
5           for Subtitle C designation and found non-hazardous  
6           many times before. In cases, naturally-occurring  
7           top soils aren't even as safe as fly ash is. With  
8           this recent move by the EPA to change to Subtitle  
9           C, numerous technical bodies such as the American  
10          Association of State Highway and Transportation  
11          officials, National Ready Mix Concrete  
12          Association, the American Society for Testing and  
13          Materials, the American Concrete Institute, and  
14          the Portland Cement Association have confirmed the  
15          hazardous designation is neither warranted or  
16          needed.

17                 The EPA and the states have consistently  
18          recognized that regulating coal combustion  
19          products as a hazardous waste under Subtitle C  
20          would have an adverse impact to the beneficial  
21          use. Such a result would not be consistent with  
22          the RCRA's directive that EPA considers such

1 beneficial uses in evaluating CCP regulatory  
2 options. The regulation of CCRs under RCRA  
3 Subtitle D would not adversely impact CCP  
4 beneficial use, while at the same time it would  
5 allow for the development of federal regulations  
6 that would ensure that CCRs are managed in a  
7 manner protective of human health and environment.

8           Additionally, we now live in a litigious  
9 society that would seize every opportunity to  
10 initiate an in -- insurmountable amount for  
11 lawsuits, the cost defending nugatory lawsuits and  
12 the increased riddance cost passed directly to the  
13 consumers of power utilities, which will be you  
14 and I. With the threats of lawsuits, utility  
15 companies will have no further alternative but to  
16 completely halt the beneficial use of all fly ash.  
17 This will increase the need for larger amounts of  
18 landfill with the amount of fly ash being produced  
19 at 120 million tons per year. That would increase  
20 the hazardous waste directly into the landfill by  
21 250%.

22           I would like to take this opportunity to

1       inspire you to consider the negative impacts on  
2       marketing, technical, financial, and legal  
3       implications for the beneficial use of fly ash.  
4       So, in closing, I urge you to maintain the past  
5       technical findings of CCRs regulation under  
6       Subtitle C is unnecessary, and again, unwarranted.  
7       Thank you for your time and attention.

8               MR. DELLINGER: Thank you.

9                       (Applause)

10              MR. HOFFMAN: 52?

11              SPEAKER: 48.

12              MR. HOFFMAN: 48, you want to take 48  
13       now?

14              MR. DELLINGER: Yes, that would be fine.

15              MR. HOFFMAN: Okay.

16              MR. CARSON: My name is Hartwell Carson.  
17       I'm the French Broad Riverkeeper. I work for the  
18       Western North Carolina Alliance.

19                       And I previously submitted comments  
20       about how toxic coal ash next to the French Broad  
21       River is polluting groundwater, dumping toxic  
22       metals into the French Broad River, and toxic ash

1 is blowing into the neighborhood next to these  
2 ponds. I recently took a sample of that ash from  
3 a person's windowsill that showed that this --  
4 this ash had arsenic at over a hundred times the  
5 safe level provided by the EPA. So we can't say  
6 that this is the same as dirt. It's significantly  
7 higher than the levels of background dirt in our  
8 area.

9           However, that's not what I wanted to  
10 come here to talk to you about today. Many other  
11 people will tell you about the harm that toxic  
12 coal ash is having on our communities and our  
13 environment. I want to address the issue of  
14 stigma, because we've continually heard that over  
15 and over again about the hypothetical impact that  
16 hazardous waste regulation will have on coal ash  
17 recycling. That has been repeated over and over  
18 again, but the only problem with these statements  
19 is that history has shown -- has repeatedly shown  
20 these to be false.

21           EPA has provided us several examples of  
22 where hazardous waste materials have not only

1 decreased when they were regulated as a hazardous  
2 waste, but have actually increased. These include  
3 electroplating waste, furnace dust, used oil, as  
4 well as many others.

5           And for anyone who doubts whether people  
6 will be willing to use a pocket that contains  
7 hazardous waste, you can reach into your pocket or  
8 into your purse and pull out your cell phone,  
9 which contains numerous hazardous metals, as well  
10 as your computer contains similar metals, as well  
11 as a lot of the lightbulbs that are now in our  
12 homes, the compact fluorescent bulbs that contain  
13 mercury. People have shown that they will use  
14 these products if they are safe. If they're not  
15 safe, by all means, it should have a stigma.

16           Does anyone still argue that cigarettes  
17 should not have a stigma attached to them or a  
18 warning label? So we need to understand what  
19 recycling products are safe. Products like  
20 putting in cement seems like a very good idea.  
21 Products like spreading it out on our agricultural  
22 fields might not be a good idea and should have a

1 stigma attached to them.

2 So I've personally taken samples that  
3 showed coal ash is a hazardous waste, and it  
4 should be regulated as such, despite the false  
5 claims that were repeated about a stigma. Thank  
6 you.

7 (Applause)

8 MR. DELLINGER: Thank you.

9 MR. HOFFMAN: 52.

10 MR. RUSS: Hi. My name is Abel Russ,  
11 and I'm an attorney with the Environmental  
12 Integrity Project.

13 And we support Subtitle T -- Subtitle C  
14 for a number of reasons, including gaps in state  
15 regulatory regimes. But I used to be a  
16 toxicologist and a risk assessor, so I'm going to  
17 narrow my comments to that issue.

18 I believe that the risk assessment  
19 that's in the docket and that's in the preamble to  
20 the proposed rule underestimates the risks of coal  
21 ash, specifically groundwater-based risks. And I  
22 think that the benefits in the regulatory impact

1 analysis also underestimate the benefits of -- the  
2 health protective benefits of regulating coal ash.

3 The risk assessment, like all risk  
4 assessments, includes a number of assumptions, and  
5 some of them are health protective. Others are  
6 seriously underestimating the risk. And  
7 specifically, there are combined risks to  
8 exposures of multiple contaminants that were not  
9 accounted for. Although the risk assessment  
10 states, for example, that arsenic is the only  
11 carcinogen in coal ash, there are, in fact,  
12 several constituents that are likely to be  
13 carcinogenic, including cadmium, lead, fluoride,  
14 and chromium, and others that we don't know enough  
15 about.

16 The risk assessment also failed to  
17 account for possible additive or synergistic  
18 non-cancer risks. For example, as noted in the  
19 preamble, cobalt and antimony are both linked to  
20 heart and lung effects and both are among the  
21 constituents of concern in the final full-scale  
22 analysis. There are also at least four



1 neurotoxins present in coal ash, only two of which  
2 are modeled in the full-scale analysis.

3           Although the combined effects of these  
4 neurotoxins, for example, on children's developing  
5 brains could be substantial, these weren't  
6 accounted for in the risk assessment.  
7 Additionally, at the level of individual  
8 chemicals, not all routes of exposure were  
9 accounted for. And this means, for example, the  
10 total arsenic or selenium exposure was not  
11 captured in risk assessment.

12           All of this means that many risks were  
13 unaccounted for, and I'm not saying that the risk  
14 assessment was flawed. I think it was pretty good  
15 given the limited information that we have  
16 available. But it would be a mistake to  
17 characterize it as inherently health protective  
18 when, in fact, it may have seriously  
19 underestimated risks.

20           And all these things are even more true  
21 of the regulatory impact analysis which limited  
22 its analysis to arsenic and the cancer risks of

1       arsenic. Not only did it lack the health  
2       protective assumptions of the risk assessment, it  
3       also neglected, for example, neurotoxicity, the  
4       ecological risk of selenium, and everything other  
5       than the cancer risk of arsenic. And I'll leave  
6       it there. Thanks.

7                   MR. DELLINGER: Thank you.

8                               (Applause)

9                   MR. HOFFMAN: 55.

10                   MR. UNDERWOOD: I'd like to thank the  
11       EPA for giving me an opportunity to speak on an  
12       important topic such as this. My name is Dennie  
13       Underwood.

14                               I am employed by Blalock Ready Mix, a  
15       local concrete producer in the Sevierville area.  
16       We're a part of the Blalock Company, one of the  
17       largest road builders in the state of Tennessee.  
18       We employ upwards to 7- to 800 people during busy  
19       times of the year.

20                               Blalock has provided approximately  
21       225,000 cubic yards annually to the public and  
22       private sectors in our service area. Of those

1 225,000 yards, 85% of it used fly ash as a  
2 supplemental material. Our concern is that if EPA  
3 decides to designate fly ash under Subtitle C of  
4 the Resource Conservation Recovery Act, it will  
5 hinder not -- it will hinder, if not eliminate the  
6 use of fly ash in concrete all together.

7           If fly ash is classified under Subtitle  
8 C, we would be forced to eliminate it from our  
9 concrete production. This would be due to  
10 potential litigation for using a, quote,  
11 "hazardous waste product" in our concrete. The  
12 designers that we use would not design concrete  
13 with fly ash because of their liability that they  
14 would incur if they specify. It also causes us to  
15 reclassify all our drivers if we use fly ash  
16 because they'd be potentially hauling a hazardous  
17 material.

18           If we have to stop using fly ash as a  
19 supplemental product, then our costs would --  
20 would increase by approximately half a million  
21 dollars. This 15 to 20% increase would pass on to  
22 the consumer, further decreasing the demand of our

1 product due to higher costs. The higher cost  
2 would also reduce the available funds for road and  
3 infrastructure maintenance, loss of jobs.

4 The stigma of a hazardous waste would  
5 effectively end the use of fly ash as a  
6 supplemental product in concrete. Better  
7 suggestion would be along the lines of -- of the  
8 Congressional Research Service has proposed a new  
9 Subtitle K, the federal waste law, which would  
10 give the EPA enforcement authority over coal waste  
11 rules without declaring the hazardous waste and to  
12 regulate the use -- reuse of coal ash.

13 Concrete is the most versatile building  
14 product in the world and is one of the best  
15 avenues for recycling fly ash available. And I  
16 challenge anyone in this room today to show me a  
17 building product that can be esthetic, structural,  
18 durable, and if properly placed, last a hundred  
19 plus years while recycling a waste product that,  
20 if classified a hazardous product, would otherwise  
21 have to be stored. Thank you.

22 MR. DELLINGER: Thank you.

1 (Applause)

2 MR. HOFFMAN: It's Number 58.

3 MR. MARTIN: My name is Mark Martin.

4 I'm with Tennessee Riverkeeper. I'm an attorney  
5 for that organization.

6 The problem with coal ash is obviously  
7 that there's just so darn much of it. The -- it  
8 extends from the use of coal. Coal is hazardous  
9 when it's mined environmentally, it's hazardous  
10 when it's burned, and it's hazardous when it's  
11 disposed of. The ultimate solution is to do away  
12 with the use of coal. Obviously, that's not going  
13 to happen right away, so we need to do something  
14 with coal ash in the meantime.

15 There's no question that ash is  
16 hazardous. These poisons should be properly  
17 regulated in a Subchapter C landfill. There  
18 should be composite liners, there should be cradle  
19 -- cradle to grave protection. Beneficial uses  
20 sounds like a good idea. It takes some -- a good  
21 bit of this material out of landfills. It's good  
22 in theory only for encapsulated uses. It

1 shouldn't be used as land -- landfill material.

2 It shouldn't be used to build golf courses.

3 But it -- really the -- its use even in  
4 concrete and drywell hasn't been properly studied.  
5 At least, in a landfill you know where the stuff  
6 is, you know where it's going to be. Now, drywall  
7 and concrete eventually will be in a C and D  
8 landfill. Currently -- that's the current  
9 practice. They're unlined.

10 Now, does the material leach out of  
11 drywall and concrete into the ground, into  
12 groundwater? Are we just taking a problem that we  
13 have today and putting it off on our children and  
14 our grandchildren? We really don't know. The  
15 studies haven't been done. They should be done.  
16 It should have been an ongoing study.

17 So, in sum, we -- we need Subtitle C  
18 protection, and we need scientific studies on  
19 beneficial uses. Thank you.

20 (Applause)

21 MR. DELLINGER: I was told that 56 and  
22 57 had signed in to speak. Are they in the room

1 at this time? 56 and 57? Let's go to Number 256  
2 and 257, 258 and 259. Are they in the room at  
3 this time?

4 Number 50, you can move to the -- you  
5 can move over to those chairs and speak.

6 MR. HOFFMAN: We're starting with 257.

7 MR. STONE: My name is Jamie Stone. I'd  
8 like to talk to you about a part of fly ash that  
9 hasn't gotten a lot of attention but would be  
10 adversely affected if EPA decides to reclassify  
11 coal-fired byproducts as hazardous waste under  
12 Subtitle C, hazardous waste. Cenospheres are  
13 lightweight, inert, hollow spheres comprised  
14 largely of silica and alumina glass. I'll come  
15 back to that statement in a minute.

16 Cenospheres float to the top of ash  
17 disposal ponds where they are collected,  
18 transported and later recycled as lightweight  
19 fillers for various plastics and concrete  
20 applications. I work for a company that has been  
21 actively and aggressively harvesting recycling,  
22 selling cenospheres for the past 38 years. I've

1       been working with cenospheres for 25 of those  
2       years. We've sold cenospheres for use in bowling  
3       balls, various building products, specialty  
4       concretes, automobile brake pads, and many other  
5       applications.

6               Back to my earlier statement.  
7       Cenospheres are lightweight, inert, hollow  
8       spheres comprised largely of silica and alumina  
9       glass. This is from Page 5 from the EPA  
10       publication pertaining to the proposed rule change  
11       titled "Hazardous and Solid Waste Management  
12       Systems; Identification and Listing of Special  
13       Waste; Disposal of Coal Combustion Residuals from  
14       Electric Utilities."

15               Webster's dictionary defines "inert" as  
16       deficient in active properties; lacking a usual or  
17       anticipated chemical or biological action. By  
18       extension, cenospheres are not active.  
19       Cenospheres are lacking anticipated chemical and  
20       biological action. In other words, cenospheres do  
21       not leach out hazardous chemicals. They are not  
22       considered hazardous. No scientific study exists



1       contradicting this fact.

2                   The EPA is now considering reclassifying  
3       cenospheres as an inert substance by EPA's own  
4       definition as a hazardous waste product under  
5       Subtitle C, hazardous waste.  Where is the  
6       objective data supporting this reclassification?

7                   Now for it's -- a comment on CCPs in  
8       general.  In 2008, the U.S. produced more than 136  
9       million tons of coal combustion byproducts, or  
10      CCPs.  The second largest industrial byproduct  
11      string.  60 million tons were utilized into  
12      beneficial use.  If the EPA successfully  
13      reclassifies CCPs under -- under Subtitle C, that  
14      market will essentially dry up.  Where will they  
15      go then?  Hazardous waste landfills?  There's 21  
16      of those categorized as Subtitle C.

17                   The only option would be to either send  
18      it to those existing landfills overtaxing their  
19      capacity or build new landfills.  This is a bad  
20      decision.  Go with the facts.

21                   MR. DELLINGER:  Thank you.

22                                   (Applause)

1 MR. HOFFMAN: 258.

2 MR. CARIBA PHOENIX: How are you?  
3 Members of the EPA, I know that your organization  
4 has a very long and storied history. And given  
5 how all of you have worked with the EPA for a very  
6 long time, you probably know that laws such as  
7 this are not solely about regulation. They are  
8 about the message that these regulations sent.

9 And unfortunately, there was, before  
10 Kingston coal ash spill, a culture of impunity at  
11 most of the coal ash plants in Tennessee run by  
12 TVA and a culture of impunity at Massey Energy.  
13 It was this culture of impunity that led TVA to  
14 knowingly not repair their landfill even though  
15 they had reports that it was being broken or that  
16 it was buckling, and it was this culture of  
17 impunity that allowed TVA to arrest members of the  
18 United Mountain Defense for committing the God  
19 awful crime of walking on public land to make sure  
20 that water was actually clean.

21 Now, if you were to change this to  
22 Subtitle C, I'd say you would send a very

1 different message saying, no, coal ash is toxic.  
2 Yes, you have a responsibility to clean it up.  
3 And yes, you have a responsibility to make sure  
4 that harm does not come to people in affected  
5 communities. Subtitle D would not send that  
6 message because it would basically not declare  
7 coal ash any toxic.

8           And in response to the previous speaker,  
9 there is a report published by the Sierra Club and  
10 Mountain Justice called "In Harm's Way," and that  
11 report spelled out very clearly that, yes, this  
12 stuff is toxic. Tens of times the safe level of  
13 arsenic, phormium, cadmium, lithium, and other  
14 heavy metals, too.

15           And again, it's like I know there are  
16 some industry reps who might be a little bit sad  
17 that we can't use a substance because it's  
18 declared toxic. Boo-hoo. If it's declared toxic,  
19 maybe it should not be used in the first place.  
20 And if I may also say to the EPA, you know, you  
21 probably know better than anyone else that it's  
22 not just a question of what these laws are, it's

1       how they are enforced that often gets the message  
2       across.

3                   I'd say please change this to Subtitle C  
4       and then enforce the laws strictly.  TVA and  
5       Massey Energy should not escape having to face  
6       either heavy fines, lawsuits, or jail time for  
7       essentially what was a deep water horizon spill  
8       multiplied by six, or Exxon Valdez multiplied by  
9       101, because that was the volume of the coal ash  
10      that was released in to the perfectly decent  
11      residents of Harriman, Tennessee who honestly just  
12      want clean water and clean air.  Thank you very  
13      much.

14                   MR. DELLINGER:  Thank you.

15                               (Applause)

16                   MR. DELLINGER:  I have it.  It's Jon  
17      Cariba-Phoenix.

18                   MR. HOFFMAN:  Okay.  This is Number 50.  
19      Go ahead.

20                   MR. WILLIAMS:  I'm Chuck Williams, and  
21      even though I'm running for the state senate, I'm  
22      basically here for the people in our district, but

1 also as a citizen myself.

2 TVA has proven, as other major  
3 utilities, they don't care. The bottom line to  
4 them is the dollars. They didn't listen to their  
5 own engineers when they let them know it was  
6 unsafe as to what they were doing, they didn't  
7 care about the environment, and now they have the  
8 audacity to have passed on their gross negligence,  
9 which is a crime, to us. I know my KUB bill went  
10 up about \$25.

11 We do need Subtitle C. We need the  
12 states and the EPA, the federal government to be  
13 able to overlook and monitor what they're doing  
14 and to ensure that they do do it. And we do also  
15 need where they cannot pass on the costs of their  
16 gross negligence to the consumers. And that's  
17 basically the bottom line.

18 Subtitle C is the way we have to go.  
19 Thank you.

20 (Applause)

21 MR. DELLINGER: Thank you.

22 MR. HOFFMAN: That's 56.

1                   MR. DAVIS: Good morning. My name is  
2                   Vernon Davis. I live in Lake City, Tennessee.  
3                   I'd like to thank you for the opportunity to come  
4                   here before you today.

5                   I would like to voice my opposition to  
6                   the regulation of coal combustion residuals under  
7                   Subtitle C of the Resource Conservation and  
8                   Recovery Act. I've been actively involved and --  
9                   and employed in the ash management industry for  
10                  over 35 years. That is, for the last 35 years,  
11                  for every working day I have been working on  
12                  construction projects that utilize coal ash,  
13                  operated ash landfills, or provided oversight to  
14                  such projects. I can honestly say that I don't  
15                  know of any illness or medical condition that can  
16                  be attributed to ash exposure that has occurred  
17                  among any of my employees or myself.

18                  I've seen many regulatory changes in the  
19                  coal ash rules over the years in several states.  
20                  None of them have resulted in the loss of jobs to  
21                  the industry. Subtitle C regulation would  
22                  devastate this industry with job losses, as well

1 as cause drastic increase in the costs to  
2 consumers. The price for electricity will be  
3 driven up and jobs will be needlessly lost. These  
4 costs will be borne by us, the consumers and  
5 workers if ash is wrongfully declared a hazardous  
6 waste.

7 This is all being driven by an accident  
8 that happened not far from here. What contained  
9 the ash was the issue. But there are those who  
10 are trying to turn this into what the ash  
11 contains. Yes, we need good engineering. Yes, we  
12 need protective rules. Yes, there needs to be  
13 adequate oversight. All of this can be  
14 accomplished under Subtitle D regulation and  
15 well-written laws.

16 We, in our industry, are just as  
17 concerned with the environment as anyone. We take  
18 great pains to abide by the regulations we set for  
19 -- that are set forth by the regulatory agencies.  
20 We also take great pride in the way we manage  
21 these sites. We try to be good stewards of the  
22 environment. Nothing will change in our

1       commitment regarding the way we do our jobs,  
2       regardless of the rules being debated today. But  
3       if coal ash is regulated under Subtitle C, the  
4       losses to the coal combustion products industry  
5       and the cost to consumers will be staggering.  
6       Thank you.

7                 MR. DELLINGER: Thank you.

8                         (Applause)

9                 MR. DELLINGER: Numbers 57, 59, 60. Is  
10       there anyone in the room with a number under 60?  
11       Is -- and also, are Number 256, 259, or 260 in the  
12       room? And is Number 98 in the room? Number 98?

13                MR. POWELL: Good afternoon. My name is  
14       Matt Powell, and I'm an environmental specialist  
15       for American Electric Power, AEP. AEP provides  
16       electricity to 5.2 million customers in 11 states  
17       and is one of the largest generators of  
18       electricity in the U.S. with, roughly, 38,000  
19       megawatts of generating capacity.

20                AEP agrees with the views of the  
21       bipartisan group of 165 members of Congress, 45  
22       U.S. Senators, majority of states, multiple



1 federal agencies, municipal and local governments,  
2 CCR marketers, and beneficial users, and many  
3 other third parties which have maintained that  
4 regulating CCRs under RCRA's hazardous waste  
5 program is simply regulatory overkill. AEP  
6 supports regulation of CCR under RCRA's  
7 non-hazardous waste Subtitle D program, and  
8 specifically under the Subtitle D option.

9           The difference between the Subtitle D  
10 proposal and D prime is that the latter will not  
11 require the closure of surface impoundments that  
12 are being operated with no significant adverse  
13 effect on human health and the environment. The  
14 closure of surface impoundments, and hence, the  
15 conversion of the generating units to dry  
16 handling, and construction of landfills is a major  
17 cost associated with the proposal, and minimizing  
18 this cost by allowing environmentally protective  
19 surface impoundments to continue to operate  
20 throughout their operating life would present the  
21 least cost impact to our customers.

22           Regulation of CCRs under the RCRA

1 Subtitle C hazardous waste rules is simply not  
2 warranted due to the minimal environmental gain  
3 versus the significant financial costs that will  
4 accompany Subtitle C regulation. Extensive  
5 studies by EPRI and others have demonstrated that  
6 CCRs do not exhibit hazardous waste  
7 characteristics, and the EPA has previously  
8 reported to Congress that CCRs do not warrant  
9 Subtitle C regulation.

10 Let us hope that the development of CCR  
11 rules will be based upon reason, scientific data,  
12 as has been done in previous EPA determinations.  
13 Thank you.

14 MR. DELLINGER: Thank you.

15 (Applause)

16 MR. DEARTH: Good morning. My name is  
17 Vern Dearth, and I'm a concerned citizen.

18 I just want to talk about the unintended  
19 consequences of ruling CCRs hazardous. We've  
20 heard from numerous people in the industry, and  
21 likewise, that if the EPA rules this as a Subtitle  
22 C, they'll probably discontinue use of these

1 materials.

2           Approximately, 60 million tons are  
3 reused annually in this year -- in this country.  
4 If CCR ends in the industry, that means natural  
5 materials will have to be mined to replace the  
6 loss of the CCRs. This will result in mining that  
7 will create annually an excavation, or a hole in  
8 the ground, if all put in one area approximately 5  
9 miles long, 1 mile wide, and 90 foot deep.

10           Imagine if this activity occurred at one  
11 place for five years. We'd have a hole 25 miles  
12 long, 5 miles wide, and over 90 foot deep. The  
13 resulting area almost as big as Knoxville. This  
14 would also increase mining activity in other areas  
15 is because the equipment infrastructure would have  
16 to be built to do this mining. That would  
17 increase the use of energy to build the equipment,  
18 mine the materials, and the processing of these  
19 materials.

20           As a substantial amount of our  
21 electricity is generated using coal, there will be  
22 an in -- a need to increase the amount of coal

1       mined to generate the electricity which is needed  
2       to prepare the mining of these other materials.  
3       We would also increase the output of CCRs which  
4       now the EPA would like to declare as a Subtitle C.

5                   How much will declaring CCRs hazardous  
6       cost the average U.S. household? Is it going to  
7       be a thousand dollars a year, \$2,000 a year?  
8       We've heard many industry officials say there will  
9       be an increase in the cost of their production  
10      which is going to be passed on to all of us. We  
11      should all remember sometimes decisions have  
12      long-term, unintended consequences for which we  
13      all pay the price and are unprepared to face.

14                   It's my wish that Subtitle D be the  
15      ruling for CCRs by the EPA. Thank you.

16                   (Applause)

17                   MR. HOFFMAN: 259.

18                   MR. BONNE: Good morning. My name is  
19      Mark Bonne. I am the technology manager at Sphere  
20      One. Sphere One is the largest domestic marketer  
21      of lightweight ceramic microspheres known as  
22      cenospheres.

1           Our product -- products are used in many  
2 industries, concretes, paints, refractory  
3 compounds. Cenospheres are a coal combustion  
4 recycle, C -- CCR. As a technology manager, I  
5 work with our customers to find beneficial uses  
6 for CCRs to prevent them from ending up in  
7 landfills. It's small businesses like Sphere One  
8 and our customers that have put to use -- to  
9 beneficial use 43% of the CCRs generated in this  
10 customers -- in this country.

11           Our customers, most of which are members  
12 of organizations for environmental stewardship  
13 like the ACC Responsible Care and LEEDS, have  
14 reviewed with us the concerns over the upcoming  
15 legislation put forth by the EPA to classify CC --  
16 CCRs as hazardous waste under Subtitle C. If --  
17 if the EPA classifies CCRs as -- as a Subtitle C  
18 hazardous waste, the majority of our customers  
19 will discontinue the use of these materials.

20           The -- the waste that -- special waste  
21 designation is poorly written, and they have --  
22 and they have the following concerns: If CCRs are

1 classified as hazardous waste under Subtitle C,  
2 the additional cost in time and money to manage  
3 these materials will make them cost prohibitive to  
4 our customers. Under the EPA's proposal, Subtitle  
5 C waste is -- is regulated by a set of standards.  
6 There are standards for transport, standards for  
7 generation, standards for permitting, standards  
8 for treatment, storage and disposal.

9 In Subtitle C regulations, the use of --  
10 of wordings to classify materials as hazardous --  
11 hazardous like materials derived from or mixtures  
12 leaving open a future date any products that  
13 contain CCRs to be classified as hazardous, no  
14 manager would expose their -- its company to the  
15 potential future liability. Our customers are  
16 concerned that mixtures spilled on the floor of  
17 their -- of their plants, if swept up, thrown in a  
18 dumpster, classify the entire dumpster as a  
19 hazardous material.

20 Subtitle C is a very -- is a far better  
21 option to properly manage the disposal of these  
22 useful byproducts if they cannot be reused or

1 recycled. Without hazard -- the hazardous waste  
2 stigma attached to the materials by Subtitle C,  
3 com -- companies like Sphere One and our customers  
4 can find beneficial reuses for CCRs. If the tag  
5 "hazardous waste" is attached, the products then,  
6 most likely, will be dropped from formulation.

7 I believe recycling, reusing CCRs is a  
8 much better option than landfilling them. Thanks.

9 (Applause)

10 MR. DELLINGER: Thank you. Number 53.

11 MR. HOFFMAN: No, it's updated. 260.

12 MR. DELLINGER: Number 53. I can't --

13 MR. HOFFMAN: Come up -- just come up  
14 and say it. We'll -- we'll call you right...

15 MS. ALLEN: Good afternoon. I'm --

16 MR. DELLINGER: What number is that?

17 MR. HOFFMAN: 53.

18 MS. ALLEN: 53.

19 MR. HOFFMAN: Sorry about that. 5-3;

20 right?

21 MS. ALLEN: Yes.

22 MR. HOFFMAN: It's 53. Go ahead.

1 MS. ALLEN: Hello. I'm -- I'm Marsha  
2 Allen, and I'll be speaking on behalf of Restoring  
3 Eden, a Christian environmental group.

4 Coal ash dumping has to be stopped right  
5 now. It's destroying the earth that God's made  
6 and poisoning the people He's made. Coal ash  
7 should be treated as the hazardous waste that it  
8 is. And it's time that coal companies become  
9 better neighbors by making sure that the way they  
10 do business doesn't endanger the lives of those  
11 around them.

12 I strongly urge the EPA to adopt the  
13 Subtitle C proposal for coal ash dumping. Jesus  
14 Christ calls us to love our neighbor, and I don't  
15 see how any of us could love our neighbor if we  
16 don't consider the air they breathe and the water  
17 that they drink.

18 There are approximately 130 sites found  
19 where our drinking water has been contaminated by  
20 dangerous materials such as lead, arsenic and  
21 mercury, and even one site is too many. People  
22 living near unlined coal ash ponds or waters



1 contaminated by arsenic have an extremely high  
2 risk of cancer, 1 in 50, which is 2,000 times  
3 greater than the EPA's acceptable cancer risk.

4 Children are at an even greater risk of  
5 becoming sick because of coal ash. And this is  
6 terrible, because the EPA has found that 1.54  
7 million children live near coal sites. Christ  
8 calls us to care for the least of these, and this  
9 compels me to speak up for the families and the  
10 children who will pay the cost of coal ash dumping  
11 with their health.

12 We know that coal ash is toxic, we know  
13 it's poisoning the families and the earth God has  
14 created, and it's not classified as hazardous.  
15 Until it is, coal companies can keep dumping it.  
16 So we need federal regulations. Because of the  
17 toxic chemicals found in coal, coal ash like  
18 mercury, lead, cadmium, chromium, and others, it's  
19 completely unreasonable to treat it like normal  
20 household garbage. I urge you to adopt the  
21 Subtitle C proposal for coal ash regulation.

22 (Applause)

1 MS. ALLEN: Do you have any questions?

2 MR. HOFFMAN: No, that's okay. Thank  
3 you.

4 MS. ALLEN: Thanks.

5 MR. DELLINGER: You were 260; right?

6 MR. HOFFMAN: Right; 260.

7 MR. DELLINGER: Okay.

8 MR. WHITESIDE: Thank you very much for  
9 letting us speak to you all today on this  
10 important issue. My name is David Whiteside. I'm  
11 your Tennessee Riverkeeper. We protect -- we're a  
12 non-profit organization that protects the  
13 Tennessee River and its tributaries.

14 We are here to ask the EPA to regulate  
15 coal ash as hazardous waste under the Federal  
16 Resource Conservation Recovery Act, Subtitle C.  
17 Coal ash can be very hazardous. It can contain  
18 arsenic, mercury, lead, cadmium, chromium, as well  
19 as polyaromatic hydrocarbons, and ur -- and it can  
20 contain radioactive elements such as uranium.

21 The Tennessee River starts near  
22 Knoxville where we are today and flows through

1 Alabama before it returns to Tennessee.  
2 Currently, in the states of Tennessee and Alabama,  
3 we have conflicting standards. In Kingston,  
4 Tennessee where the TVA's coal ash disaster was,  
5 coal ash waste is being treated as hazardous and  
6 extremely dangerous where -- to the point where  
7 the trucks that leave the facility have to go to  
8 great lengths to make sure that this material is  
9 washed off of them.

10           Once it's trucked down to Uniontown in  
11 Perry County, Alabama, it has a different set of  
12 standards. It is not treated as a dangerous  
13 material down there. It is treated much more  
14 haphazardly. And one of the things we're asking  
15 the EPA to do in -- in regulating this as  
16 hazardous waste will be to come up with uniform  
17 federal standards that the states could abide by  
18 to give a consistency between Tennessee and  
19 Alabama.

20           Right now it's just not fair that one  
21 state can consider it a toxic substance and the  
22 other state is not as concerned about it. I --

1 that's extremely conflicting and we need guidance  
2 from the government to provide some sort of  
3 consistency among the states.

4           Currently, Tennessee Riverkeeper has an  
5 online petition that has been signed by over 1,000  
6 citizens that agree with Tennessee Riverkeeper  
7 that they want to see coal ash regulated as  
8 hazardous waste. We've also produced a three-  
9 minute educational video explaining this issue,  
10 and that's been viewed by over a thousand people  
11 in the past few months.

12           So, in conclusion, we are -- we are  
13 begging the U.S. EPA to regulate coal ash as  
14 hazardous waste under the Resource Conservation  
15 Recovery Act, Subtitle C. Today you've heard from  
16 citizens of Tennessee whose homes and lives were  
17 ruined by the TVA's coal ash disaster in Kingston.  
18 You've also heard from environmentalists who are  
19 concerned -- environmental leaders who are  
20 concerned about the air and water quality in their  
21 states.

22           On the other side, you've heard from the

1 -- the construction industry and many in the  
2 mining industry, industrial biostitutes who are  
3 only concerned with their bottom line and are not  
4 concerned with -- with the well-being and public  
5 health of the citizens.

6           So we ask, please side with the public  
7 and do the right thing for the benefit of the  
8 citizens and not to safeguard the bottom line of  
9 these small, private companies who are concerned  
10 only with their pocketbooks. So, please, please,  
11 do the right thing --

12           MR. HOFFMAN: Your time is up.

13           MR. WHITESIDE: -- and regulate this as  
14 hazardous waste. Thank you very much for this  
15 opportunity to speak.

16           (Applause)

17           MR. DELLINGER: Is there anyone in the  
18 room with Number sixty -- 62 or lower that hasn't  
19 spoken? Anybody? Come forward. Please come  
20 forward.

21           SPEAKER: 57.

22           SPEAKER: 57.

1                   SPEAKER: That work?

2                   MR. DELLINGER: That works.

3                   MR. KAZICH: My name is Bruce Kazich.

4 I'm the national sales manager of Trans Ash,  
5 Incorporated.

6                   Trans Ash is a small, family-owned  
7 company that was founded in 1960. We specialize  
8 in CCP management. We currently market boiler  
9 slag products and manage CCP landfills and  
10 impoundments at 18 different coal-fired facilities  
11 in 9 states and Canada. We employ approximately  
12 150 people, many of whom have over 20 years of  
13 service.

14                  We understand that a significant driver  
15 in the proposed regulatory action was the failed  
16 dike at TVA Kingston. We do not understand why a  
17 structural failure would prompt a reconsideration  
18 for the waste classification of coal ash.  
19 Subtitle D clearly creates much needed new  
20 landfill and surface impoundment standards. These  
21 regulations should be tougher but should not  
22 stigmatize the possible beneficial use of CCPs.

1 And yes, the stigma is real.

2           Trans Ash was a charter member of the  
3 EPA's C2P2 program which promoted environmental  
4 stewardship and beneficial use of CCPs. Isn't the  
5 suspension of that program the ultimate proof of  
6 stigma? The C2P2 program suspension certainly  
7 sends conflict -- conflicting signals from the  
8 agency, especially when the environmental benefit  
9 from the utilization of CCPs is well documented  
10 and acknowledged by the EPA.

11           In their memo of May 4th, 2010, the EPA  
12 clearly states, "Environmentally sound beneficial  
13 reuses of ash conserves resources, reduces  
14 greenhouse gas emissions, lessens the need for  
15 waste disposal units, and provides significant  
16 domestic economic benefits."

17           The EPA claims a Subtitle C designation  
18 will actually increase the beneficial use of CCPs.  
19 This contention is certainly not supported by our  
20 customers. They have legitimate legal liability  
21 concerns. They've clearly stated they will stop  
22 using CCPs if they are classified in any way as a

1 Subtitle C waste.

2 In our litigious society, they're simply  
3 not willing to take the risk. Therefore, the CCPs  
4 that have been safely recycled for decades will  
5 now be landfilled, creating higher energy costs,  
6 higher costs for utilities, and therefore, higher  
7 energy costs for all citizens. Users will replace  
8 CCPs with naturally mined or manufactured  
9 materials utilizing more energy, including fossil  
10 fuels, natural gas and electricity further  
11 increasing our carbon footprint.

12 Let us also consider the economic impact  
13 of a Subtitle C designation. The American Coal  
14 Council estimates an economic impact between 6 and  
15 \$11 billion. Additionally, between 130,000 and  
16 240,000 green jobs would be in jeopardy. With the  
17 current economic crisis and no significant  
18 recovery in sight, how can we justify a Subtitle C  
19 designation when Subtitle D clearly provides for  
20 the same level of environmental safety?

21 The environment can and will be  
22 protected with strong regulations under Subtitle



1 D. The EPA should develop a performance-based  
2 federal program for CCPs under RCRA D which will  
3 insure that disposal is safely managed while  
4 continuing to promote and expand beneficial use.  
5 Thank you.

6 MR. DELLINGER: Thank you.

7 (Applause)

8 MR. DELLINGER: Right now it's about  
9 12:15, and we've gone through everybody in the  
10 room who's either a walk-in person or someone who  
11 has -- was expecting to speak sometime before  
12 12:45. If there are people in the room that would  
13 like to provide testimony at this time, regardless  
14 of your -- of your numbers if you've  
15 pre-registered.

16 So let's start with Number 70 through  
17 63. 63 through 70 to see if there are any -- any  
18 people in here with those numbers that would like  
19 to testify now? Nobody with those numbers.

20 How about 80 through 71? Well, how many  
21 people have pre-registered and have a number right  
22 now? All right. Let's have all those people come

1 forward and -- and provide your testimony.

2 MR. HOFFMAN: 99 to start.

3 MR. LAWRENCE: Good morning. I'm David  
4 Lawrence, and I have been in the fly ash and  
5 bottom ash industry for 30 years, the last 20 with  
6 Headwaters Resources.

7 We have seen the stigma effect, we --  
8 and we know its exists. And we've seen the  
9 expanded clay and shale people speak out against  
10 bottom ash. We have explained their motive has  
11 been monetary. They're greedy. They want our  
12 market -- marketplace.

13 I have a document from a third party lab  
14 that actually gives TCLP results that compare the  
15 expanded clay and shale and bottom ash. Guess  
16 what? The expanded clay and shale exceeds bottom  
17 ash in several heavy metal areas. Imagine that.  
18 So much for their argument. It's simply more of  
19 the marketplace.

20 Let's discuss for a moment who will pay  
21 for the fly ash and bottom ash going to a Class C  
22 landfill or additional on-site landfill costs.

1 Look around. We will pay. We will pay additional  
2 attorney costs. And the poor will pay. The very  
3 people that can't afford additional costs, they're  
4 going to pay.

5 So, please, let's keep fly ash and  
6 bottom ash in non-hazardous material. Thank you  
7 for your time.

8 MR. DELLINGER: Number 93.

9 MR. CRITCHFIELD: Thank you for allowing  
10 me to speak today, and good afternoon. My name is  
11 Steve Critchfield, vice president of Full Circle  
12 Solutions.

13 We are a small business that provides  
14 beneficial use of coal combustion products, CCPs,  
15 for power plants and other industries in the  
16 southeast and the Midwest. We safely recycle CCPs  
17 into mulches, potting soils, masonry blocks, soil  
18 amendments, and geotechnical fills.

19 Our power-producing plants are mostly  
20 independent power producers that do not you have  
21 their own ash basins or landfills. Therefore, our  
22 efforts have been beneficial to local communities

1 by saving over 10 million cubic yards of MSW  
2 landfill space. We have also benefitted these  
3 communities by developing industrial properties  
4 which have provided hundreds of jobs and millions  
5 of dollars in investments.

6 My comments today concern geotechnical  
7 fills. EPA has stated that they do not believe  
8 large volume geotechnical fills constitute  
9 beneficial reuse and they intend to prohibit such  
10 fills under either Subtitle C or Subtitle D of  
11 RCRA. The EPA reached this decision without  
12 giving adequate consideration to the issue. The  
13 EPA has not given consideration to the benefits  
14 given to communities where CCPs have been used  
15 safely.

16 The EPA should also consider the benefit  
17 of geotechnical fills that have given to many  
18 communities across the country the use of CCPs and  
19 geotechnical fills, save valuable landfill space,  
20 prevent the need of additional borrow pits, and  
21 provides industrial and commercial property for  
22 economic development and job descriptions.

1           Most of the land upon which we build  
2           could not be used for economic development. The  
3           earthwork required to develop these properties  
4           would otherwise be cost-prohibitive. Two examples  
5           of communities which have benefitted from our work  
6           are the city of Petersburg and the town of South  
7           Boston, both in Virginia.

8           Petersburg has been economically  
9           depressed for many years. It had no available  
10          property to develop new industries and create  
11          jobs. Using CCPs, we constructed an in --  
12          industrial park with approximately 150 acres  
13          that's now available for the city to use in its  
14          economic development plans. If the city of  
15          Petersburg had undertaken this project, the  
16          earthwork alone would cost over \$4 million.

17          In South Boston, we partnered with the  
18          city and built Houghton Industrial Park. A  
19          property designated by the town for their  
20          industrial park was mostly rolling hills and would  
21          require over -- thank you.

22                 MR. DELLINGER: Thank you. 74?

1 MR. HOFFMAN: 74.

2 MR. SHAW: My name is Tom Shaw. I am  
3 with Harsco Corporation, a global industrial  
4 services company with almost 20,000 employees. We  
5 have operations in Tennessee, South Carolina,  
6 Alabama, and Kentucky, and I am here today to  
7 represent those employees. We operate a plant in  
8 Memphis dedicated to processing boiler slag as  
9 abrasive -- abrasive blasting grit and roofing  
10 granules.

11 Since the 1930s, we have been a green  
12 recycler of boiler slag, one of the four major  
13 types of coal combustion byproducts. Boiler slag  
14 is formed when extremely hot molten coal ash is  
15 quenched with cold water and the coal ash  
16 immediately becomes a vitrified amorphous solid,  
17 glassy matrix soil known as boiler slag.  
18 Vitrification renders a material inert in a  
19 chemical process using heat. It transforms a  
20 mixture into a soluble liquid which solidifies on  
21 cooling, essentially encapsulation by nature.

22 Because boiler slag is vitrified, it is

1 a very durable and environmentally stable material  
2 that permanently immobilizes its chemical  
3 constituents in a glassy amorphous structure which  
4 remains stable even when broken into small  
5 fragments during abrasive blasting as evident by  
6 x-ray diffraction and TCLP data.

7 Because it is beneficially reused,  
8 boiler slag is not commonly stored in surface  
9 impoundments. We regularly test our boiler slag,  
10 and it has always passed the TCLP testing and has  
11 never exhibited any hazardous waste  
12 characteristics. This includes both pre and post  
13 blast abrasive grit.

14 The scientific information about boiler  
15 slag and its physical properties have not changed  
16 since we began our operations over 70 years ago.  
17 We have also tested our material using the  
18 recently developed Vanderbilt leaching procedure  
19 which is designed to reflect real world  
20 conditions, and the results confirm the absence of  
21 any hazardous waste characteristics.

22 Regulating boiler slag destined for

1 disposal as a special waste under Subtitle C would  
2 unfairly stigmatize beneficially reused boiler  
3 slag, as is already evident by competitive  
4 actions. We have seen no evidence that boiler  
5 slag meets any threshold for regulation under  
6 Subtitle C. We are not aware of any environmental  
7 problems linked to our products.

8 As an abrasive, we are the primary  
9 alternative to silica sand, an abrasive that  
10 presents serious worker health concerns. We  
11 recognize the need for proper and environmentally  
12 sound standards for regulating the small  
13 percentage of boiler slag that is discarded rather  
14 than beneficially reused.

15 Accordingly, consistent with the  
16 announced views of nearly 30 states and EPA's 2  
17 previous determinations evaluating proper  
18 management of coal combustion byproducts, we  
19 support appropriate and reasonable disposal  
20 standards for any waste boiler slag under Subtitle  
21 D of RCRA. Thank you.

22 (Applause)



1 MR. DELLINGER: 81.

2 MR. RAIA: Good afternoon. My name is  
3 Bobby Raia, and I'm here today to voice my support  
4 of the EPA to regulate coal ash under the proposed  
5 Subtitle D non-hazardous approach. Thanks for the  
6 opportunity.

7 I'm a civil engineer currently working  
8 within the coal ash management business that  
9 specialize -- that we specializes in recycling  
10 coal combustion residuals. Currently,  
11 approximately 50% of all electricity within the  
12 United States is generated by the use of coal with  
13 its -- with its uses expected to increase by nine  
14 -- by 19% by 2030, as suggested by the United  
15 States Department of Energy.

16 Of all the coal used to generate  
17 electricity, 44% of its residuals, or CCRs, are  
18 currently beneficially recycled in such items as  
19 concrete, brick, mortar, wallboard, drywall, green  
20 fill projects, pavement, and blocks. A hazardous  
21 classification under Subtitle C would have a  
22 crippling effect on the numerous CCR recycling

1 programs, programs that I participated in,  
2 programs that work.

3 There is no doubt in my mind that a  
4 hazardous classification would give coal ash and  
5 its recycling programs an unwarranted stigma. The  
6 industry has already felt the effects due to  
7 negative spin and the looming potential of a  
8 hazardous classification.

9 Engineers, architects and contractors  
10 will be unlikely to specify the use of these  
11 products in fear of professional liability,  
12 forcing them to use alternate, more expensive  
13 natural resources. If the industry is already  
14 feeling the impact, what is the future of the coal  
15 ash recycling industry should the EPA classify  
16 coal ash as hazardous? Will there even be an  
17 industry? How will this affect the jobs in the  
18 industry? How will this affect my job?

19 What seems to be forgotten is that  
20 between the current stigma and the potential  
21 industry extinction, CCRs will continue to be  
22 generated. And as CCRs continue to be generated,

1 if they aren't being recycled, then they'll have  
2 to be landfilled. But classifying coal ash --  
3 sorry. Classifying coal ash as a hazardous waste,  
4 40% percent (sic) of the coal ash that is  
5 currently recycled will be sent to landfills for  
6 disposal.

7           And if these landfills are going to be  
8 required to accommodate the added quantity, their  
9 life will be shortened by nearly half, forcing  
10 utility companies to expand or construct new  
11 landfills to accommodate the added quantities.  
12 And these costs are going to be reflected on your  
13 monthly bill.

14           With landfills being expanded and  
15 constructed, the EPA, through these proposals, has  
16 attempted to standardize and strengthen the  
17 engineering standards and protective features  
18 associated with these expansions and new  
19 construction. However, both the Subtitle C and D  
20 proposals are essentially the same with the EPA  
21 actually stating that the new disposal regulations  
22 will take effect quicker under the Subtitle D,

1 non-hazardous approach.

2 I'll conclude my speech with this. I  
3 strongly believe the EPA should regulate coal ash  
4 under the proposed Subtitle D, non-hazardous  
5 approach. Subtitle -- this approach protects the  
6 environment and human health with its standards  
7 for landfills, yet it reinforces the values and  
8 goals of recycling by promoting the use of coal  
9 ash in a variety of materials. Thanks again for  
10 the opportunity.

11 MR. DELLINGER: Thank you. 64.

12 MS. STOKES: Hi. My name is Katherine  
13 Stokes. I live and work in Knoxville. I work at  
14 the Southern Alliance for Clean Energy. I'm also  
15 a graduate of the University of Tennessee civil  
16 engineering department.

17 In college, I studied concrete strength.  
18 We had a lab where we would make our own concrete  
19 for testing, mixing aggregate with cement and  
20 water and sometimes adding fly ash. The fly ash  
21 came as a dry dust. We scooped it out of a bag.  
22 You wouldn't want to breathe in the particles, but

1 the ash was well contained.

2 This dry, treated and bagged version of  
3 coal ash is more similar to a household chemical  
4 waste that is suggested in EPA Subtitle D.  
5 However, this is not the type of coal ash we're  
6 talking about today. In fact, under Subtitle C,  
7 coal ash that is recycled for other uses such as  
8 concrete is exempt from the regulations.

9 What we're talking about today are the  
10 wet impoundment ponds or the huge dry landfills of  
11 coal ash, the type that flooded the land, houses  
12 and river of our neighbors in Roane County,  
13 Tennessee. This type of coal ash that is stored  
14 in impoundment ponds or landfills should be  
15 regulated by EPA's proposed Subtitle C. This ash  
16 hasn't been treated and is not your regular  
17 household waste as Subtitle D would suggest that  
18 it is.

19 As we witnessed with the TVA coal ash  
20 spill, coal ash is not effectively regulated by  
21 the state of Tennessee. As we've learned from  
22 this disaster, the siding and structural stability

1 of these coal ash storage impoundments are not  
2 regulated. Neither is the potential for these  
3 chemicals to penetrate groundwater.

4 As we've witnessed, we know the  
5 regulations are made as suggestions or guidelines  
6 rather than enforced, as they would be in Subtitle  
7 D, that they are also not followed. EPA estimates  
8 Subtitle C could cause a 0.8% increase in our  
9 electricity bills. We need to spend a little bit  
10 of money now to regulate coal ash as insurance so  
11 that we won't see another very expensive,  
12 life-destroying and very preventable accident like  
13 we saw almost two years ago here in Tennessee.

14 Our electricity providers aren't afraid  
15 of taking risks because the cost is sent down to  
16 the customers. We are the ones that carry the  
17 burden. We're the ones who paid for the clean-up  
18 of the Kingston coal ash spill, and we need  
19 federal backing so that this doesn't happen to us  
20 again.

21 EPA Sub -- suggested Subtitle C is the  
22 best choice for Tennessee's safety, health and

1 wallets. It will save us money and distress in  
2 the long-run by helping us avoid another disaster.  
3 Thank you.

4 (Applause)

5 MR. RIEDINGER: Good afternoon. My name  
6 is Dan Riedinger of the Washington D.C.- based  
7 Edison Electric Institute. EEI is the association  
8 of U.S. shareholder-owned electric companies  
9 representing about 70% of the U.S. Power sector.

10 I would like to begin by thanking the  
11 EPA for holding these eight public hearings giving  
12 so many individuals and stakeholder groups from  
13 around the country the opportunity to comment on  
14 the agency's proposals for regulating coal  
15 combustion residuals, or coal ash. Many different  
16 voices have weighed in, including those of large  
17 industry groups, small businesses, environmental  
18 organizations, religious leaders, state  
19 regulators, politicians, and concerned citizens.

20 And you've been asked to consider many  
21 different concerns: the desire for binding coal  
22 ash management standards that are federally

1 enforceable; the imperative of maintaining coal  
2 ash beneficial use, one of the largest and most  
3 successful U.S. recycling efforts and the huge  
4 number of associated jobs; and the goal of  
5 avoiding sharp electricity rate increases; and the  
6 need to ensure protection of public health and the  
7 environment. All of these issues can be addressed  
8 through federal regulation of coal ash as a non-  
9 hazardous waste.

10           EEI has supported this approach since  
11 the initiation of this rule-making proceeding.  
12 This approach is consistent with the agency's 2000  
13 determination that coal ash does not warrant  
14 regulation as a hazardous waste because it does  
15 not exhibit the characteristics of hazardous  
16 waste.

17           Over the past decade, the  
18 characteristics of coal ash have not changed, nor  
19 has the scientific foundation on which EPA  
20 determined that coal ash could safely be managed  
21 as non-hazardous waste. What has changed is a  
22 level of public awareness, interest and concern.



1           EPA now must try to address  
2 stakeholders' varied concerns. The solution isn't  
3 simply to impose the most burdensome regulation  
4 possible on utilities whose customers would bear  
5 the brunt of these costs. In fact, regulating  
6 coal ash as hazardous would not have prevented the  
7 December 2008 spill at the nearby Kingston  
8 facility.

9           Instead, we urge EPA to adopt a strong,  
10 measured response that effectively targets  
11 legitimate coal ash management issues. This can  
12 be done by devising federal requirements for  
13 managing coal ash as a non-hazardous waste. This  
14 approach would provide the same level of public  
15 protection, as would hazardous waste regulation,  
16 but without the extra \$12 billion in annual costs.

17           Both approaches would require  
18 installation of liners to prevent leaching, and  
19 both would require groundwater monitoring. These  
20 requirements would be enforceable through citizen  
21 and state lawsuits, and if the agency chooses, by  
22 EPA itself under the same authority as the agency

1 used to develop federally enforceable  
2 non-hazardous waste rules for municipal solid  
3 waste.

4 In addition, EEI supports adoption of  
5 federal dam safety standards that would help  
6 ensure the structural integrity of coal ash  
7 impoundments such as that used at the Kingston  
8 facility. Everyone here wants federal regulation  
9 with teeth, but we don't need regulation that  
10 imposes huge costs on consumers without  
11 commensurate public health benefits, threatens to  
12 eliminate the many beneficial uses of coal ash,  
13 and that puts U.S. Jobs at risk. Thank you.

14 MR. DELLINGER: Thank you.

15 MR. IVEY: Good evening. My name is  
16 Shaun Ivey. I work for Headwaters Resources.

17 I have worked in the coal combustion  
18 byproducts for 23 years. I have constructed ash  
19 management sales all through the southeast part of  
20 the United States without a failure. We do  
21 groundwater testing every quarter without a  
22 failure. Before the Kingston site, no one here

1 has -- most of the people hadn't even heard of  
2 coal combustion byproducts.

3 I strongly encourage the EPA to keep  
4 Subtitle D. It will encourage a lot of costs to  
5 go to Subtitle C. Thank you very much.

6 MR. DELLINGER: We're going to take a  
7 break now, and we'll -- it will probably be about  
8 15 minutes, and we'll impanel a new panel. And  
9 we'll start up probably within about 15 minutes.

10 (Whereupon, a luncheon recess was  
11 taken.)

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1                   A F T E R N O O N   S E S S I O N

2                   MS. DEVLIN: We will begin the hearings  
3 of this afternoon's session.

4                   Again, good afternoon. I thank you for  
5 attending today's public hearing on the EPA's  
6 proposed rule regarding the regulation of coal-  
7 combustion residuals.

8                   Again, before -- before we begin, I'd  
9 like to again express our thanks to all of you for  
10 taking time out of your schedules -- your busy  
11 schedules to come here. We look forward to  
12 hearing all your comments.

13                   This is the eighth public hearing we've  
14 had on this rule. We have had previous, very  
15 successful hearings in Washington, D.C.; Denver;  
16 Dallas; Charlotte; Chicago; Pittsburgh;  
17 Louisville; and now here. And we've over 2,000  
18 people at these hearing. And again, we thank you  
19 all for your comments and your participation in  
20 the hearing.

21                   My name is Betsy Devlin. I am the  
22 Associate Director of the Materials Recovery and

1 Waste Management Division at EPA, and I will be  
2 chairing this afternoon's session of this hearing.

3 With me on the panel this afternoon are  
4 Rich Kinch, Bonnie Robinson, and Steve Souders.  
5 We are all from our EPA headquarters Office of  
6 Resource Conservation and Recovery.

7 Before we begin the hearing this  
8 afternoon, I'm just going to go over some of the  
9 logistics of how we will conduct the hearing this  
10 afternoon. Speakers, if you preregistered, you  
11 were given a 15-minute slot in which you're  
12 scheduled to present testimony. And to guarantee  
13 that slot, we ask that you sign in at our  
14 registration desk out in the lobby at least 15  
15 minutes before you're scheduled to speak.

16 All speakers, whether you preregistered  
17 or whether you signed up to speak when you got  
18 here today, were given a number. That is the  
19 order in which you will speak.

20 I will call speakers up to the podium by  
21 number. I will call them generally in groups of  
22 four or five. And when your number is called, we

1 ask that you walk to the microphone; please state  
2 your name; and we, again, may ask you to spell  
3 your name for the court reporter, but it's  
4 important that we get your name and your  
5 affiliation.

6           And because there are so many people who  
7 have signed up to speak today, and to be fair to  
8 everyone, testimony is limited to three minutes.  
9 We will be using an electronic timekeeping system,  
10 but we will also hold up cards to let you know  
11 when your time is getting low.

12           When we hold up the first card, which is  
13 a green card, you will have two minutes left. We  
14 hold up the second card, it is a yellow card, you  
15 will have one minute left. The third card is an  
16 orange card, and that shows you have 30 seconds  
17 left. And when your time is up, we're going to  
18 hold up a red card; and that does mean we're going  
19 to ask you to stop speaking right then. Your time  
20 is up.

21           But please remember, if you have not  
22 completed your remarks and you have other

1        comments, you can submit them either in front of  
2        the court reporter -- in the box in front of the  
3        court reporter if you've brought a written copy  
4        with you; or, if not, you can write them and  
5        submit them outside at our registration desk. Any  
6        comments that you don't get to say in -- say  
7        orally but you give us in writing will be  
8        considered just as if you had said them at the  
9        hearing.

10                We will not be asking -- answering any  
11        questions today on the proposal; but from time to  
12        time, a member of the panel may ask you a question  
13        to clarify some of your testimony.

14                If you have brought a written copy of  
15        your testimony, we will ask that you leave a -- a  
16        copy in the box by our court reporter that's right  
17        in front of me here. And if you are only  
18        submitting written comments, please put them in  
19        the box by the registration desk.

20                And again, if you have additional  
21        comments after today, we ask that you follow the  
22        instructions on the yellow handout sheet. And you

1 can get that yellow handout sheet at our  
2 registration desk and submit your -- any comments  
3 that you have by November 19th. November 19th is  
4 the close of the comment period on this  
5 regulation.

6           Again, our goal is to ensure that  
7 everyone who has come today to present testimony  
8 is given that opportunity. And to the extent  
9 allowable, we will try to accommodate any of those  
10 who have not preregistered, and we'll -- we will  
11 also try to accommodate those who've asked to  
12 speak earlier due to an airline flight or other  
13 transportation issues. So if it looks like I'm  
14 calling people out of order, don't worry. I'm  
15 trying to fit everyone in.

16           Our hearing today is scheduled to close  
17 at 10:00, but we will stay later, if necessary, to  
18 allow as many of you as possible to provide your  
19 testimony. Again, if for some reason the time  
20 doesn't allow you to present your testimony,  
21 please leave your written comments in the box out  
22 by our registration desk.



1           And again, those written comments will  
2 be collected. They will be entered into the  
3 docket. They will be considered just as though  
4 you had presented them orally.

5           If you would like to testify today, but  
6 have not yet done so, please sign up at the  
7 registration desk out in -- out in the -- in the  
8 lobby. And again, during the hearing, if you have  
9 any questions at all about what's going on, just  
10 please contact our staff out at the registration  
11 desk. They can assist you.

12           We are likely to take some occasional  
13 breaks, but we will eliminate or shorten those  
14 breaks to, again, allow as many people as possible  
15 to testify.

16           Finally, if you do have a -- a cell  
17 phone or a BlackBerry, we ask that you either turn  
18 it off or turn it to vibrate. And if you need to  
19 use your phone at any time during the hearing,  
20 just please step out into the lobby.

21           Again, we ask for your patience. As we  
22 get through this, we might need to make some minor

1 adjustments, but I think this morning went  
2 smoothly, so I hope this afternoon will go just as  
3 well.

4 So with that, I'd like to start by  
5 making sure -- is there anyone in the audience  
6 with the number of 62 or below who did not get to  
7 testify this morning? Okay. And your number,  
8 please, ma'am?

9 MS. SMITHYMAN: 61.

10 MS. DEVLIN: Okay. If you would -- if  
11 you would come to the podium, Number 61 would step  
12 forward? And also, Numbers 63, 65, and 66? Thank  
13 you.

14 Number 61, please, go ahead.

15 MS. SMITHYMAN: My name is Linda  
16 Smithyman. It's S-m-i-t-h-y-m-a-n. I'm a  
17 resident of Knox County, and I was here when the  
18 Kingston coal ash spill occurred.

19 I'm affiliated with a number of  
20 environmental groups. And it had to take the  
21 Kingston spill to shed new light on coal ash. I  
22 mean, this is happening in our backyard, folks.

1           Someone told me, and I believe what they  
2           said, that there were folks driving into the  
3           facility down at Kingston that made phone calls to  
4           TVA to tell them that there was a leak time and  
5           time again, and yet it seemed that nothing was  
6           done about it. And what happened? How many homes  
7           were destroyed? How much land was contaminated?  
8           How many people had to get drinking water for  
9           their daily needs?

10           If the Kingston spill had actually  
11           happened upriver from Knoxville and affected our  
12           daily water supply, there would have been even  
13           greater uproar about the cleanup and the future of  
14           coal ash plants.

15           In 2000, the EPA deemed coal ash a  
16           nonhazardous material and, thus, it did not fall  
17           under federal regulations or inspections.  
18           Inspections are left up to state regulators.

19           Since 2000, there's been improved  
20           pollution controls to keep more and more toxins  
21           from leaving smoke stacks, thus increasing the  
22           amount of toxins in coal ash. Classifying the

1 coal ash as hazardous would almost certainly  
2 affect how the waste is recycled.

3 Environmentalists have concerns. The  
4 tests have shown that the dangerous toxins, such  
5 as arsenic, lead, chromium, manganese, and barium  
6 have been linked to serious health conditions,  
7 such as cancer, liver damage, and neurological  
8 complications.

9 Ash ponds are located in 35 states, and  
10 the majority of dump sites are over three decades  
11 old. There are many toxins in the waste.  
12 According to an EPA report, many of the ash ponds  
13 in Kentucky were not designed or constructed by  
14 engineers, bringing into question whether or not  
15 ash is properly contained at the sites.

16 Several Kentucky utilities, LG&E's  
17 ponds, fall into this category. I used to live in  
18 Kentucky for a little while. These ash-disposal  
19 sites also leak their toxic cargo into ground  
20 water or discharge it directly into rivers,  
21 creeks, and lakes as runoff or through permitted  
22 outfalls.

1           Until the EPA takes action, there are no  
2 federal rules setting standards for the safe  
3 disposal of ash or limiting the discharge of toxic  
4 ash, leachate, into our waterways. We need  
5 comprehensive federally-enforceable safeguards to  
6 protect human health, wildlife, and the  
7 environment.

8           Coal ash must be regulated under  
9 Subtitle C of the Resource Conservation and  
10 Recovery Act as special waste with all the  
11 safeguards that apply. Coal ash should not be  
12 regulated under the much weaker --

13           MR. SOUDERS: Sorry.

14           MS. SMITHYMAN: Okay.

15           MS. DEVLIN: Okay. Thank you very much.

16           MS. SMITHYMAN: -- and less protective  
17 standards provided by a Subtitle D designation, as  
18 nonhazardous waste.

19           Regulating coal ash under Subtitle D or  
20 RCRA is a busted and broken approach that  
21 essentially keeps the status quo of voluntary and  
22 patchwork protections. Subtitle D guidelines

1 cannot guarantee all citizens adequate protections  
2 from toxic ash because Subtitle D does not require  
3 states to adopt federal guidelines.

4           There are currently no  
5 federally-enforceable regulations specific to coal  
6 ash, and contamination from coal ash landfills and  
7 wasteponds is already poisoning drinking water  
8 supplies and damaging wildlife. such as fish and  
9 birds, at locations across the country. The last  
10 of federally-enforceable safeguards is exactly  
11 what led to the disaster in Tennessee, which a dam  
12 holding more than 1 billion gallons of toxic coal  
13 ash failed, destroying 300 acres, dozens of homes,  
14 killed fish and other wildlife, and poisoned the  
15 Emory and Clinch Rivers.

16           Coal ash is contaminating our drinking  
17 water supplied, and it is only getting worse as  
18 the waste stream grows in volume and toxicity.  
19 The failure to safely dispose of coal ash  
20 transfers the pollutants captured by Clean Air Act  
21 regulations to the nation's waters.

22           Living near an unlined coal ash waste

1 pond and drinking water contaminated with arsenic  
2 can be more dangerous than smoking a pack of  
3 cigarettes a day, according to a risk assessment  
4 done by the EPA. Lax state regulations will  
5 continue to place communities at risk from high-  
6 hazard dams and leaking dumps until federal  
7 minimum standards under Subtitle C of RCRA are  
8 established.

9 Coal ash must be regulated as a "special  
10 waste" under Subtitle C of the Resource  
11 Conservation and Recovery Act (RCRA). The Obama  
12 administration needs to rely on the best available  
13 science in setting federally-enforceable  
14 safeguards for coal ash. Regulating coal ash as a  
15 special waste gets rid of dangerous coal ash waste  
16 ponds and ensures another community will not have  
17 to experience a disastrous spill such as the one  
18 that happened in December 2008 at the Tennessee  
19 Valley Authority waste pond; we don't want another  
20 TVA accident.

21 Federally-enforceable safeguards must  
22 ensure coal ash dumps and waste ponds have all the

1       protections presently required at household waste  
2       landfills, including solid waste permits, liners,  
3       monitoring systems, leachate collection systems,  
4       corrective action, financial assurance, fugitive  
5       dust, suppression, transport controls, et cetera.

6                 Only Subtitle C regulations can  
7       guarantee the full panoply of needed protections  
8       and the phase- out of dangerous waste ponds. Lax  
9       "guidelines," such as those that would be applied  
10      under weaker Subtitle D regulations, will fail to  
11      fix the problem as EPA expects that a substantial  
12      number of coal ash dumps and waste ponds -  
13      representing approximately 50% of the coal ash in  
14      the U.S. - will not clean up under this plan.  
15      Regulation of coal ash under Subtitle C will  
16      increase disposal costs and, thus, provide an  
17      incentive for greater ash recycling. The costs  
18      passed onto the general public will be higher,  
19      unfortunately.

20                Strong, federally-enforceable standards  
21      ensure much greater compliance and, thus, much  
22      greater likelihood that future spills and



1       disasters - and the costs associated with their  
2       cleanup - will be avoided.

3               Through research, EPA must determine  
4       which reuses of coal ash are safe and beneficial,  
5       and must prohibit reuses that constitute dumping  
6       and expose people and the environment to hazardous  
7       chemicals. Failure to regulate coal ash dumped in  
8       mines is a dangerous omission, and EPA should not  
9       exempt this practice from regulation.

10              MS. DEVLIN: Number 63, please?

11              MS. GOTTLIEB: Hello. I am Barbara  
12       Gottlieb, Deputy Director for Environment and  
13       Health at Physicians for Social Responsibility,  
14       our national organization of physicians and other  
15       health professionals. We're 50,000 members in 25  
16       chapters.

17              Some industry representatives whom we've  
18       heard from today have suggested that coal ash is  
19       not toxic, and that the TVA Kingston spill was  
20       somehow not of much consequence to hu -- human  
21       health. On behalf PSR, I would like to correct  
22       that mischaracterization.

1           It may be that coal ash is bound at the  
2           molecular level in some recycling uses rendering  
3           it inert and ho -- harmless. We certainly hope  
4           so. But that is not what we are dealing with in  
5           coal ash in some 2,000 storage sites around the  
6           country. What leaches, blows, and spills out of  
7           storage sites includes arsenic, selenium, cadmium,  
8           chroni -- chromium, molybdenum, and a long list of  
9           other clearly toxic heavy metals. The  
10          contamination of people's drinking water wells  
11          from coal ash waste, as is scientifically  
12          documented in the EPA's listing of damage cases,  
13          proves in scientific terms that coal ash is toxic.

14                 What I'd like to go focus on today,  
15                 though, is that the EPA's assessment of coal-ash  
16                 toxicity is actually hindered by errors of  
17                 methodology and of assumptions. I'd like to raise  
18                 five issues that actually lead the EPA to  
19                 underestimate coal-ash toxicity.

20                         First, the EPA's test for measuring  
21                         leaching is inadequate. The EPA's own Science  
22                         Advisory Board and no less than the National

1 Academy of Sciences have both called on the EPA to  
2 replace its leaching test with a more modern, more  
3 accurate version. When, in 2009, the EPA used a  
4 test that accounted for additional factors, such  
5 as the pH of the ash and field conditions where  
6 leaching might take place, leaching was shown to  
7 be dramatically higher than previously believed.

8           Second, the EPA failed to consider the  
9 potential for harm from simu -- simultaneous  
10 exposure to multiple heavy metals. Exposure to  
11 several contaminants concurrently can cause  
12 synergistic interactions that result in a greater  
13 risk to health. Concurrent exposures may  
14 intensify existing health effects or may give rise  
15 to new health effects.

16           This can happen where different  
17 contaminants op -- contaminants operate by a  
18 common mechanism of toxicity; it can also happen  
19 where different contaminants affect the same body  
20 organ or system. Both scenarios occur with  
21 coal-ash toxicants. Unfortunately, the EPA does  
22 not take multiple exposures into account.

1           The EPA doesn't consider the greater  
2 threat to children. The EPA disregards long  
3 latency periods. Harm to health from coal ash may  
4 take years to become evident. This is  
5 particularly true of cancer which results from  
6 damage to cell DNA and mutations in genes.

7           Two years, as the case with the TVA  
8 spill, is too short a time for this damage to  
9 manifest; and thus, it's too soon to declare that  
10 no such harm was done by the pill.

11           Finally, the EPA overlooks the transfer  
12 of the problem from Tennessee to Alabama. A full  
13 assessment of health impacts must consider impacts  
14 where the coal ash is eventually disposed.

15           For these reasons, PSR strongly supports  
16 Subtitle C. Thank you.

17           MS. DEVLIN: Thank you. Number 66,  
18 please?

19           MR. SWARTZ: Hello. My name is Steve  
20 Swartz, and I am co-owner of New Age Fastening  
21 Systems, the developer of expendable abrasive New  
22 Age Blast Media.

1           Earlier, my colleague spoke about what  
2 we felt was the misuse of the EPA logo, and today  
3 I'd like to talk about the beneficial-use program,  
4 as -- as well as what we feel is a misuse of the  
5 EPA endorsement.

6           Now, everybody in this room, for the  
7 most part, has heard of the Creature from the  
8 Black Lagoon. Today, what I bring to you,  
9 courtesy of the Harsco Corporation, is what we  
10 call beauty from the black lagoon. What you have  
11 here is an ad. Black beauty abrasives speaks  
12 about passing the TCLP test. Obviously, you have a  
13 woman that's immersed in what only appears to be a  
14 black lagoon, and -- it's ads like this that we  
15 feel are very misleading. We feel like -- that  
16 the EPA has -- is in the position to do something  
17 about an ad like this.

18           You know, when it comes to the -- the  
19 beneficial uses for coal combustion waste, we feel  
20 like -- that this is not a beneficial use, and  
21 this -- this ad is very misleading. It --  
22 continue to -- to tie their ads to the TCLP, which

1 we feel is a futile attempt at linking the TCLP  
2 standards to those drinking water standards.

3 You know, if -- you know, in layman's  
4 terms, we just feel like this -- this ad is almost  
5 like the beneficial-use program gone wild. It's  
6 -- you know, a -- a picture speaks a thousand  
7 words, and we just feel like -- that -- that this  
8 -- this just speaks of misuse of coal combustion  
9 waste. Thank you very much.

10 MS. DEVLIN: Thank you. May I have  
11 numbers 67, 68, 69, and 70, please? Number 67?  
12 Thank you.

13 MR. BRYANT: Good afternoon. My name is  
14 Mark Bryant. I come to -- before you today on  
15 behalf of the 150-plus members of the American  
16 Coal Ash Association.

17 The netagi -- negative stigma created by  
18 EPA's proposal is growing. The regulatory effect  
19 appears weighted towards placing -- excuse me -- a  
20 hazardous special waste on a nonhazardous  
21 material, and has resulted in uncertainty,  
22 misinformation, and anxiety in an otherwise normal

1 commodity market. The damage to CCR markets is  
2 real, and the people that use, manage, and trade  
3 them are being harmed.

4 Additional examples of the negative are  
5 available today that EPA needs to be aware of.  
6 EPA's proposal is -- hurts hard-working and  
7 honest, small businessmen and women and their  
8 employees.

9 All this harm and suffering because EPA  
10 wants federal jurisdiction for a nonhazardous  
11 material, nonhazardous by any test or criteria. A  
12 federal or a state-led RCRA Subtitle D program  
13 will be more than adequate for everyone's  
14 protection and safety.

15 At previous meetings, EPA has heard test  
16 -- testimony from competitors of some of these  
17 small recycling businesses, most recently blasting  
18 grit, in favor of a Subtitle C determination for  
19 what appears the sole purpose of gaining a  
20 business advantage and a financial gain. Using  
21 the negative stigma, the competing market knows  
22 what it means.

1           We are now learning of incidents where  
2           small businesses are having operating loans denied  
3           because collateral property improved by CCRs that  
4           secured the loans in the past are failing  
5           inspection, and falling victim to misinformation  
6           and ambiguity. The stigma is real. Companies and  
7           jobs are being lost.

8           We are in possession of public and  
9           private construction project documents that  
10          specifically state fly ash will not be used in  
11          ready mix anywhere on the site. The stigma is  
12          real and growing.

13          We have just received advertising  
14          materials for concrete products manufacturers that  
15          warrant that all of their products to be free of  
16          coal ash because it is currently under  
17          investigation by U.S. EPA as a possible  
18          hazardous waste. The stigma EPA created is real.

19          Finally, we have asked EPA to consider  
20          the unique contracts and language used in this  
21          industry. We have shared this language with EPA,  
22          and asked EPA to consider the implosion and



1       beneficial use in recycling that will occur when  
2       cancellation or forced majeure clauses kick in  
3       because EPA chosen to list CCRs as a hazardous  
4       waste. This will be a huge hit to the recycling  
5       industry that EPA has supported for many years.  
6       So far, EPA has chosen to ignore this impending  
7       situation.

8               RCRA works. According to RCRA, CCRs are  
9       not hazardous. Government-funded research and  
10       demonstration has supported beneficial use and  
11       recycling for years. This industry is based on  
12       good science.

13               Subtitle D is technically sufficient,  
14       and all the good people will be protected and not  
15       harmed any further. Thank you.

16               (Applause)

17               MS. DEVLIN: Thank you. Number 68,  
18       please?

19               MR. ADAMS: My name is Mike Adams, and I  
20       have recycled fly ash for the past 30 years, the  
21       last 11 years as a v -- vice president for  
22       Headwaters Resources, the largest marketer of fly

1 ash in North America.

2 My premise for my testimony is that was  
3 EPA's assertion that a hazardous designation will  
4 increase CCP's utilization is flawed, and that the  
5 stigma of a hazardous-waste designation is real.  
6 The listing of CCPs as a hazardous material for  
7 disposal will effectively kill the most successful  
8 recycling program in the U.S., increase  
9 greenhouse-gas production by millions of tons of  
10 CO<sub>2</sub>, and require an additional 50-million cubic  
11 yards of landfill space annually.

12 The following is an example of that  
13 stigma that is now taking place even before any  
14 rule has been issued. I have here a price sheet  
15 from a concrete block producer that is affiliated  
16 with the nation's largest concrete block producer.  
17 This price sheet was issued within the last couple  
18 of months.

19 It includes their standard pricing and  
20 the following warrant in bold print. Blank  
21 company -- I will leave the name -- them nameless  
22 at this time -- warrants all concrete masonry

1 units to be free of any coal ash. Coal ash is  
2 currently under investigation by the EPA to be  
3 classified as hazardous waste.

4           Why are they making this warranty? It  
5 can be for one reason and one reason only. They  
6 are concerned with the possible liability of coal  
7 ash even though there is no -- and I repeat, no  
8 scientific evidence that the use of coal ash in  
9 the production of concrete products is harmful to  
10 people or animals or the environment. Their  
11 concern is the future liability associated with  
12 unscrupulous attorneys and possible class-action  
13 suits.

14           This is an example of how sti --  
15 significant stigma will be. In the EPA's positive  
16 economic justification for a hazardous designation  
17 of coal ash, which is required for any such  
18 ruling, they have assumed that beneficial reuse  
19 will -- will significantly increase due to the  
20 hazardous designation.

21           Without this assumption, the hazardous  
22 designation is a huge economic loss to the

1 electric con -- consumers of the country. Stigma  
2 will cause this.

3 This and other examples of stigma prove  
4 the EPA assumption is wrong, and a hazard  
5 designation will not increase any coal ash sales.  
6 It will effectively kill very successful and  
7 environmentally-positive recycling program.

8 The true regulatory options before us  
9 for comment today, the Subtitle C hazardous  
10 approach and the Subtitle D nonhazardous approach  
11 both propose new landfill engineering standards  
12 that are essentially the same. Landfills won't be  
13 any stronger or better under Subtitle C, but coal  
14 recyclers will be saddled with a hazardous-waste  
15 stigma that will make continued recycling of this  
16 re -- resource difficult or impossible.

17 MR. GENTILE: Thank you.

18 (Applause)

19 MS. DEVLIN: Number 69, please?

20 MR. SILVERTOOTH: My name is Mike  
21 Silvertooth with Mineral Resource Technologies,  
22 Inc., a Cemex company. We are a full service coal

1 combustion products company and marketing  
2 management in North America. I want to thank the  
3 EPA panel for giving us this opportunity to  
4 address the disposal of CCRs from electric  
5 utilities.

6 Besides being one of the full ser --  
7 besides being a full-service marketing and  
8 management company of CCPs, MRT's key role is to  
9 supply our parent company, Cemex, with fly ash,  
10 bottom ash, and synthetic gypsum for the  
11 production of ready mix, concrete pipe, and cement  
12 in the U.S.

13 Our company was recognized by EPA in  
14 regards to the C2P2 reward with the enhanced  
15 utilization of CCPs in 2008. Specifically, EPA  
16 recognized us for internally consuming 2.1 million  
17 tons of CCPs annually in our various products. We  
18 continue to be the single largest beneficial user  
19 of CCPs in the U.S.

20 EPA named Cemex USA Energy Start Partner  
21 of the year for outstanding energy management and  
22 reduction in greenhouse gases (sic) emissions for

1 the second year in a row in 2009 and 2010.  
2 Locally, our Knoxville cement plant received the  
3 Energy Star rating in 2008 and 2009 from the U.S.  
4 EPA in regards for demonstrating the ability to  
5 reduce energy use and protect the environment  
6 through energy efficiency.

7 As you can see, our company is dedicated  
8 to operating in a sustainable manner that  
9 minimized the impact to the environment. The  
10 reduction of greenhouse gas is a top priority of  
11 EPA, and is also a top priority of our company, as  
12 well.

13 The utilization of CCPs is a major  
14 portion of our in -- internal efforts to minimize  
15 greenhouse gases, and could very well be the  
16 single largest source or reducing CO2 year over  
17 year. With the utilization of fly ash in our  
18 concrete operations alone, we have reduced CO2 by  
19 up to 1.6 million tons annually while, at the same  
20 time, improving the quality and useful-service  
21 life of our concrete.

22 Also, we continue to use CCPs as

1 raw-feed replacement for mined virgin materials  
2 for the production of Portland cement. By  
3 utilizing CCPs in our cement operations, Cemex sib  
4 -- substitutes a portion of the mined raw  
5 materials, such as clay, shell, and natural  
6 gypsum. This enables us to re -- conserve natural  
7 resources, for (sic) land disturbances, and reduce  
8 CO2 for mining operations. At the same time, this  
9 reduces the amount of CCPs disposed at power  
10 plants and avoids the CO2s generated from the  
11 disposal activities.

12           Prior to utilize -- utilizing any CCP  
13 for raw feed, the material must be tested for  
14 total minerals, TCLP metals, and, in some cases,  
15 TCLP organic. The test results must conform to  
16 all federal and/or state regulations in order to  
17 be used in our operations. No material defined as  
18 hazardous waste in Title 40, Code of Federal  
19 Regulations, Subtitle 261 can be used in any  
20 manner.

21           Cemex urges EPA to elect man --  
22 management of CCPs under RCRA Subtitle D. This

1 option allows CCPs to be managed under the same  
2 similar guidelines proposed under the RCRA  
3 Subtitle C option, but allows CCPs to remain  
4 classified as a nonhazardous material.

5 Should CCPs fall under RCRA Subtitle C  
6 management, there are too many negative variable  
7 that will hamper the beneficial use of CCPs and  
8 will cripple a large avenue in the reduction of  
9 greenhouse gases in our country.

10 Thank you to the EPA panel for allowing  
11 my company to address our concerns.

12 MS. DEVLIN: Thank you. Number 70,  
13 please?

14 MR. WALDROP: Good afternoon. My name  
15 is Bob Waldrop, president of Full Circle  
16 Solutions. We're a small business that provides  
17 beneficial use of coal-combustion products for  
18 power plants and other industries in the Southeast  
19 and Midwest. We safely recycle CCPs into mulches,  
20 potting soils, masonry block, soil amendments, and  
21 geotechnical fills.

22 My comments today concern the issue of



1 stigma. The stigma associated with the regulation  
2 of CCPs as hazardous waste is real and here with  
3 us today.

4 First, our clients that produce masonry  
5 block have stated that they will no longer use  
6 bottom ash if it becomes labeled as hazardous.  
7 They are already seeing competitors advertise that  
8 they do not use hazardous materials in their  
9 block.

10 Our clients are concerned that any  
11 lawsuit will turn into a public -- public  
12 spectacle. The mere mention of "hazardous  
13 materials" will force them to defend using what  
14 has been a safe and effective material for years.  
15 No one can possibly think that attorneys will not  
16 attack block manufacturers that use what has been  
17 labeled "hazardous."

18 Second, we have lost two major  
19 construction projects due to a hazardous label.  
20 The first was a development in eastern Virginia  
21 that would have enhanced property values and the  
22 tax base of a small rural county. County

1 officials stated that they liked the project and  
2 want to approve without the use of CCPs; however,  
3 if CCPs were used, they would deny approval  
4 because they did not want to get involved with a  
5 hazardous project.

6 The second project, an industrial park,  
7 also in eastern Virginia, would have provided land  
8 ready for an industry to build upon, even though  
9 we proved the environmental safety of a properly-  
10 constructed geotechnical fill, the owners backed  
11 away because, in their words, EPA thinks this may  
12 be hazardous.

13 More recently, standard ways of  
14 conducting any business have changed for the CCP  
15 industry. This is the result of the negative  
16 stigma from EPA's proposal to regulate CCPs as a  
17 hazardous waste.

18 One of our business loans was up for  
19 renewal, and the loan was collateralized with the  
20 industrial and commercial properties developed  
21 with CCPs. As part of the refinance, the bank  
22 ordered Phase I Environmental Assessments. These

1 properties have had several Phase I assessments  
2 performed in the past. They have always been  
3 clean.

4           However, this time, due to the presence  
5 of CCPs, the environmental consultant directed the  
6 bank to have a Phase II study done. When  
7 challenged with the facts, including years of  
8 groundwater and surface water monitoring data  
9 which proved these sites are clean, the con --  
10 consultant could only say that since EPA is  
11 considering these -- regulating the CCPs as  
12 hazardous, then it must be bad.

13           The bank has decided they will not renew  
14 the loan. If they call that loan, good people are  
15 going to lose their jobs.

16           The stigma issue is real. It's  
17 affecting CCP companies today. Therefore, we urge  
18 EPA to make an informed decision on the regulation  
19 of CCPs and ben -- and beneficial recycling of  
20 these valuable materials. If EPA truly supports  
21 recycling, Subtitle D is the answer. Thank you.

22                           (Applause)

1                   MR. GENTILE: Thank you. May I have  
2 Numbers, 71, 73, 75, and 92 and 98. And again,  
3 we've bit -- a bit out of order on those two, just  
4 trying to fit some people in. So Number 71,  
5 please? Thank you.

6                   MR. FARRAR: Good afternoon. My name is  
7 Tyler Farrar. I'm the agricultural marketing  
8 specialist for Full Circle Solutions, Inc.

9                   It is my job to educate farmers on all  
10 the wonderful benefits of CCRs, specifically with  
11 FGD gypsum. Some of the benefits are increased  
12 crop yields, improved soil quality, control of  
13 erosion from soil runoff, and the limited movement  
14 of fertilizers and chemicals into nearby streams.

15                   The chemical constituents of CCRs are  
16 commonly found in many everyday products and  
17 natural materials, such as soil, rock, and other  
18 parts of the earth's crust. Agriculture  
19 represents the largest untapped potential market  
20 for beneficial uses of this valuable resource.

21                   I have two specific issues I would like  
22 to address. The first one is the extensive

1 research that the USDA, EPA, and state  
2 universities have done with CCRs and FGD gypsum.  
3 Decades -- decades of research has been done to  
4 show the functional benefits of FGD gypsum.

5 FGD gypsum substitutes for the use of  
6 virgin materials. It is applied at appropriate  
7 agronomic rates, and the use of which meets  
8 applicable standards.

9 Designating CCRs as hazardous or toxic  
10 is counter to scientific evidence, and would  
11 seriously limit the current use of these  
12 materials. EPA and other governing bodies have  
13 determined that they are nonhazardous, and  
14 regulation under Subtitle C is unwarranted.

15 The second issue is stigma. I'm a  
16 fifth-generation farmer. We spend our lifetime  
17 being stewards of the land, typically living where  
18 we farm. Farmers would not take the risk of  
19 damaging their livelihood by applying materials to  
20 the land that is designated as a hazardous  
21 substance. Our farms are passed down through the  
22 generations. And the EP -- EPA proposed Subtitle

1 C or D labeled a special waste would damage the  
2 productive capacity or value of the land for  
3 future generations.

4 In our grain and reusable society, it is  
5 in our best interest to continue to reuse  
6 products, such as CCRs, that help us live more  
7 productive and enjoyable lives. CCRs directly and  
8 directly contribute over \$4.5 billion annually to  
9 the United States economy and thousands of jobs.  
10 In the current state of our economic situation, a  
11 Subtitle C classification would devastate small  
12 businesses and individual towns that depend on our  
13 industry for survival.

14 Many people pride themselves on efforts  
15 to recycle paper, glass, cans, and cardboard.  
16 These recycle strategies are employed widely in  
17 the United States to help cut down the need for  
18 landfills and conserve limited reser -- sources.

19 Please allow us to continue this  
20 tradition by keeping CCRs as Subtitle D. Thank  
21 you.

22 (Applause)

1           MS. DEVLIN: Thank you. Number 73,  
2 please? 73? Not here. 75? Thank you.

3           MS. AMYX: Hello. My name is Alison  
4 Amyx, and I'm the communications and outreach  
5 director of Georgia Interfaith Power & Light,  
6 which is an organization dedicated to helping  
7 communities of faith care for God's creation.

8           I'm here today to voice my support for  
9 EPA regulations that would treat coal ash as a  
10 special waste under Subtitle C of the Resource  
11 Conservation and Recovery Act. I urge the EPA to  
12 adopt enforceable federal safeguards to protect  
13 our ecosystem from the pollutants in coal ash.

14           As it stands, communities across the  
15 country are being exposed to heavy metals, such as  
16 arsenic, lead, and mercury. These heavy metals  
17 seep from coal ash storage sites into our drinking  
18 waters, rivers, and streams.

19           As a person of faith, I believe that  
20 this is unacceptable. God created the world and  
21 called it good, and we are called to be stewards  
22 of God's creation to keep it clean so that

1 generations to come will also have a chance to  
2 enjoy it.

3           Unfortunately, as we all know, burn  
4 coaling is a dirty business, and the coal ash  
5 waste has to be stored somewhere. Regulating its  
6 disposal and ensuring that it's stored properly  
7 are just a couple of ways that we can lessen our  
8 impact on the created world. We have a moral  
9 obligation to ensure that all citizens have access  
10 to clean water and a clean environment.

11           There are faith communities all over the  
12 state of Georgia and across the country who are  
13 working to reduce their dependance on fossil  
14 fuels. But even as we do all we can in our  
15 congregations and we can in our personal lives,  
16 and even as we invest in clean-energy  
17 alternatives, we must work to mitigate the  
18 consequences of burning coal in the meantime.

19           So in conclusion, I urge the EPA to  
20 regulate coal ash under Subtitle C so that we can  
21 protect the creative world and ensure that we  
22 leave the gift of a clean world to future



1 generations. Thank you.

2 (Applause)

3 MS. DEVLIN: Thank you. Number 92?

4 MR. SILVER: Good afternoon. My name is  
5 Derrick Silver, manager of Full Circle Solutions,  
6 Petersburg Virginia Operations.

7 Over the past 20 years, I have helped  
8 construct dozens of geotechnical fill projects with  
9 coal combustion products. In compliance with  
10 existing state regulations, these fills have al --  
11 always been constructed in a manner that protects  
12 both groundwater and surface waters.

13 Before starting a field, we carefully  
14 examine the environmental setting. Qualified  
15 professionals identify the extent of groundwater,  
16 surface waters, and wetlands. The project is then  
17 de -- designed to give many forms of protection to  
18 these valuable resources.

19 Setbacks are put in place to allow for  
20 large buffer areas. The buffer areas allow for  
21 soil attenuation of vegetation screening. Before  
22 placement of CCPs begin, sedimentation basins,

1 soil berms, silt fencing, runoff and runoff  
2 ditches and other storm water control devices are  
3 installed. These measures ensure that CCPs do not  
4 enter any surface water.

5           The first CCP placed in is bottom ash.  
6 We placed one foot of bottom ash at the bottom of  
7 every CCP fill to allow for drainage and any rain  
8 water that comes through -- through the field.  
9 Water in the drainage layer is routed to sub --  
10 sub -- excuse me, sediment basins where it's  
11 contained (sic) with storm water. This water is  
12 then recycled for dust control and proper  
13 compaction.

14           Placement of CCPs is done with method  
15 far exceeds those from earth fills -- earthen  
16 fills. Properly compacted fills prevent storm  
17 water infiltration. We test compaction ten times  
18 more than normal for the earthen fills.

19           Sloping also provides for positive  
20 drainage, unlike earthen fills. A top slope, at  
21 least 2%, is constructed. Phasing of CCP fills  
22 also limits water infiltration, will limit the

1 amount of CCP fill area an inactive at any given  
2 time.

3 As soon as each phase has been  
4 completed; we cover the CCPs. The proper cover  
5 placed over a CCP fill also helps prevent any  
6 storm water intrusion. We replace a minimum of  
7 two feet of dirt over CCPs. We don't use any --  
8 just any dirt. We make sure that the dirt placed  
9 on the fill is compatible, suiting the growth of  
10 grasses and other vegetation.

11 Grassing is then completed and just not  
12 imported, it's maintained. We periodically reseed  
13 anything in areas to mow, as well as to keep it  
14 healthy. These are but a few of the controls we  
15 design and build for any CCP geotechnical fills.

16 Though participation in the state  
17 regulation process, we have made certain that  
18 these and other controls have been written in  
19 Subtitle D, solid waste regulations. I'm sorry.  
20 Thank you.

21 MS. DEVLIN: Thank you.

22 (Applause)

1 MS. DEVLIN: May I have Numbers, 76, 77,  
2 78, and 96? Number 76, please?

3 MR. DONAHUE: Good. afternoon. My name  
4 is -- my name is Bob Donahue. I'm the power wise  
5 program director for Georgia Interfaith Power &  
6 Light.

7 Alison just talked about our  
8 organization, so I won't repeat that. But my role  
9 is to work with the faith-based community in  
10 implementing energy efficiency programs throughout  
11 churches, synagogues in Georgia. I wish to thank  
12 you for the opportunity to speak on this important  
13 issue today.

14 Over the years, I've seen the results of  
15 sel -- self-regulation and minimal regulation by  
16 industry. The record is not good: Climate  
17 change, Gulf oil spill disaster, Tennessee coal  
18 ash spill, mercury throughout the food chain just  
19 about everywhere you go.

20 In a previous career, I was director of  
21 site assessment operations in its superfund  
22 hazardous ranking system program within U.S.

1 corporation. There I had seen 30-foot high slag  
2 piles filled with chromium and arsenic directly  
3 across the street from elementary schools, and  
4 also on the banks of the Anclote River in Tarpon  
5 Springs, Florida. I also witnessed and  
6 investigated toxins in the public water supply for  
7 2 million people in Miami originating from  
8 industrial septic tanks permitted with minimal  
9 standards.

10 So after 40 years of working for  
11 government and business on environmental problems  
12 throughout the southeast, I do not have confidence  
13 at all in industries self-regulation or minimal  
14 regulation. So the question before us today:  
15 Should we have stricter environmental regulations  
16 and safeguards for 130 million tons of coal ash  
17 laced with chromium, arsenic, lead, and mercury,  
18 many of which contain contaminant levels in excess  
19 of those found at the nation's most dangerous  
20 superfund hazardous waste sites?

21 My initial reaction is "Duh." My  
22 professional reaction is "Yes, I strong --

1 strongly recommend EPA institute Subtitle C  
2 regulations for storage of coal ash." I want to  
3 thank you for the time to speak here today on this  
4 important topic. Thank you.

5 (Applause)

6 MS. DEVLIN: Thank you. Number 77,  
7 please? State your name.

8 MS. GRIFFITH: We've not welcomed you.  
9 Thanks for coming.

10 MR. GENTILE: Thank you.

11 MS. GRIFFITH: My name is Gloria  
12 Griffin, and I'm a Tennessee Sierra Water  
13 Sentinel.

14 EPA's own research has documented dozens  
15 of cases of pollution that has escaped coal ash  
16 sites. The EPA must classify coal ash as a  
17 hazardous waste, which would provide a strong  
18 oversight vehicle for the 141 million tons of  
19 toxic coal ash produced in the U.S. each year.

20 Coal ash is a dangerous mixture of  
21 arsenic, lead, mercury; selenium, accumulative  
22 toxic brew. When improperly disposed of, it

1       contaminates drinking water supplies, surface  
2       waters, and our communities.

3               There are thousands of these  
4       poorly-managed and poorly-maintained coal ash  
5       sites across the United States. Coal ash is  
6       hazardous and must be regulated under the most  
7       protective provisions of the U.S. hazardous waste  
8       laws.

9               The true cost of coal ash will never be  
10       known, might never be known, but Tennessee knows.  
11       Tennessee knows the water quality in the Emory  
12       River at the site of the TV coal ash disaster has  
13       been impaired, and the aquatic habitat has been  
14       destroyed.

15               The true cost of coal ash may never be  
16       known; but Tennessee knows that the health re --  
17       assessment report did not gave a clean bill of  
18       health to the impacts of this disaster. It  
19       concedes that the Kingston ash is dangerous,  
20       containing levels of arsenic well above the  
21       background arsenic in the area.

22               Coal ash -- the true cost of coal ash

1       may never be known, but Tennessee knows that a  
2       hydrogeological investigation has not been done in  
3       the disaster area and, therefore, the health  
4       assessment could not effectively ascertain impacts  
5       to human health from contaminated drinking water.

6               Tennessee knows coal ash cannot be left  
7       to the state monitoring. Tennessee will never  
8       regulate coal ash. They never have and they never  
9       will.

10              Tennessee knows. Tennessee knows  
11       communities all over the country currently near  
12       coal ash storage -- storage sites are in sacrifice  
13       zones.

14              The EPA knows coal ash is a poison-laced  
15       concoction. I ask EPA only to believe in its own  
16       findings on this issue and do the right thing by  
17       protecting people, not coal-industry profits. I  
18       urge EPA to adopt the stronger regulation, Option  
19       C, to protect ground and surface water, ensuring  
20       safe and healthy communities. Thank you.

21                               (Applause)

22                      MS. DEVLIN: Thank you. Number 78,



1 please?

2 MR. WHITWORTH: I'm Dean Whitworth. And  
3 the combustion of coal releases a number of toxic  
4 substances, substances that have been sequestered  
5 in the earth for millions of years. And when we  
6 burn coal, we release many of these substances  
7 into the atmosphere. And ultimately, I end up  
8 breathing, drinking, and eating them. The  
9 remainder of these materials are in the ash.

10 Therefore, it is entirely appropriate  
11 and prudent that we do everything technologically  
12 feasible to prevent this portion from escaping  
13 into our environment. Therefore, I request, I  
14 expect, and I demand that combustion residuals  
15 from electric utilities be regulated under  
16 Subtitle C.

17 (Applause)

18 MS. DEVLIN: Thank you. Number 96?

19 MR. LEMAIRE: My name is Walter LeMaire,  
20 director of Mineral Resource Technologies, MRT.  
21 MRT is a coal combustion product marketing and  
22 management company that promotes, manages, and

1 expands the developed beneficial applications for  
2 CCPs along with our sister companies.

3 I would like to thank today's EPA panel  
4 for giving me the time to addresses the recent  
5 proposal for the disposal of coal combustion  
6 residuals from electric utilities.

7 MRT and its parent company, Cemex, use  
8 CCPs, including fly ash, bottom ash, and synthetic  
9 gypsum in its cement construction products,  
10 concrete pipe, ready mix con -- ready mix concrete  
11 manufacturing operations, and we promote the  
12 beneficial use of CCPs to external customers. We  
13 are continually expanding the applications where  
14 beneficial use of CCPs can add value to and lower  
15 the environmental impact of the construction-  
16 materials industry, both internally and for our  
17 external customers.

18 The beneficial use of CCPs saves virgin  
19 resources, lowers the cost of electricity  
20 generation, reduces energy consumption, lowers  
21 greenhouse gas emissions, lowers the end-user cost  
22 of concrete products, and reduces the need for

1 landfill space which further lowers the impact on  
2 the environment.

3 MRT and Cemex understand the importance  
4 of sustainable development, and continually seek  
5 ways to reduce the environmental impact of our  
6 operations by balancing materials demand with a  
7 commitment to environmental sustainability. We  
8 conduct business with respect and care for the  
9 environment as evidenced by our consecutive Energy  
10 Star Partner of the Year awards in 2009 and 2010.

11 Another example is our participation in  
12 the Coal Combustion Products Partnership, C2P2,  
13 which is a joint government and industry program  
14 to increase the beneficial use of coal combustion  
15 products and to reduce energy consumption,  
16 greenhouse gas emissions, and to increase  
17 industrial recycling. We're committed to  
18 preserving and improving ecologies in which we  
19 operate and devote considerable resources to  
20 environmental quality efforts.

21 MRT fully supports the EPS's proposes  
22 RCRA Subtitle D option to manage CCPs. This

1 option increases the existing physical  
2 requirements and management guidelines of CCPs on  
3 a federal level almost identical to RCRA Subtitle  
4 C option, but allows CCPs to remain clearly  
5 classified as a nonhazardous material.

6 Should the EPA choose to reclassify CCPs  
7 under RCRA Subtitle C, the encapsulated beneficial  
8 uses supported by the EPA could be severely  
9 limited or potentially eliminated due to  
10 end-consumer returns.

11 I would like to thank EPA panel for  
12 allowing my company to address some of our  
13 concerns.

14 (Applause)

15 MS. DEVLIN: Thank you. May I have  
16 Numbers 80, 82, 83, 109, and 125. Are you Number  
17 80? Please come forward.

18 MR. BRUCKER: (coughs) Excuse me. My  
19 name's Gerry Brucker, and I've worked in the coal  
20 reclamation industry now for the past 9 years.  
21 I've worked with heavy equipment now for the past  
22 28 years.

1           I've been involved in numerous  
2       beneficial reuse projects in -- in -- over three  
3       states, and have seen firsthand the positive  
4       impact to both the industry and the communities in  
5       which the projects were completed. In each case,  
6       both the local communities and the businesses are  
7       able to expand and provide jobs for local  
8       citizens, as well expanding their infrastructure.

9           I've al -- I've also seen in the pa --  
10      in the past few months the reduction in the number  
11      of these types of projects, not only due to the  
12      economic slowdown, but also because of the  
13      negative publicity of the coal ash controversy. I  
14      strongly disagree with the need to label coal ash  
15      as a hazard -- hazardous material, and believe  
16      that the negative stigma attached to the coal ash  
17      by this label is -- will completely halt the  
18      beneficial reuse programs that have been  
19      established for the past between 20-years plus.

20           I find the concept that the labeling of  
21      this material is hazardous in order to  
22      artificially increase the disposal costs of the

1 coal ash in order to promote its reuse as being  
2 totally without merit or basis. Those of us in  
3 the ash recycling community understand that the  
4 vast majority of coal ash reuse is in the  
5 construction area, and that the construction  
6 market will totally turn away from ash reuse due  
7 to the stigma attached with laz -- labeling it as  
8 hazardous.

9 I strongly ask you to leave it as it is,  
10 Subtitle D.

11 (Applause)

12 MS. DEVLIN: Thank you. Number 82,  
13 please?

14 MR. WALLS: For the record, my name is  
15 Jeremy Walls.

16 Good afternoon. I would like to thank  
17 you for the time today to con -- convey my  
18 position on this proposed subtitle change for coal  
19 fly ash.

20 I have worked for the Headwaters  
21 Resources for 11 years, and I wanted to use the  
22 time allotted to me to discuss the topic of

1        discontinued use and the inev -- inevitable stigma  
2        which is going to be placed on the beneficial use  
3        of fly ash if Subtitle C is adopted.

4                From the beginning of time, we have been  
5        harvesting the earth's resources for its energy  
6        and beneficial use. We have taken resources from  
7        the earth to create products and processes to --  
8        to benefit man in some way, form, or fashion, for  
9        instance, the use of wood and stone for use for  
10       fire and heat, also for making weapons to obtain  
11       food. So just look how far we have come since  
12       then.

13               Over thousands of years, man has  
14       continually been discovering new and innovative  
15       ways to use the natural resources and improve the  
16       processes by which they are used. We are blessed  
17       to have these resources for our continued use.

18               Today we are still using materials that  
19       keep us evolving into a people of great  
20       achievement and innovation. The use of coal for  
21       power generation has been strictly regulated for  
22       years, and continues to improve.

1           Yes, there are alternatives; however,  
2 they are costly and years from being able to  
3 replace coals from -- coal's role from power  
4 generation. So the continued use of coal power,  
5 without the ability of beneficial use of fly ash,  
6 lacks logic. In my opinion, designating coal  
7 combustion byproducts as a hazardous waste would  
8 inhibit power- generation innovation and, in turn,  
9 set us back for years to come.

10           I'll take this opportunity to remind you  
11 of a long-term implication of the designation  
12 change. This is a step back -- this is a step  
13 back for the continued use of our natural  
14 resources in a responsible manner. The disposable  
15 -- disposal of a beneficial re-useable material  
16 that is going to wear the label "hazardous," such  
17 as a rapist, a thief, or a murderer, once  
18 convicted, you will always be just that and no  
19 longer a use to society but a burden.

20                           (Applause)

21           MS. DEVLIN: Number 83, please?

22           MR. DOLES: Good afternoon. My name is



1 Jim Doles, and I've worked for Headwaters for 12  
2 years in engineering and research and development.

3 Previously, fly ash has been reviewed by  
4 the EPA and found nonhazardous. Scientists are --  
5 scientific research supports this outcome. The  
6 recent failure of the ash impoundment in Kingston,  
7 Tennessee has -- which has brought the spotlight  
8 on ash, was related to a civil-engineering  
9 failure, not a failure of the product being  
10 contained.

11 Regulating the use of CCPs as hazardous  
12 will give it -- have a neg -- negative impact on  
13 beneficial use, therefore creating need for more  
14 land fills. And people don't like land fills,  
15 either.

16 Wind and solar power are clean, but with  
17 the fraction of power that they supply and the  
18 many years it will take to build their  
19 infrastructure, EPA should not phase out coal so  
20 quickly. The dependence on coal can and won't --  
21 can't and won't go away soon. These regulations  
22 will raise power bills and just be transferred to

1 the general public.

2 Beneficial use of ash has been around  
3 for years with the environmentally-friendly state  
4 of California requiring the highest Portland  
5 cement replacements with fly ash. The impact even  
6 by the media on oil spills and ash pond problems  
7 are negative. Positive things don't get news  
8 attention.

9 Let's try to utilize several hundred  
10 years of coal reserves to keep jobs in America. I  
11 ask the EPA to continue regulating CCPs as  
12 Subtitle D, encouraging its continued beneficial  
13 use in building materials and other  
14 environmentally- friendly products. Thank you.

15 (Applause)

16 MS. DEVLIN: Okay. We're running a bit  
17 ahead of schedule, so I'd like to try to fit in  
18 some people who registered today. Numbers 261,  
19 262, 263, and 264, are you in the audience? Thank  
20 you. Thank you. You're Number 261?

21 MR. MOREHEAD: Yes, ma'am.

22 MS. DEVLIN: Thank you.

1                   MR. MOREHEAD: Good afternoon. My name  
2 is Tupper Morehead, and I am a Franciscan serving  
3 in the Episcopal diocese of East Tennessee. And I  
4 live in Norris, Tennessee.

5                   I'm also a recently retired physician.  
6 I served as a state public health officer for six  
7 current and former coal mining counties in east  
8 Tennessee: Anderson, Campbell, Claiborne, Morgan,  
9 Scott, and Union Counties. I am knowledgeable  
10 about the toxic and hazardous adverse effects of  
11 coal ash.

12                   I refer you to the website of Physicians  
13 for social Responsibility, [www.psr.org](http://www.psr.org), of which I  
14 am a member. I am also a senior fellow and member  
15 of the American College of Obstetricians and  
16 Gynecologists; thus, I am vocationally and  
17 professionally very interested in the metabolic  
18 and teratological effects of the elemental and  
19 chemical components of coal waste upon pregnant  
20 women, the developing fetus, and young children.

21                   It is clear to me that EPA should adopt  
22 Subtitle C as a first step in stringently

1 regulating the coal industry for the well-being  
2 and health of American people. It is the -- the  
3 role of the EPA to protect the environment. Its  
4 mission is not to create jobs or prevent job loss.  
5 Its role is not to protect corporations,  
6 lobbyists, the powerful, the affluent, or  
7 investors.

8 The EPA was created for one single  
9 purpose: Protect the environment. Protect the  
10 sacramentality of creation and all of its  
11 creatures. I urge you to adopt Subtitle C. Thank  
12 you.

13 (Applause)

14 MS. DEVLIN: Thank you. Number 262?

15 MS. MCWHERTER: My name is Lisa  
16 McWherter, and I'm a resident of Asheville, North  
17 Carolina, and a -- a member of Sierra Club, and  
18 also a physical therapist practicing in Asheville,  
19 North Carolina.

20 And again, I have concerns about the  
21 health -- and as far as economics goes, when you  
22 look at the economics of being able to recycle

1       these coal ash products as opposed to the  
2       economics of all the healthcare issues that we, as  
3       taxpayers, are going to be paying that burden from  
4       all these healthcare issues, as far as just  
5       economics, it just doesn't make sense to not  
6       regulate these things that are known as toxins, to  
7       regulate them as toxic substances. So I -- again,  
8       I would urge you to adopt Subtitle C.

9                 Another issue is that in our Progress  
10       Energy steam power plant in Arden, North Carolina,  
11       there's been some groundwater pollution and  
12       there's been some -- the -- the -- the coal ash  
13       ponds spill directly into the French Broad River  
14       there, and there have been high levels of arsenic  
15       in the fish. 35% of the fish in -- in one study  
16       were found at arsenic levels higher than what is  
17       considered safe for human consumption.

18                 And I have great concern about that.  
19       And I know that these coal ash ponds are all over  
20       the country, and I'm concerned about regulating  
21       them.

22                 I'm also concerned with the, quote,

1 "beneficial uses" of the coal ash in solid  
2 materials as far as the safety of that. I would  
3 not want to eat out of dishes that had glaze on  
4 them with lead, which leaches out. And I have  
5 great concern about leaching from these concrete  
6 and other solid materials that are used -- that  
7 are taken from the coal ash.

8           And concrete is not made in -- made as a  
9 permanent substance. It does break down, it  
10 crumbles, and it makes dust.

11           So I think there, again, we should look  
12 at that as a toxic waste, and definitely consider  
13 where we're using it and how we dispose of it.  
14 Thank you.

15                           (Applause)

16           MS. DEVLIN: Thank you. Number 263,  
17 please?

18           MS. PIRAINO: Hi. My name is Laura  
19 Piraino. Thank you for hosting this meeting and  
20 listening to our regional community.

21           I am deeply concerned about the impact  
22 of coal ash in western North Carolina. North

1 Carolina has 12 high-hazard coal ash dumps, more  
2 than any other state. These include Progress  
3 Energy's Asheville plant 1964 and 1982 ponds in  
4 Arden, which are about 10 miles from my house in  
5 Asheville. In -- in October 2009, Appalachian  
6 Voices study revealed that all of these  
7 high-hazard dumps in our state are contaminating  
8 groundwater with toxic pollutants.

9 Last year, high levels of arsenic were  
10 discovered in water and sediment samples collected  
11 downstream from the Asheville plant on the French  
12 Broad River. I do not feel that the state  
13 agencies or the coal companies are going to  
14 protect me, my two children, or my neighbors from  
15 this unacceptable health risk.

16 Like many Asheville residents and  
17 visitors, I have a lifestyle that centers around  
18 outdoor recreation. The larger French Broad River  
19 watershed, trout and small mouth bass fishing are  
20 very popular, as are kayaking, rafting, tubing,  
21 cycling and camping. Many local recreation  
22 companies feature river-based activities,

1 including float trips leaving directly from the  
2 Biltmore estate.

3 Contamination not only threatens our  
4 water supply, but also threatens our unique  
5 culture and outdoor recreation tourist industry.  
6 The visitors attracted to our area include many  
7 scientists due to the incredible biodiversity  
8 found in western North Carolina, which supports so  
9 much flora and fauna, it hasn't even been fully  
10 catalogued yet.

11 A large-scale spill, more likely without  
12 federal regulation, would be disastrous to this  
13 ecosystem of international importance to the  
14 scientific community. Contained air, soil, and  
15 water negatively affect our strong local foods  
16 movement, threatening the progress we have made in  
17 local food security. Our restaurants in Asheville  
18 are nationally renowned for featuring  
19 farm-to-table dishes, including the local cow --  
20 trout caught in that river and raised in this  
21 watershed.

22 Much of the strength of our housing



1 market relies on marketing our pristine mountain  
2 air, water, and land; yet our state allows coal  
3 ash to be used as construction fill, requiring no  
4 groundwater monitoring, no regular inspections, no  
5 permits, and no liners. Continued discovery of  
6 toxic contamination will have a profoundly  
7 negative effect on our property values already  
8 threatened by the current recession.

9 We need enforceable federal protections  
10 for this dangerous toxic material. A strong  
11 federal rule can ensure 100% compliance, prevent  
12 these health problems, avoid costly water  
13 cleanups, and prevent massive disasters like the  
14 Tennessee spill.

15 I support the EPA's plan to regulate  
16 coal ash as special waste under Subtitle C. Thank  
17 you very much for your time.

18 (Applause)

19 MS. DEVLIN: Thank you. May I have  
20 Numbers 88, 91, 94, 95, and 98. Number 88? Thank  
21 you.

22 MS. PRESTON: Good afternoon. My name

1 is Katie Preston, and I am the operations director  
2 and south Georgia director for Georgia Interfaith  
3 Power & Light.

4 Our mission is to engage communities of  
5 faith in stewardship of God's creation as a direct  
6 reflection of our faithfulness through worship,  
7 education, and the sustainable generation and  
8 efficient use of energy.

9 I am here to ask the EPA to support  
10 Subtitle C and to regulate coal ash as a hazardous  
11 waste. As a citizen of Georgia, I am appalled to  
12 know that none of Georgia Power's 11 power plants  
13 with coal ash surface impoundments are properly  
14 regulated. Without regulation like that found in  
15 Subtitle C, these impoundments are leaching deadly  
16 chemicals into our environment. Chemicals like  
17 mercury and arsenic, which can cause death, should  
18 not be allowed to stream unregulated into our  
19 environment.

20 As stewards of creation, we are called  
21 to stand up and speak out against such atrocities.  
22 God created this world for us as a gift and as a

1 life force to support us. And instead of  
2 respecting that gift and feeling a sense of awe  
3 for all that is within the world, we are  
4 destroying it with our need to consume.

5 Georgia Power, a subsidiary of the  
6 Southern Company, lives to consume our natural  
7 resource of coal, and produces large amounts of  
8 unregula -- unregulated coal ash in the state of  
9 Georgia. They say that we do not need regulation,  
10 and that we cannot afford the regulation because  
11 they will pass the costs on us, the consumers.  
12 But what we cannot afford is the unregulation of  
13 coal ash and the destruction of our environment.

14 Southern Company has had serious  
15 problems with its unregulated coal ash  
16 impoundments in the past. And in 2002, before  
17 anyone heard about the TVA Kingston spill, a  
18 sinkhole opened up in impound -- impoundment at  
19 Georgia Power's Plant Bowen in Bartow County,  
20 George, eventually covering 4 acres and reaching  
21 30 feet in depth. No one heard about it. The  
22 structure's failure released 2.25 million gallons

1 of water and a coal ash mix into a tributary that  
2 fed into the Etowah River, which in turn provides  
3 drinking water downstream.

4 Contamination of the environment and  
5 water supplies with toxic levels of arsenic, lead,  
6 and chemicals is a pervasive reality at America's  
7 coal ash disposal sites because states do not  
8 regulate it. The case for a national regulation  
9 setting commonsense safeguards for states to meet,  
10 such as liners, monitoring, and cleanup standards,  
11 could not be more persuasive. It is time for the  
12 EPA to join us in our call to be stewards of  
13 creation, and to stand with us to regulate coal  
14 ash.

15 I urge the EPA to adopt Subtitle C and  
16 to put an end to the destruction of God's gift of  
17 creation. Thank you.

18 (Applause)

19 MS. DEVLIN: Thank you. Number 91,  
20 please?

21 MS. MCCLURE: My name is Matt McClure,  
22 and I'm a professional engineer in JEA's

1 environmental permitting and assessment's  
2 department. JEA is a municipally-owned nonprofit  
3 utility providing water, sewer, and electric  
4 services -- services for a three-county region in  
5 northeast Florida.

6 From the regulatory options on the table  
7 at this point, JEA urges EPA to pursue the  
8 Subtitle D prime approach. JEA believes that CCRs  
9 do not rise to the level of hazardous wastes, and  
10 that regulating them as such would provide  
11 marginal environmental benefit at a great cost.

12 As a utility in Florida, a Subtitle C  
13 regulatory framework would not be practical.  
14 Florida has a statutory prohibition against the  
15 permitting of hazardous waste landfills, as well  
16 as a prohibition against considering byproducts  
17 for reuse if they are otherwise hazardous waste.

18 JEA would be forced to send its CCRs to  
19 other states for disposal as hazardous, and EPA  
20 has already highlighted the lack of capacity  
21 associated with such an outcome in its preamble.  
22 State statutory changes needed to accommodate this

1 hazardous-waste listing would be expected to have  
2 a low probability of -- of success for obvious  
3 reasons.

4           The cost to JEA of managing its CCRs as  
5 hazardous waste would be prohibitive, and would  
6 come at a time when we have already been forced to  
7 enact a series of rate hikes due to adverse  
8 business conditions. A subtitle C approach,  
9 combined with a multitude of other environmental  
10 initiatives simultaneously being pursued by EPA at  
11 this time, would place JEA and its owners, the  
12 citizens of northeast Florida, in a bind.

13           Regarding the Subtitle D or D prime  
14 approaches, JEA would point that the one size fits  
15 all national standards being proposed do not allow  
16 enough flexibility for utilities to operate  
17 efficiently; and using corporate websites as an  
18 enforcement tool would seem to be a path toward  
19 unproductive litigation. More flexibility is  
20 needed in the framework of the regulations for  
21 equally protective but different liner systems,  
22 including dual-synthetic membrane systems;

1 alternative groundwater monitoring programs in  
2 zones of discharges; and processing practices,  
3 such as slurry systems, where the CCRs react and  
4 solidify within a short time of conveyance.

5 Additionally, the Subtitle D approach  
6 should not penalize states like Florida that are  
7 already regulating the beneficial use of CCRs, as  
8 well as the disposal CCRs at new facilities under  
9 a qua -- quasi Subtitle D approach already.

10 JEA urges EPA to more carefully consider  
11 a statutory path toward a regulatory framework  
12 tailored specifically to CCRs to follow neither  
13 Subtitles C nor D. JEA believes that rather than  
14 in using a somewhat overreaching approach, there  
15 would be congressional support to provide EPA the  
16 authority to approve state programs that meet EPA  
17 parameters, allowing states like Florida to manage  
18 the issue in a way that best serves its citizens  
19 while retaining enforcement authority for those  
20 states that do not.

21 And I thank you for allowing me to  
22 address the audience.

1 (Applause)

2 MS. DEVLIN: Thank you. Number 94,  
3 please?

4 MS. HAMPTON: Good afternoon. My name  
5 is Shanda Hampton of Full Circle Solutions. We  
6 specialize in the safe and effective recycling of  
7 coal combustion products.

8 Working in our company's accounting  
9 department has allowed me to see how EPA's  
10 regularity proposal has already affected our  
11 company. The negative stigma coming from the  
12 EPA's regulatory has hit us hard. The loss of the  
13 projects considered to be hazardous has forced us  
14 into more expensive ways to handle the CCPs with  
15 no additional revenue.

16 To remain a viable company, we have had  
17 to lay off a number of employees, reduce pay and  
18 benefits for the remaining employees, and find  
19 many other cost reductions. Negative stigma is  
20 real, and is already hurting real people.

21 Personally, I am greatly concerned about  
22 EPA's proposal. With this failing economy, my



1 husband has not been able to find full-time work  
2 in over two years. We have three young children to  
3 support on my reduced salary alone.

4 A decision by EPA to unnecessarily  
5 regulate CCPs as a hazardous waste may very well  
6 cost me my job. Putting more families on welfare  
7 is not what this country needs.

8 Therefore, I urge EPA to make the right  
9 decision: Regular CCPs under Subtitle D. Thank  
10 you.

11 (Applause)

12 MS. DEVLIN: Thank you. Number 95,  
13 please?

14 MS. SALTER: Good afternoon. My name is  
15 Tabitha Salter with Full Circle Solutions.

16 In my position as human resource  
17 manager, I have the opportunity to work with every  
18 employee in our company both professionally and  
19 personally. Even though environmental regulations  
20 are not an area of my strength for me, I have seen  
21 the effects of the EPA's proposal and what it has  
22 already done to our employees. Jobs have been

1 affected.

2           Soon after the EPA began considering  
3 regulating coal combustion products as a hazardous  
4 waste, our company lost two key projects. These  
5 were structural fill projects that would have been  
6 very beneficial to the communities in which they  
7 were to be built. However, due to the stigma  
8 associated with what might be called as "hazardous  
9 material," they were turned down and we were  
10 forced to seek other ways to manage our client's  
11 coal combustion product.

12           As a result, we lost over 15% of our  
13 workforce. This included employees at every level  
14 of company. We lost managers, truck drivers,  
15 equipment operators, and laborers. These were  
16 good employees who had been with our company for  
17 many years. They did not deserve to lose their  
18 jobs as a result of this neg -- negative stigma.

19           As a human resource manager, I also work  
20 with our employees' health issues. I understand  
21 that many people who are not familiar with coal  
22 combustion products have commented on their

1 concerns over the effects exposure to coal  
2 combustion products may have on their health or  
3 the health of their families.

4 Our employees have direct exposure with  
5 coal combustion products every day. We monitor  
6 their exposure and review any potential impacts  
7 that ex -- exposure may cause on their health. In  
8 over 20 years of operations, we have never had any  
9 employee's health negative -- negatively affected  
10 by the exposure of coal combustion products.

11 Negative stigma is the real issue here,  
12 not health effects. Therefore, we urge the  
13 Environmental Protection Agency to make the right  
14 deci -- decision and re -- regulate coal  
15 combustion products, including beneficial  
16 structural fills, under Subtitle D. Thank you.

17 MS. DEVLIN: Thank you.

18 (Applause)

19 MS. DEVLIN: Okay. Okay. May I have  
20 Numbers 85, 87, 98, 100, and 211? I know I'm  
21 jumping around a bit, but -- but we're doing it as  
22 the order -- as -- as I know people have signed

1 in. So don't worry if I seem to skip over you. I  
2 -- I will get back to all of the numbers. So  
3 Number 85, please?

4 MR. GILBERT: Good afternoon. My name  
5 is Steven Gilbert, and I'm here to speak in  
6 support of designating coal ash as a special waste  
7 and regulated by Subtitle C.

8 I have a Ph.D. in toxicology, and I'm a  
9 diplomat in the American Board of Toxicology, and  
10 found and director of the Institute for  
11 Neurotoxicology and Neurological Disorders, and an  
12 affiliate professor at the University of  
13 Washington Development of Environmental and  
14 Occupational Health Sciences.

15 I am here to -- today representing the  
16 Physicians for Social Responsibility. I am  
17 president of the board of the Washington  
18 Physicians for Social Responsibility and on the  
19 national board of the Washington Physicians for  
20 Social Responsibility, and a grandfather deeply  
21 concerned about future generations.

22 The coal ash spill that inundated

1 Tennessee occurred at a time that caused the least  
2 acute effects on human health, as in no was  
3 killed. Everyone was very lucky, except the  
4 economical damage was enormous and there was  
5 serious consequences for many families.

6 While I commend the emergency response  
7 and subsequent monitoring by the EPA and the  
8 report by the Tennessee Department of Health, the  
9 broader is one of protecting human and  
10 environmental health from coal ash waste. Coal  
11 combustion waste with its many contaminants is the  
12 second largest industrial waste treatment in the  
13 United States.

14 We have an ethical responsibility to  
15 protect the most vulnerable among us from exposure  
16 to arsenic, mercury, and other coal ash  
17 contaminants in the air we breathe, the water we  
18 drink, and the dirt we play in. This is  
19 particularly important for children who are not  
20 little adults as they eat -- eat more, drink more,  
21 breathe more than adults are more vulnerable to  
22 the health effects from asthma to cancer to

1 neurological disorders. All clean-up standards  
2 and disposal management standards must be set to  
3 protect children.

4 I find that the current RFDs and MRLs  
5 for arsenic and mercury to be inadequate. In  
6 addition, our procedures for assessing health  
7 impacts of multiple chemical exposure are grossly  
8 inadequate.

9 The standard is to do a risk assessment  
10 one chemical at a time, but no one is exposed to  
11 one chemical at a time. To address these  
12 inadequacies and ensure healthy and sustainable --  
13 sorry, environment, a precautionary approach is  
14 recommended that we classify coal ash as a special  
15 waste.

16 The EP -- the FDA takes a very  
17 precautionary approach to introducing new drugs  
18 into the marketplace by requiring companies to  
19 demonstrate efficacy and safety of their products.  
20 Producers of coal ash waste should assume the  
21 burden of -- demonstrating safety. The public  
22 should not have to assume the burden of proving

1 harm.

2 Aldo Leopold said, "A thing is right  
3 when it tends to preserve the integrity,  
4 stability, and beauty of the biotic community. It  
5 is wrong when it attends otherwise." Not  
6 adequately regulating coal ash and accepting the  
7 true cost of ener -- energy production is wrong.

8 We have an ethical responsibility to  
9 ensure that our children can reach and maintain  
10 their full potential free from exposure to  
11 contaminants in coal ash. We have the knowledge,  
12 and we must take action and stop externalizing the  
13 health costs and environmental costs onto children  
14 and future generations.

15 I refer you to the PSR Coal Ash Report  
16 for details on health and environmental concerns,  
17 and a list of detailed recommendations. Thank you  
18 very much.

19 (Applause)

20 MS. DEVLIN: Thank you. Number 87,  
21 please? Is Number 87 here? Okay. 98?

22 MR. HAYEK: Good afternoon. My name is

1 Rick Hayek. I'm with American Electric Power, and  
2 I'm the manager of our ash and gypsum marketing.

3 I'm also a veteran of the Armed  
4 Services, and I want to thank you for this  
5 opportunity to have the freedom to speak. It's  
6 good to hear both pros and cons. In a lot of  
7 countries, we wouldn't get this opportunity. So I  
8 thank you for this opportunity.

9 Your responsibility is tremendous  
10 because of this freedom that we have to share  
11 opposing opinions, and I want to offer my  
12 perspective on the continued beneficial use of  
13 ash.

14 I've been in the -- in the marketing end  
15 of ash and in the coal business for 32 years with  
16 American Electric Power. We recently had a  
17 downsizing, where we lost 20% of our workforce.  
18 And I've -- over the 32 years, I've met many  
19 people that have worked their entire life with  
20 ash; people that have walked in it, bathed in it,  
21 ate it, drank it, because it was part of their  
22 job.



1           Going around to these retirement parties  
2 over the past year, never once has anybody said,  
3 "Well, so and so died as a result of his exposure  
4 to ash or residuals." Maybe they died from  
5 smoking or something of that nature, but nothing  
6 has ever been brought to my attention that, "Hey,  
7 we need to re-look at this because it's a result  
8 of them and their work environment."

9           As a marketer, it's my responsibility  
10 that before this ash goes out into the public,  
11 what we do is we give samples of all of these  
12 ashes, whether it's fly ash, bottom ash, boiler  
13 slag, gypsum, whatever -- and we sell millions and  
14 millions of tons of this stuff. We give a sample  
15 to them to take to a lab, and they test it. We  
16 have our own lab, and we test it.

17           And never once have we had to come out  
18 and say, "We can't market this to you because a  
19 TCLP test, a heavy metal exceeds a -- a safe  
20 rating." We've always been within the right  
21 parameters. Many times our -- in our ash the  
22 heavy metals don't even become traceable. There's

1 no trace of them.

2                   Therefore, we recommend a Subtitle D  
3 prime approach and the continued beneficial use.  
4 And if there's problems with engineering, which is  
5 the real cause of what happened at TVA was an  
6 engineering fault with the dam, address that. But  
7 my experience and my social responsibility as a  
8 marketer for ash, I can sleep very good at night  
9 knowing that we're putting a safe product out into  
10 the market. Thank you very much.

11                   (Applause)

12                   MS. DEVLIN: Thank you. Number 100,  
13 please? 211?

14                   MR. MILLIKEN: My name is Eric Milliken.  
15 I've been in the recycle business with the coal  
16 combustion products for 14 years. I manager  
17 operations and conduct sales for Synthetic  
18 Materials, the largest processor and marketer of  
19 flue gas gypsum in the United States.

20                   We currently process and market for  
21 beneficial reuse over 4 million tons of FTD. My  
22 efforts have been more with the synthetic gypsum

1       created by a process in the scrubber system from  
2       the coal-burning fossil plants.

3                 Synthetic gypsum is used in many  
4       applications, 90% which is wallboard, 6% cement,  
5       and the rest in your ag and fillers. It provides  
6       a low-cost byproduct generated from coal fossil  
7       plants to all of these industries.

8                 The EPA has proposed regulation Subtitle  
9       C that could pro -- prove unworkable and even  
10       environmentally counterproductive. Although the  
11       EP -- the EPA proposal specifically encourages and  
12       does not restrict beneficial uses of CCRs, the EPA  
13       proposed regulatory options could restrict or even  
14       prevent altogether its various beneficial uses.

15                This has already been demonstrated with  
16       customers, as well as suppliers, refusing to move  
17       forward with commitments due to the real  
18       liabilities that come with an unnecessary  
19       hazardous waste classification of coal combustion  
20       products. The EPA regulatory agenda will subject  
21       -- would subject manufacturers to an avalanche of  
22       new permitting requirements, re -- new permitting

1 requirements and stifle job creations. More  
2 regulations will only hinu -- hinder a  
3 manufacturer's ability to continue to lead a  
4 nation out of the steepest recession since the  
5 30s.

6 By the label of hazardous waste, we are  
7 increasing the needs of mining and increase the  
8 need of even more impoundments, wets or dry.

9 My family and I, we live within two  
10 miles of one of the largest coal-fired plants in  
11 the U.S., and that's TVA Cumberland. A wallboard  
12 plant is right next door to the -- to the TVA  
13 utility. What happens if the gypsum the wallboard  
14 received from the utility as hazardous waste?  
15 What happens to all of the newly cost-efficient  
16 wallboard plants that are not on the seaboard?  
17 The low-cost byproduct material available to them  
18 is no wall avail -- no longer available. If this  
19 -- it is not feasible for these plants to receive  
20 natural gypsum.

21 A hazardous waste classification affects  
22 more than just my job or the utilities. It has an

1 enormous trickle-down effect on the economy.  
2 Utility costs go up, manufacturing costs go up,  
3 sending back cost -- sending the costs back to the  
4 consumer, increased unemployment. They have less  
5 resources. Consumers build smaller houses. The  
6 economy does not grow as robust as you would  
7 expect.

8 The appropriate response to this  
9 proposed Subtitle D classification, the reason for  
10 these discussions entirely, was a re -- failed  
11 retention pond, not a hazardous waste material.  
12 Thank you for your time.

13 (Applause)

14 MS. DEVLIN: Thank you. Sir, I'm sorry.  
15 I forgot your number. Please come forward. 89?  
16 Please come.

17 MR. HOLLAND: Hi. My name is Richmond  
18 Holland. I represent the Tennessee Paper Council  
19 and the American Forest and Products Association.  
20 This is a trade association of the forest products  
21 pulp and paper industry.

22 We supped the EPA's decision, first, not

1 to include coal combustion byproducts from the  
2 manufacturing sector in this rule making. We  
3 believe our management of coal ash differs  
4 somewhat from that of the electric utilities.

5 Pulp and paper mills use a variety of  
6 fuels in addition to coal. As a result, we -- our  
7 mills frequently co-manage coal ash and with ash  
8 generated from other fuels, including biomass. We  
9 believe that our ash-management units are  
10 significantly different from that of the utility  
11 sector.

12 We do support the decision reached by  
13 the Clinton administration in 2000 that coal ash  
14 should be regulated under Subtitle D, the  
15 nonhazardous waste provision of RCRA. We believe  
16 that much of the additional information developed  
17 by EPA subsequent to that determination does not  
18 support the need for applying hazardous waste  
19 regulations to coal byproducts.

20 Appropriate management standards and  
21 engineering design would have avoided the  
22 catastrophic failure of the TVA surface

1       impoundment, which can be achieved through  
2       nonhazardous waste requirement.

3                If EPA promulgates hazardous waste  
4       regulations for coal combustion byproducts, those  
5       materials may be disposed rather than reused.  
6       This is not only inconsistent with years of U.S.  
7       Policy to support recycling and reuse, but is a  
8       waste of resources, and is inconsistent with the  
9       goals of the Resource Conservation Recovery Act.

10              Our members are very concerned that EPA  
11       did not evaluate the economic impact of the  
12       proposed rule in the manufacturing sector,  
13       particularly if the Subtitle C rules are  
14       promulgated. We believe that our byproducts could  
15       have to be managed as -- as -- as hazardous waste  
16       materials even though it's not required under  
17       regulation, but we would have to do that, anyway.

18              And that's -- we also believe that EPA  
19       should consider the additional costs of  
20       electricity that will result from the promulgation  
21       of regulations designating coal combustion product  
22       -- byproducts as -- as hazardous. And for those

1 of yous -- us that use a lot of electricity,  
2 that's not a trivial issue.

3 And our last point is if EPA were to  
4 regulate coal combustion byproducts as hazardous  
5 waste, it is unlikely that our members would be  
6 unable to manage their hazardous waste any other  
7 way even if the rules do not apply to them. This  
8 additional cost was certainly considered by EPA,  
9 but it would be yet another cost to us.

10 We work in a global marketplace where no  
11 other country considers coal combustion byproducts  
12 to be hazardous materials. The EPA has the  
13 opportunity to keep jobs in the U.S. by keeping  
14 manufacturing costs competitive and not  
15 promulgating hazardous waste regulations for coal  
16 combustion byproducts. Thank you.

17 (Applause)

18 MS. DEVLIN: Thank you. Sir, you're  
19 Number 87? Please come forward.

20 MR. RINGE: My name is Axel Ringe. I am  
21 the water quality chair for the Tennessee chapter  
22 of the Sierra Club. I appreciate your holding



1       this hearing in Tennessee, even though it was,  
2       perhaps, precipitated by public pressure.

3               I would like to point out, first, that  
4       coal ash is a national problem. There are coal  
5       ash landfills scattered all over this country.  
6       This is not just a Tennessee problem, even though  
7       what bro -- led up to this situation was a coal  
8       ash failure in Kingston.

9               Coal ash contains toxins. Your own  
10       research confirms that. It includes arsenic,  
11       cadmium, chromium, lead, selenium, thallium, some  
12       of which are bioaccumulators. These toxins have  
13       been linked to cancers, to organ diseases,  
14       respiratory illnesses, neurological damage,  
15       reproductive and development products -- problems.

16               EPA science has indicated that there --  
17       occur at very high levels of some of these heavy  
18       metals, and that they leach from coal ash. These  
19       leachates contaminate rivers, lakes, and streams  
20       that fish and other wildlife rely upon, including  
21       people who utilize these wildlife for consumption.

22               We would urge the EPA to regulate coal

1 ash as a special waste under Subtitle C of RCRA.  
2 It requires federally-enforceable stan --  
3 safeguards.

4 If you leave it up to the states, it's  
5 not going to happen. I testify that here, in  
6 Tennessee, there is no control over what the power  
7 plants do with their coal ash. Power plants  
8 generally tend to be located on lakes or rivers,  
9 and they situate their coal ash dump sites  
10 adjacent to them. So that any leachates coming  
11 off of that go directly into the water bodies and  
12 into the ground water.

13 And I would just close by saying that  
14 the failure to regulate coal ash dumped in mines  
15 is a dangerous omission from the proposed  
16 regulations, and we believe that EPA should not  
17 exempt this practice from regulation. Thank you.

18 (Applause)

19 MS. DEVLIN: Thank you. I'd like to do  
20 a quick check. Is there anyone in the audience  
21 with a Number 100 or below whom I haven't called?  
22 Okay. Is there anyone who registered today who

1 has a number between 250 and 264 who has not  
2 spoken?

3 Okay. Good. Okay. Then may I have Numbers 101, 102,  
4 103, 104, and 105? 101, please.

5 MR. CHANCE: Hello, and thank you for  
6 the opportunity to speak today. My name is Eric  
7 Chance, and I'm the water quality associate for  
8 Appalachian Voices and the Watauga Riverkeeper, a  
9 North Carolina-based environmental nonprofit. Our  
10 work includes studying the effects of coal  
11 combustion waste on the environment.

12 In North Carolina, a review of voluntary  
13 groundwater monitoring data revealed that every  
14 coal ash pond for which data was available is  
15 leaching heavy metals and other pollutants into  
16 groundwater. Equally as alarming is the  
17 prevalence of this contamination; is the fact that  
18 at all of these sites, the levels of contamination  
19 were very high.

20 The monitoring showed 681 exceedances of  
21 North Carolina state groundwater standards,  
22 including arsenic levels up to 8.8 times the state

1 standard, boron levels up to 16.6 times the state  
2 standard, chromium levels up to twice the state  
3 standard, iron levels up to 380 times the state  
4 standard, lead levels up to three times the state  
5 standard, and manganese levels up to 200 times the  
6 state standard.

7 This contamination not only has the  
8 potential to damage nearby waterways, but it also  
9 can contaminate drinking water of nearby  
10 residents. The extent and degree of this off-site  
11 contamination is largely unknown because it has  
12 not been studied, and there is no legal  
13 requirement for the companies responsible for it  
14 to do so under the current regulatory framework.

15 And at only 1 of the 13 ash ponds  
16 reviewed in this study did the North Carolina  
17 Department of Environmental and Natural Resources  
18 require any sort of clean up.

19 In Tennessee, Appalachian Voices has  
20 also partnered in research in the wake of the  
21 Kingston coal ash spill. Research has been  
22 ongoing since the spill, and has shown levels of

1       arsenic, barium, cadmium, lead, selenium in the  
2       Emory River in exceedance of drinking water and  
3       aquatic life criteria.

4                 Although water quality has returned to a  
5       more normal states, ash and ash laden river  
6       sediments with high levels of arsenic have washed  
7       far downstream from the spill site. Also,  
8       selenium levels in fish downstream from the site  
9       continue to rise, and have exceeded threshold  
10      levels for reproduction and growth.

11                Our research clearly shows that coal  
12      combustion waste has significant impacts on  
13      groundwater, surface water, and aquatic organisms.  
14      The current regulatory framework has not  
15      adequately addressed the tox -- toxicity of coal  
16      ash, and has allowed this contamination to go on  
17      for too long. We believe that it should be  
18      regulated under Subtitle C. Thank you.

19                                 (Applause)

20                MS. DEVLIN: Thank you. Number 102,  
21      please? 102? 103?

22                MS. LARSON: My name is Jean Larson.

1 I'm a resident of Lester, North Carolina. That's  
2 in western North Carolina.

3 I saw an interesting quote the other  
4 day. "We don't see things as they are. We see  
5 things as we are."

6 I am a retired RN. During my career, I  
7 worked as a neurological nurse, a public health  
8 nurse, and a school nurse. I'm focusing this  
9 testimony about the handling coal ash on the heavy  
10 metals that it contains.

11 Heavy metals are elements. They don't  
12 break down. The more that you have of them, the  
13 more they accumulate. They are toxic.

14 According to the Center for Disease  
15 Control, the National Institute for Health, health  
16 effects from individual heavy metals include  
17 cancer, neurological, respiratory, and renal  
18 problems. They may take years to develop from the  
19 time of exposure.

20 Heavy metals cause health problems from  
21 years of mild exposure or from one large exposure.  
22 We do not understand the effects of multiple --

1 exposure to multiple different heavy metals.

2 Children are more susceptible to  
3 exposure to any type of a toxin. And one of the  
4 issues with children and heavy metals is learning  
5 disabilities. As a school nurse, I can tell you,  
6 there are a lot of issues with children these days  
7 that I just don't remember when I was young in the  
8 1950s.

9 Wet coal ash can seep into the  
10 groundwater. Dry coal ash can be fine  
11 particulates that we will breathe in.

12 I see coal ash as a public health hazard  
13 that should be carefully monitored, and I support  
14 is the Option Subtitle C. Thank you for having  
15 these hearings.

16 (Applause)

17 MS. DEVLIN: Thank you. Number 105?  
18 105? 104? 104.

19 MR. CASEY: Good afternoon. I would  
20 first like to thank the EPA for giving me the  
21 opportunity to speak on such an important issue.

22 My name is Mark Casey, and I am employed

1 by the SEFA Group, a coal combustion product com  
2 -- product marketing company based near Columbia,  
3 South Carolina. I reside in northeast Tennessee  
4 just outside of Knoxville in the small town of  
5 Norris.

6 My marketing territory stretches from  
7 Chattanooga, Tennessee, into southeast Kentucky,  
8 and into southwest Virginia. In recent years, due  
9 to the current recession, the construction  
10 industry, and specifically the concrete industry,  
11 has fallen off a bit. But in 2006, I personally  
12 helped recycle nearly 150,000 tons of fly ash  
13 generated by one of the Tennessee Valley  
14 Authority's coal-fired steam plants for the use as  
15 a cement substitute in concrete.

16 My concern is that if E -- if EPA  
17 decides to designated fly ash under Subtitle C for  
18 the Resource Conservation Recovery Act, it will  
19 hinder, if not eliminate, the use of fly ash in  
20 concrete altogether. My customers, the ready mix  
21 concrete producers, have indicated to me that if  
22 fly ash is listed under the haz -- under the



1 hazardous waste Subtitle C of -- of the RCRA, they  
2 will be forced to eliminate it from their concrete  
3 mix designs altogether for fear of litigation.

4 I understand that the EPA has clearly  
5 stated that it does not want to disrupt current  
6 recycling efforts, and that they believe that  
7 designating coal combustion products as a special  
8 waste under the Subtitle C category will actually  
9 increase CT -- CCPs use. If the EPA's assumption  
10 is correct, then my company and I may benefit  
11 financially. So then why am I here today arguing  
12 against my own personal financial interests?  
13 Obviously, I disagree with EPA's assumption.

14 Under EPA's special waste proposal, two  
15 trucks leave a power plant loaded with coal  
16 combustion products. One truck will turn left  
17 destined for disposal as hazardous waste, while,  
18 at the same time, the second truck with the same  
19 exact material on board will turn right and travel  
20 to my customer's plant with absolutely no  
21 restrictions outside those imposed by normal DOT.  
22 It is very difficult business. It is difficult

1 for business owners and their attorneys to  
2 reconcile this concept.

3           There's no doubt that this issue has bum  
4 -- become political, and politics is about  
5 compromise. Just recently the Congressional  
6 Reacher -- Research Service has suggested that  
7 Congress add a new Subtitle K to federal waste law  
8 to give EPA enforcement authority over coal waste  
9 rules without declaring the waste hazardous and to  
10 regulate beneficial reuse of coal ash. That would  
11 be a compromise.

12           This new proposal, as well as Subtitle  
13 D, would take away the stigma associated with the  
14 hazardous label, and help preserve one of  
15 America's greatest all-time recycling success --  
16 success stories. Thank you for your time.

17                           (Applause)

18           MS. DEVLIN: Thank you. 105, 106, 107,  
19 109, and 127? Okay. What's your -- what's your  
20 number? You are Number 106 -- 107? 107, come up.

21           MR. TURNER: Good afternoon. My name's  
22 Kenneth Turner. I'm the general manager of Bell

1 Concrete Industries located in Middlesboro,  
2 Kentucky. We're a manufacturer of packaged  
3 cement-based mixes, as well as precast concrete  
4 products. We've use Class F fly ash in our  
5 products for close to 30 years.

6 There's a few points that I think that a  
7 lot of people agree on, and that is that we need  
8 to do whatever's possible to prevent a  
9 reoccurrence of failure such as the one the  
10 Kingston fossil plant. Containment ponds are --  
11 are -- were a bad idea, are a bad idea, and should  
12 be phased out. Either Subtitle C or D seems to  
13 adequately address that.

14 Another point that most people agree on  
15 is that the use of fly ash as a replacement for  
16 cement and concrete is a win-win. The ash doesn't  
17 go to landfill. Additional cement doesn't have to  
18 be produced. The quality of the concrete's  
19 improved, and the cost of the concrete to the end  
20 user is reduced.

21 A Subtitle D classification will  
22 preserve all that. Phasing out of containment

1 ponds will not affect the beneficial uses of the  
2 fly ash.

3 If fly ash is moved to subtitle C  
4 classification, we expect specifying -- the  
5 specifying community will outright ban the use of  
6 fly ash in their products. We would also expect  
7 to see insurance companies exclude coverage for  
8 any claims that may arise from the use of fly ash  
9 in concrete.

10 Power companies may even refuse to sell  
11 fly ash if it's classified as hazardous. They  
12 would be faced with disposing of a larger volume  
13 of material that's now considered hazardous. The  
14 cost of power would go up. Without fly ash,  
15 quality concrete would not be as good but would  
16 cost more. Cement costs two and a half times that  
17 of fly ash. In short, we all would pay more.

18 Ten years ago, the EPA determined fly  
19 ash to be nonhazardous. If not for the failure at  
20 Kingston, we wouldn't be here today. That is --  
21 that is a containment issue, not a classification  
22 issue.

1                   We ask that you confirm the findings  
2                   from 2000 and leave fly ash under Subtitle D.  
3                   Thank you.

4                   (Applause)

5                   MS. DEVLIN: Thank you. Number 109?

6                   MR. VAN HAM: Thank you for giving me  
7                   the opportunity to talk. My name is John Van Ham,  
8                   and I'm a chemist with Headwaters Incorporated.  
9                   I've been characterizing fly ash as nonhazardous  
10                  for over three years now. As a scientist, I use  
11                  logic, reason, and factual evidence when analyzing  
12                  problems, whether it is at work or in other  
13                  aspects of my day-to-day life.

14                  There are a number of incontrovertible  
15                  facts that must be discussed if coal ash is  
16                  regulated Subtitle C. Designating coal ash as  
17                  special waste that can also be use beneficially  
18                  will destroy any kind of potential use of the ash  
19                  due to stigma, which is already taking place. No  
20                  one will want to utilize materials that are  
21                  somehow considered both hazardous and  
22                  nonhazardous. It's too confusing and obfuscates

1 the fact that coal ash does, indeed, have a myriad  
2 of beneficial uses.

3 Subtitle C regulation will affect  
4 everyone who turns on a light switch. There will  
5 be large increases to power bills due to the cost  
6 of building numerous hazardous landfills and the  
7 loss of selling ash for beneficial use or  
8 sustainable construction. Considering the dire  
9 economic situation most Americans are in these  
10 days, rebranding coal ash as hazardous will put a  
11 huge dent in all of our pocketbooks, guarantee it.  
12 Additionally, no other country in the world  
13 considers it a hazardous material.

14 What happened here at Kingston was a  
15 tragedy, to be sure. However, this tragedy was  
16 not due to the potential toxicity of fly ash. It  
17 was an engineering accident and should be  
18 addressed as such.

19 Coal is what we have to produce  
20 electricity. It is still by far the most  
21 dependable and widely- used source for power.  
22 Each and every one of us uses it every day. And

1 we have in fly ash the beneficial byproduct. We  
2 all take advantage of this benefit daily in the  
3 roads that we travel on, in the drywall and  
4 foundations of our homes, and our everyday lives.

5 I urge you not to react, as most  
6 everyone seems to do in this day and age, with  
7 shrill and quick emotion. We have been using fly  
8 ash in con -- in concrete and construction  
9 reliably since the 1930s in the United States.

10 Current science proves that the material  
11 is nonhazardous by your own standards. The eight  
12 heavy metals that we test for may be present in  
13 ash, but not in the levels that would classify  
14 them as hazardous.

15 In fact, these same chemicals are found  
16 in native soil and rock. It's the same exact  
17 metals that are already found in the soil all  
18 around us.

19 So in closing, I urge you to maintain  
20 the past technical findings, that coal ash's  
21 regulation under Subtitle C is unnecessary and  
22 unwarranted. Thanks.

1 (Applause)

2 MS. DEVLIN: Thank you. We're running  
3 quite a bit ahead of schedule. I want to make a  
4 -- an -- an announcement. Do I have anyone with a  
5 number of 110 or below who hasn't spoken? Okay.  
6 I understand Numbers 112, 114, and 189 are here.  
7 If you would come forward? You are number --  
8 okay, 112, 114, 189? 112?

9 MR. QUARLES: Hello. My name is Mark  
10 Quarles. I'm an environmental consultant with  
11 about 25 years experience. I live new Nashville,  
12 Tennessee, and I'm a licenced, professional  
13 geologist in Tennessee.

14 I've personally investigated  
15 approximately 40 coal combustion waste sites in 12  
16 states within the last ten months. Based on my  
17 research of actual data and state files, I support  
18 the Subtitle C determination proposed by EPA.

19 My work was recently published in three  
20 damage case reports coauthored by the  
21 Environmental Integrity Project, Sierra Club,  
22 Earth Justice, and other technical members and



1 their staff. Subtitle C designation is needed  
2 because the approach proposed by Subtitle D has  
3 not worked.

4 My research of those 40 sites where  
5 states had discretion on design and operational  
6 standards and groundwater and surface water  
7 indicates a failed policy. Of the approximately  
8 40 sites that I've investigated, all but one had  
9 obvious evidence of groundwater contamination.  
10 Clear evidence of contamination exists at these  
11 sites regardless of the sites being lined or wet  
12 -- lined or not, wet or dry, and even composite  
13 lined dry landfills.

14 The industry argues that no harm exists,  
15 and that contaminants are not mobile. My  
16 experience is there is no scientific basis for  
17 that conclusion. They base the argument on their  
18 belief that no migration occurs.

19 Well, they're able to make that argument  
20 because states rarely, if ever, require that  
21 off-site monitoring even be performed even when  
22 severe contamination exists at the property line.

1 Industry solution is to simply buy the property  
2 instead of initiating corrective actions.

3 The industry also argues that  
4 contaminants are not toxic. My experience is that  
5 cannot be further from the truth. Coal combustion  
6 waste in recycled byproducts contain heavy metals,  
7 some of which are known carcinogens.

8 They make the argument of no toxicity  
9 because states oftentimes do not require  
10 monitoring programs to even include metals. In  
11 fact, monitoring programs in the 1980s and '90s  
12 were even more stringent than they are today,  
13 including metals that don't exist in many sites  
14 today. Instead, they require secondary standards  
15 with no human toxicity standards to make the claim  
16 of no toxicity.

17 The industry argues that the waste is  
18 inert. It couldn't be further from the truth.  
19 They base it on laboratory methods that the EPA's  
20 recognized since 2003 does not work.

21 In summary, I support the Subtitle C  
22 designation because the risks of waste require

1 that designation. State-delegated programs have  
2 been unsuccessful in regulating coal waste and  
3 beneficial reuse. We need uniform standards that  
4 states must meet or exceed.

5 We need closer existing pilements and  
6 landfills that are not compose lined within two  
7 years. All disposal facilities should be required  
8 to initiate groundwater and surface water  
9 monitoring, and also be subjected to rigorous  
10 design and corrective actions. Thank you for your  
11 time.

12 (Applause)

13 MS. DEVLIN: Thank you. Number 114,  
14 please?

15 MR. FAIR: Hello. My name is Henry  
16 Fair, and I'm an artist that looks at toxic sites.

17 I've looked at a number of coal ash  
18 sites in the United States and around the world,  
19 and I'd like to point out, first, that the reason  
20 the United States is addressing this issue is  
21 precisely the -- because we've had a catastrophic  
22 event.

1           There are over 100 cases of groundwater  
2           contamination, and those are only ones we know.  
3           There are over 44, according to the EPA report,  
4           cases of high-hazard impoundments. And again,  
5           those are just the ones that we know. There's coal  
6           ash stored in many places we don't know.

7           I would argue that it is the role of the  
8           federal government to protect its citizens and not  
9           to protect the fiduciary interests of  
10          manufacturers in an industry. I think that  
11          Subtitle C is probably not enough.

12          I think that all sites should be  
13          monitored for groundwater contamination. I think  
14          that all sites should have a liner. And I think  
15          that all sites should be capped so that windblown  
16          dust is not a problem. Thank you four your time.  
17          And I'd like to thank the EPA for -- for  
18          considering this issue.

19    (Applause)

20          MS. DEVLIN: Thank you. Again, we're --  
21          we're running a -- a bit ahead of schedule. Does  
22          anyone in the audience -- has anyone registered

1       and have -- has a number to speak and -- and I  
2       have not called them?

3       Okay. Number 125 and 189, please come forward.

4       Great. Number 125, thank you.

5                       MR. MARSHALL: Thank you. My name --  
6       name is David Marshall of Headwaters Resources.

7                       You're here today to discuss our  
8       concerns about the potential changes of reg -- of  
9       regulating coal ash disposal. But we are here  
10      today because a U.S. government-owned utility  
11      failed to heed repeated warnings of pending  
12      failure at a utility at the -- in this state, a  
13      failure of engineering and management practices,  
14      not a men -- a failure of materials.

15                      Fortunately, this failure did not harm  
16      any individuals directly, but lives were affected.  
17      And now the EPA, in typical knee-jerk reaction, is  
18      looking to impose standards that have been obvious  
19      and in place for all other operators of power  
20      plants across the U.S.

21                      As an individual who understands science  
22      and scientific process, the most disturbing charge

1       against the Bush Administration was its  
2       willingness to allow science to be suppressed in  
3       favor of politically-favorable actions. The Obama  
4       Administration was elected partially in response  
5       to this type of behavior.

6                 It's a science based on the standards  
7       set by the EPA. It's clear that coal ash poses no  
8       greater harm to human health than any other  
9       building materials we use today.

10                There are those in the audience today  
11       who will tell us that great harm is being done,  
12       but they have no hard specific evidence to  
13       document that. These charges have been thoroughly  
14       investigated and demi -- dismissed multiple times.

15                And now we see the EPA, as an act of  
16       expedience, is putting on this show to allow  
17       people to express their opinions. The EPA has  
18       continued to dismiss the science that demonstrates  
19       clearly the effective use of coal ash is not  
20       harmful and is beneficial when 42% of the coal ash  
21       generated is used in this country.

22                The administration is doing exactly what

1 the Bush generation was --was doing, ignoring the  
2 facts and the science, and allowing a political  
3 popular sideshow to occur, and ignoring those of  
4 who have dedicated our lives to making use of  
5 byproducts because we know and believe in what we  
6 are doing.

7           It's popular to attack coal through this  
8 backdoor method of product regulation, to attempt  
9 to eliminate coal, but that is not sufficient for  
10 those in the -- in the market. They want to use  
11 coal to stop use -- now -- coal use to stop now  
12 and completely.

13           They are convinced that sufficient power  
14 can be generated from solar and wind and other  
15 reuseable. Those people have no stake in the  
16 game, did not understand the needs of meeting the  
17 long-term and continual supply of energy that is  
18 every day in our -- expected every day by our  
19 citizens.

20           The people who do have a stake in the  
21 game, the generators and distributors of  
22 electricity that power everything around us do

1 understand that they are expected to be there when  
2 the light switch is turned on, when the iPod is  
3 plugged in. And while advances have made -- been  
4 made, energies from renewable is not there nor can  
5 be it -- can it be soon.

6 Major utilities are not ignoring these  
7 potential sources of energy generation. They all  
8 have programs developing the grids, the  
9 technologies, and the processes to integrate all  
10 means of power generation to meet the needs in the  
11 U.S. and beyond its borders.

12 Coal ash is not toxic. The science does  
13 not support that term. That adjective has begun  
14 to be attached to just about everything that the  
15 press reports on. Yet the term "toxic" has  
16 specific meanings. It has definitions outlined by  
17 the EPA guidelines.

18 To regulate the EPA under a label -- by  
19 the EPA under a label of "special waste" is to  
20 deny what the EPA has supported and promoted for  
21 over 30 years, and would require the EPA to deny  
22 their own truth, their own science, and enable



1 political expedience. Thank you.

2 MR. GENTILE: Thank you.

3 (Applause)

4 MS. DEVLIN: Number 189, please?

5 MR. LINEBERGER: Hi. My name is Ed  
6 Lineberger. I'm not a scientist or work for any  
7 company. I'm a local resident in Kingston. I  
8 grew up right here in Knoxville.

9 I moved down to Kingston, unfortunately,  
10 about six months before the spill happened. I  
11 live within a mile and a half of the spill. The  
12 river's right straight across the street from my  
13 home.

14 After the spill occurred, I got on the  
15 Internet and just did any own research on coal ash  
16 and its ingredients, and I noticed about the heavy  
17 metals. I took it upon myself to have my family  
18 tested, and our blood work came back from the Mayo  
19 Clinic.

20 Me, my wife, and both my children came  
21 back positive three times the normal levels for  
22 several metals. And as a prudent person, that

1 would cause anyone grave concern, especially with  
2 our children.

3           When I think about the waste, you know,  
4 and -- and what is in the -- the ingredients and  
5 the heavy metals that are in this ash, I think  
6 back about the early '80s. From 1980 to '82, I  
7 worked right here at the University of Tennessee.  
8 I was a pipefitter. We were exposed to asbestos.

9           And then about 1981, they came along,  
10 the EPA said, "Well, now you've got to wear a suit  
11 and a respirator and gloves, and you've got to wet  
12 this pipe insulation down. You've got to double  
13 bag it and store it so we can come and pick it  
14 up." Well, you know, that happened along about  
15 1981. Well, now, how many people are dying from  
16 asbestos-related cancers?

17           Sometimes it takes many, many, many  
18 years to determine what these chemicals will do to  
19 the human body. And what I don't want to see  
20 happen is 30 or 40 years from now our children and  
21 grandchildren are in the same type of meeting and  
22 the EPA is saying, "Well, sorry, we -- maybe we

1       should have regulated that a little bit better  
2       back then. We're sorry we've made you sick."

3               And you know, if we're not sure -- I've  
4       not -- I've been to all the local meeting down in  
5       the Kingston area. I have not had any true  
6       evidence that it's not hazardous. You know, when  
7       I see "arsenic" and some of these other ken -- you  
8       know, products that are in the ash, I know that's  
9       something we shouldn't have in our bodies, and we  
10      should not be exposed to it.

11             So you know, the EPA needs to come up.  
12      I mean, last summer, you know, I was so confused  
13      at these meetings. On day -- one meeting they're  
14      saying it's okay; don't worry about it. Then the  
15      next meeting, they shut the river down and said,  
16      "No human contact. No swimming. No tubing," you  
17      know, and I'm a recreational person.

18             So you know, to me, that tells me  
19      they're just really not sure what this will do to  
20      us, just like they didn't know what would happen,  
21      you know, with asbestos and some of these other  
22      chemicals from years past.

1           So I think it's a good idea that they do  
2 regulate this, and find a proper way to store it.  
3 Thank you very much.

4                           (Applause)

5           MS. DEVLIN: Thank you. Okay. Numbers  
6 141, 152, and 212 -- 212. Okay. In -- and in  
7 addition, we have some walks-ins, Numbers 265,  
8 266, 267. So -- okay. Since those numbers are  
9 out of order, I'll -- I'll repeat them again:  
10 141, 152, 212, and 265, 266, and 267. Okay.  
11 Number 141? All right. 152? 152.

12           MR. SCHULTZ: My name's Scott Schultz.  
13 I'm the director of byproduct services for JEA, a  
14 municipally-owned electric water and sewer utility  
15 owned by the City of Jacksonville, Florida.

16           JEA is one of a handful of utilities  
17 that processes and manages its CCRs internally.  
18 JEA considers the recycling of its CCRs the right  
19 thing to do and an integral part of our  
20 environmental- sustain -- sustainability  
21 initiatives.

22           I'm going to be spece -- speaking to

1       only recycling and not the storage of CCRs.  
2       Recycling of CCRs is one of the few forms of  
3       recycling that requires no government subsidy and  
4       provides renewable and cost benefits that both the  
5       producer and the consumer. In addition to the  
6       environmental benefits of recycling our CCRs, it  
7       saves our rate payers over \$10 million per year.

8               The consideration by the EPA of  
9       classifying CCRs as hazardous waste has already  
10      negatively affect (sic) our recycling efforts.  
11      The classification of CCRs under Subtitle C,  
12      regardless of exemptions, will cease our CCR  
13      recycling program.

14             We do need to remember that almost all  
15      environmental issues surrounding CCRs are not  
16      associated with the recycling but storage,  
17      including the tragedy at Kingston. Thank you.

18                     (Applause)

19                     MS. DEVLIN: Thank you. Number 212?  
20      212?

21                     MR. FOSTER: Rick Foster. I'm just  
22      going to be one more person in support of

1 regulation of coal combustion residues and wastes.

2           They are hazardous wastes. They contain  
3 poisonous elements and compounds in dangerous  
4 concentration. The world is "poison," like the  
5 band.

6           Call a spade a spade. For example,  
7 arsenic and mercury are two of the poisonous  
8 elements in coal. Compounds can be destroyed.  
9 Elements are permanent.

10           Poisonous ones have to be kept out of  
11 circulation. The more they are immobilized, the  
12 better.

13           Everyone should know that by now. But  
14 while people keep avoiding even the word "poison,"  
15 the facts may need repeating.

16           We know that the current storage methods  
17 have problems. This hearing exists because people  
18 had to stop pretending otherwise. TVA is still  
19 working on their token clean up of the Kingston  
20 collapse.

21           You can tell it's token because they  
22 used hydraulic dredging for water-soluble poisons.

1 Folks, hydraulic dredging literally sucks. It  
2 rinses everything it picks up. Anything that  
3 could be carried away in the water got there,  
4 spreading it around making more waste. Anyone who  
5 knows how hydraulic dredging works knew what would  
6 happen, but no one stopped it.

7           TVA could have re-channeled the Emory  
8 around the spill, lowered the reservoir, and  
9 bulldozed instead, but doing a good job of clean  
10 up was not their priority.

11           I support capture and isolation of coal  
12 residues. Capture is better than putting poisons  
13 into the air and water, but it doesn't actually  
14 get rid of them. Any dump exposed to the weather  
15 will have a leaching problem. It -- dealing that  
16 -- with that problem means fixing the residues  
17 with pavement and spreading them all over the  
18 state and calling it a beneficial use, that should  
19 at least slow down their entry into the water.

20           Remember, these things came out of the  
21 ground in the first place. Leaching will happen  
22 anyway. It'll just take longer, depending on how

1 well the highway is maintained.

2 "Beneficial use" is a dodgy term. It  
3 more or less means hiding the waste in plain  
4 sight. It may still be better than dumping coal  
5 residues back into the mines the coal came from.  
6 Just because the poisons stayed put while they  
7 were a part of the coal doesn't mean they'll stay  
8 put afterward, not even in the same place.

9 Think of coal as a sort of natural  
10 carbon filter. You need solid carbon to hold on  
11 to the poisons. Burn the carbon, and you've not  
12 only burned your only economical place to keep it,  
13 but you've lost the stability of all those other  
14 elements, too.

15 Lately, even carbon dioxide has been  
16 declared a problem under the EPA's jurisdiction.  
17 Despite hype, large-scale capture and  
18 immobilization of it can't be practical. There is  
19 just too much of it to put it all back underground  
20 and make it stay.

21 I support implementation of both  
22 Subtitle C and D of RCRA. Subtitle C would be



1 more thorough, while D gets moving faster.

2 (Applause)

3 MS. DEVLIN: Thank you. Number 265?  
4 266?

5 MR. GRACE: Thank you for holding this  
6 public hearing. I'm David Grace, a student at  
7 Warren Wilson College, and I'm speaking in favor  
8 of the Subtitle C option.

9 I want to speak for those in my  
10 generation who no longer have the hope to speak,  
11 for those who know the damage and are  
12 disillusioned with the process established to  
13 protect it.

14 Like many, I've lived unaware of the  
15 danger of coal and its byproducts. I was raised  
16 with the assurance that as long as I did my best,  
17 everything would fall into place for me. And I  
18 would be healthy, happy, and able to share this  
19 with others. However, now I am aware of the  
20 toxicity of coal -- coal ash, and realize that  
21 health is not guaranteed or even possible for  
22 everyone.

1           For some, doing their best will not make  
2 any difference. For those people whose water is  
3 polluted by coal ash, their best will not prevent  
4 cancer. For those species in the water of this  
5 state, when toxic coal slurry rushed into the  
6 rivers, their best did not save their lives. For  
7 the generation that I was born into, we inherit  
8 the -- the grief that comes from these deaths.

9           We are born with a hope that can't  
10 support itself. For every poisoned fish and  
11 everyone that eats poisoned fish or drink poisoned  
12 water, there's a proportionate death in our  
13 capacity to experience the wonder of living.  
14 Every generation of every species should be able  
15 to express their potential to -- to the fullest  
16 within the shared limits of their respective  
17 ecosystem, not the imposed ineq -- inequitable  
18 limits associated with coal ash.

19           Without adequate regulation of coal ash,  
20 there's an unacceptable, unnecessary loss of -- of  
21 life in human and nonhuman communities in terms of  
22 physical death and the emotional death of the

1 living.

2 (Applause)

3 MS. DEVLIN: Thank you. Number 267,  
4 please?

5 MS. MONROE: My name is Hannah Monroe.  
6 Thank you for having this public hearing.

7 I'm an environmental education major at  
8 Warren Wilson College in Asheville, North  
9 Carolina. I am a Quaker, and I've believed in  
10 protecting people, animals, and the environment  
11 from exploitation. I strongly support Subtitle C.

12 I am speaking for the animals who suffer  
13 from pollution of hazardous waste. What give us  
14 the right to destroy the habitat of animals who  
15 play a crucial role in our ecosystem and who have  
16 done nothing to cause this destruction? All  
17 beings have inherent value and deserve to live in  
18 clean environments that are not contaminated by  
19 hazardous waste such as coal ash. That's why I  
20 support the regulation of coal ash under Subtitle  
21 C. Thank you.

22 (Applause)



1 number of innovative recycling processes involving  
2 everything from municipal solid waste to metal  
3 recycling to industrial minerals. Sensible  
4 recycling of reuse certain -- or re-purposing of  
5 materials reduces the strain in our natural  
6 resources.

7           For instance, recycling metals  
8 eliminates the necessity to mine additional  
9 material -- raw materials and process those to  
10 create new metals. Recycling municipal solid  
11 waste results in lower emissions in the  
12 manufacture of new products, and reduces both  
13 emissions and impact on the depletion of the  
14 environment while reducing a necessity for  
15 landfills.

16           Upcycling old clothes to make stylish  
17 handbags reduces the impact to landfills and  
18 reduces emissions from manufacturing cloth  
19 materials while providing a useful accessory is  
20 environmentally sound to the public. No matter  
21 how small, every effort to recycle, reuse, or  
22 re-purpose is a worthwhile effort if done in an

1 appropriate and responsible manner.

2           One of the most successful recycling  
3 efforts in history has been the recycling and  
4 reuse of coal combustion products. In 2008,  
5 greater than 44% of all coal combustion products  
6 were either recycled or beneficially used. Use of  
7 these products have resulted in the reduction of  
8 environmental impact cement production, production  
9 in mining of gypsum rock for the production of  
10 wallboard, the production of aggregates for a  
11 number of different applications, the reclamation  
12 of land after mining operations have ceased, and  
13 significant reduction of the impacts of landfills  
14 for the storage of these products.

15           In December 2008, a disaster occurred at  
16 Kingston. To call it anything than a disaster  
17 would be a travesty. The disaster was caused,  
18 however, by the structural failure of an  
19 impoundment that resulted in release of thousands  
20 of tons of coal ash residuals. The clean-up  
21 effort has been huge, long, expensive, and  
22 complicated.

1           While this incident had very unfortunate  
2 consequences to the immediate area, the failure of  
3 the impoundment structure does not render the  
4 impounded material as hazardous any more than the  
5 July 24th failure of the Lake Delhi dam in Iowa  
6 renders water as a hazardous substance. While  
7 these products may contain various constituents  
8 listed as toxic substances, so does the dirt  
9 that's native to the area.

10           Increased responsible reuse and  
11 recycling of these products will not only reduce  
12 the need for mining and other manufacturing  
13 operations necessary to produce the products they  
14 replace, but it will reduce a likelihood of a  
15 similar occurrence since less material will be  
16 stored in landfills or impoundments. Thank you.

17           MR. GENTILE: Thank you.

18           (Applause)

19           MS. DEVLIN: Number 128?

20           MR. DENHAM: My name is John Denham, and  
21 I work within the coal ash industry.

22           I came here today to voice my opinion

1 and express my concerns against the prop --  
2 proposed regulation to classify coal ash as a  
3 hazardous material and regulate ash disposal under  
4 Subtitle C.

5           Based on my experience, coal ash does  
6 not qualify as a hazardous waste by chemical  
7 composition make its classification as a hazardous  
8 material unwarranted. Since almost all  
9 electricity generation of the United States is  
10 from coal-burning power facilities, it is  
11 essential that we are able to recycle the ash  
12 byproducts.

13           A hazardous material label for ash would  
14 be detrimental to all current and future recycling  
15 efforts. Without recycling, we would impact our  
16 environment in negative way, substantially drive  
17 up cost to both businesses and individuals alike.  
18 These dramatic cost increases would hit everyone  
19 across the country, not just in coal areas or  
20 coal-producing states.

21           Since protective features, the landfill  
22 designs will be the same under both C and D. The



1 additional harm of Subtitle C approach does not  
2 seem logical, and recycling will be damaged and  
3 all the benefits of ash recycling lost.

4 I believe that there are some  
5 misunderstandings in this debate over the future  
6 of fly ash regulations. Over the past several  
7 months, I've been reading and hearing that the  
8 main concern the parties against fly ash are the  
9 -- they want this industry to more regulated and  
10 monitored. The fly ash in -- dispose industry can  
11 implement and comply with the stricter guidelines  
12 in monitoring and regulations. Most landfills  
13 built in the last 20 years have these design and  
14 operation features already.

15 Subtitle D program implemented under  
16 state control will provide the necessary  
17 protection. However, these regulation  
18 classifications should be based on factual  
19 information and solid scientific data.

20 The EPA assumes that the hazardous  
21 regulation approach will drive up recycling. I do  
22 not agree with this assumption based on my

1 firsthand experience within the industry.

2 In conclusion, I hope and respectfully  
3 request the EPA will make the decision not to  
4 classify coal ash as a hazardous material under  
5 Subtitle C, and continue to allow recycling of  
6 this multi-use and beneficial byproduct and  
7 disposal regulation under Subtitle D. Thank you.

8 MS. DEVLIN: Thank you. Number 171?

9 MS. MCCULLOUGH: I am Leah McCullough, a  
10 minister in the United Church of Christ, who holds  
11 a -- who serves as campus minister in Asheville,  
12 North Carolina. And I want to thank the EPA for  
13 holding these hearings.

14 I strongly support the regulation as  
15 proposed under Subtitle C of the Resource  
16 Conservation and Recovery Act. My support for  
17 Subtitle C is ground in moral and ethical values  
18 instilled in me by my faith tradition: To love my  
19 neighbor, to do justice, and to care for creation.

20 Jesus taught that the greatest  
21 Commandments are to love God with all one's heart,  
22 soul, mind, and strength, and to love one's

1 neighbor as oneself. In Romans, we are reminded:  
2 Love does no wrong to one's neighbor.

3 In Micah, we are called to love  
4 kindness, do justice, and walk humbly with God.  
5 And in Genesis, the first divine words spoken by  
6 God to human beings were about their relationship  
7 to the earth and not to God. God says, "Have  
8 dominion over the fish of the sea, and birds of  
9 the air, and every living thing that moves upon  
10 the earth." The Hebrew verb for "have dominion"  
11 must be understood as care giving and nurturing  
12 and not exploitation.

13 Created in God's image, humans are to  
14 care for the earth as God cares for all of  
15 creation. Are we loving our neighbors and doing  
16 no harm when we allow coal companies to  
17 contaminate our drinking water with toxic metals  
18 and do nothing to stop it? Are we doing justice  
19 when we allow an industry's business practices to  
20 cause higher risk of cancer, respiratory diseases,  
21 and neurological damage in people living in  
22 proximity to their plants?

1           Is it a more egregious injustice that --  
2           that the communities -- that these communities are  
3           often minority, low-income, or indigenous  
4           populations? Are we caring for and nurturing the  
5           earth when we allow hazardous metals to leach into  
6           soil and groundwater, polluting our streams and  
7           rivers, and poisoning fish and wildlife?

8           Am I loving my neighbor, doing justice,  
9           and caring for creation if I remain silent about  
10          these issues? I don't think so, and that is why  
11          I'm here today. I am willing to do my part, and I  
12          expect you to do your part.

13          You, the EPA, have conducted the  
14          research and produced the result -- reports that  
15          give solid evidence of the devastating effects of  
16          coal ash on human health and the environment. You  
17          are aware of the crisis, and now you have the  
18          opportunity to do something about these wrongs and  
19          to rectify the problems for future generations. I  
20          pray that, given what you know, you will do what  
21          is morally right for humanity and the environment.

22          The words offered to the people of

1 Israel, when they are renewing their covenant with  
2 God, have echoed in my head and heart as I have  
3 been preparing for this hearing. In closing, I  
4 offer them to you. "I call heaven and earth to  
5 witness against you today that I have set before  
6 you life and death, blessings and curses. Choose  
7 life so that you and your descendants may live."  
8 Thank you.

9 (Applause)

10 MS. DEVLIN: Thank you. Number 172,  
11 please?

12 DR. BUTTON: My name is Dr. Gregory  
13 Button.

14 As an environmental health researcher  
15 who has conducted over three decades of academic  
16 research on environmental hazards and disasters,  
17 including the 2008 TVA ash spill in Kingston,  
18 Tennessee fo -- fossil fuel plant, I strongly  
19 support the EPA's decision to regulate coal ash  
20 and urge the EPA to adopt Subtitle C option.

21 There can be no dispute that coal ash is  
22 hazardous and contains numerous toxic chemicals,

1 including mercury and lead, as well as other  
2 harmful substances. Only junk science would  
3 propose otherwise. While the coal industry would  
4 have us endorse junk science, robust scientific  
5 evidence strongly suggests that such claims are  
6 erroneous.

7           Unless the EPA adopts the  
8 above-mentioned option, our nation's citizens and  
9 our environment will continue to remain vulnerable  
10 to the toxicity of coal ash. The TVA ash spill has  
11 dramatically and tragically demonstrated the  
12 failures of relying on a patchwork of state  
13 regulation.

14           It is imperative that the EPA have  
15 direct oversight over the generation of storage,  
16 transportation, and the disposal of coal ash in  
17 order to safeguard the public and the environment.  
18 Subtitle D would continue to rely on a  
19 state-by-state patchwork of regulations, which  
20 time and time again has proven to be inadequate.

21           In my 30 years of research conducting  
22 disaster research, which includes the Exxon-

1 Valdez oil spill, Hurricane Katrina, and most  
2 recently BP oil spill in the Gulf, I would have to  
3 say that the TVA spill was among the most  
4 horrendous disasters that I have investigated.  
5 The tragedy of the ash spill is that it was  
6 totally preventable.

7           If federal regulatory guidelines, such  
8 as though proposed in Subtitle C, were in place,  
9 it probably would not have occurred; or, if it did  
10 occur, the deleterious damage that it inflicted  
11 would have been severely curtailed.

12           If the EPA were to adopt Subtitle D as  
13 written by the coal industry, our nation's  
14 communities and our lands will continue to be  
15 vulnerable to the insidious harm of coal ash  
16 waste. Equally disturbing, one of the nation's  
17 most revered regulatory agencies, the EPA, will  
18 have failed to uphold the vital mission assigned  
19 to it by Congress, that of protecting our  
20 citizenry and our environmental heritage from  
21 polluters. Thank you.

22   (Applause)

1 MS. DEVLIN: Thank you. May I have  
2 Numbers 110, 113? And is there anyone else in the  
3 room who has a number whom I have not called?

4 MR. GENTILE: Okay. No, if -- ma'am, if  
5 you have number, come forward. It's okay. 141,  
6 please take a seat. 122. Okay.

7 MS. MASTIN: Okay. I'm Mary Mastin. I  
8 am chair of the Upper Cumberland Group of the  
9 Sierra Club, and I am on the board, board  
10 secretary of the Tennessee Environmental Council.  
11 I'm making these comments on behalf of both  
12 organizations.

13 Ever since the Kingston disaster, I  
14 started paying a whole lot of attention to what  
15 was happening with the coal ash cleanup, what was  
16 happening in the state legislature, and with the  
17 Tennessee Environmental -- Department of  
18 Environment and Conservation on regulation of coal  
19 ash.

20 One of the main reasons that I got so  
21 concerned, other than the environmental  
22 organizations that I represent, was I've got



1       grandchildren who fish and swim in the Chickamauga  
2       Lake, just north of Chattanooga and downstream  
3       from Kingston, and I got very concerned about the  
4       water quality in the Tennessee River.

5                 Now, I have been at briefings by EPA,  
6       TVA, and TDEC both in Kingston and at the  
7       legislature. I have been -- attended almost every  
8       hearing in the legislature last year -- or for the  
9       past two years dealing with the disaster or with  
10      the regulation of coal ash. I have attended  
11      private meetings with TDEC officials, and with the  
12      leading aquatic biologists on the effects of  
13      selenium on fish.

14                I had studied and made comments on the  
15      NPDS permits dealing with water quality but -- for  
16      both Kingston and Johnsonville. And I have become  
17      aware of the situation with the other fossil  
18      plants -- TVAs six other plants in Tennessee.

19                I am strongly convinced that Tennessee  
20      law and agencies are not capable of protecting  
21      Tennessee citizens from the dangers of coal ash  
22      and the -- and -- dangers of coal ash in our

1 waters. And I strongly ask EPA to adopt the  
2 regulations under Subse -- Subsection C to handle  
3 coal ash as a hazardous waste.

4 What I saw in the legislature was that  
5 TDEC's failure to get the law through removing the  
6 exemption from waste water impoundments from the  
7 -- the Dam Safety Act, I've read the Attorney  
8 General's -- the TVA Inspector General's report,  
9 and TDEC's lessons learned. I drafted a  
10 resolution to the state legislature to require  
11 annual reports from TDEC about TVA's progress on  
12 this. Thank you very much.

13 MS. DEVLIN: Thank you.

14 (Applause)

15 MS. DEVLIN: Number 113, please?

16 MR. PADDOCK: My name is Brian Paddock.  
17 I'm an attorney. I live in Jackson County in  
18 middle Tennessee, a rural county.

19 I was asked to be here today by the  
20 Solar Valley Coalition. I have worked with a  
21 number of groups advocating clean energy, and must  
22 say, to start out with, that there's new -- no

1 such thing as either clean coal or clean nuclear.

2 In 2009, I became aware of a pollution  
3 from the Trans-ash landfill (sic) called the  
4 Bevins landfill. And without going into the  
5 history of that landfill, I would like to submit  
6 in aid of this comment a -- a dir -- a  
7 commission's order directed to the operators of  
8 that monofill coal ash landfill.

9 It lays out the history in which a  
10 permit by rule permit for the first section of a  
11 -- of coal ash dumping in a -- essentially unlined  
12 gravel pit was permitted for the Johnsonville TVA  
13 plant's ash. The edges -- apparently, the  
14 vertical walls were lined, but the bottom was not.  
15 And the installation was simply not done as set up  
16 by the permit. Ultimately, the commissioner's  
17 order I've handed in was given out.

18 The -- there has since then been a Phase  
19 2. And as TVA admitted in the environmental  
20 assessment for Phase 2, they said, well, a lot of  
21 leachate came out of that, even though we didn't  
22 expect any. Essentially, we expected it to all

1       leak into the ground, but it started coming out in  
2       a pool. So we've had to collect it up and pump  
3       it, and take it over -- back over to the plant,  
4       where we pit it in ponds that essentially leak  
5       back into the Tennessee River. So that's the  
6       state of -- of that.

7               And I'm going to give as Web page here  
8       that has the complete environmental assessment --  
9       the complete environmental assessment links for  
10       TVA's analysis of what went wrong with Phase 1,  
11       and what they're going to do in Phase 2.

12               Originally, Phase 2 was requested again  
13       as a permit by rule. And in fact, after the  
14       public hearing, someone discovered a page of  
15       exemptions that were being requested of the  
16       commissioner to essentially strip away most of the  
17       protections in the standards for containment.  
18       Ultimately, the department found its courage and  
19       said that this was going to have to be a full  
20       Class 2.

21               I spent earlier this year for three  
22       solid months, along with others, trying to get

1 modern coal ash containment legislation passed in  
2 Tennessee. We had complete agreement by the time  
3 we'd finished negotiations with the state  
4 department.

5 What happened was that the afternoon  
6 before the first committee hearing, the Chamber of  
7 Commerce lobbyist made two phone calls, and the  
8 bill never even got a motion the next day. With  
9 that kind of opposition from powerful interests,  
10 the inability of the state agency and the  
11 legislature to protect us is evident.

12 Thank you. We would ask that you put  
13 coal ash under Subtitle C.

14 (Applause)

15 MS. DEVLIN: Thank you. Number 122,  
16 please?

17 MS. STOGSDILL: Hello. My name is  
18 Mickayla Stogsdill, and I'm an eighth grader at  
19 Farragut Middle School here in Knoxville.

20 I believe that Subtitle C is the better  
21 choice for the well-being of our environment. It  
22 states that coal ash will be considered a

1 hazardous waste, and will be treated as one;  
2 whereas Subtitle D labels coal ash as mere  
3 household waste.

4 I asked my dad if we had arsenic in our  
5 trash can usually, and he looked at me like I was  
6 the craziest girl he'd ever seen.

7 Considering coal ash as household waste  
8 means it would be treated like your everyday  
9 household trash even though it contains arsenic, a  
10 poisonous substance, in addition to radioactive  
11 material and selenium. These waste products raise  
12 the risk of danger to the liver, kidney, and  
13 lungs. They also have the potential to cause  
14 major respiratory problems.

15 In addition, coal ash is also another  
16 environmental -- in addition, coal ash is also  
17 extremely flammable. If a landfill were to catch  
18 on fire, any coal ash contained therein would  
19 create another environmental problem and podent --  
20 and potential danger to the public.

21 True, Subtitle D will cost less  
22 initially, but if catastrophe strikes, it would be

1 the citizens' responsibility to recourse, as well  
2 in -- as funded. The government would not be  
3 required to fix the problem nor pay for the  
4 repair. In these dire economic times, what  
5 average citizen has the funds to bankroll any  
6 legal action in the wake of catastrophic loss?

7 I'm reminded of the story of the little  
8 Dutch boy. He found a hole in the dike of his  
9 town, which he plugged up with his finger.  
10 However, the problem was never really repaired,  
11 and the town flooded in the end.

12 Subtitle D seems dangerously similar.  
13 It doesn't really fix the problem long-term. A  
14 well- executed effort now will save time later.

15 Even though Subtitle C is more expensive  
16 to implement, it would be better to spend more up  
17 front than to spend half that much now only to  
18 have -- have to redo the repair again and again in  
19 the future. Subtitle C will ensure the total  
20 remaking of the environment that was covered by  
21 5.4 million cubic yards of coal ash. After all, a  
22 stitch in time will save nine.

1           Every year, a company makes a toy that  
2           every kid wants; then another company reproduces a  
3           similar product. It's a little cheaper, has more  
4           health risks, and may be recalled when tested. In  
5           my opinion, Subtitle C is that brand-new toy, and  
6           Subtitle D is like a cheaper version of it.

7           Subtitle D won't last. Subtitle C will.  
8           Subtitle D will crumble. Subtitle C will not.  
9           Subtitle C will not fail.

10           I thank you for your time, and I  
11           appreciate you listening to our concerns. Thank  
12           you.

13                           (Applause)

14           MR. GENTILE: Number 141, please? 141?

15           MR. HARPOLE: Thank you. My name is  
16           Chad Harpole, and I'm the director of public  
17           affairs for the Kentucky Chamber of Commerce.

18           On behalf of our -- of the Kentucky  
19           Chamber and our 2700-member companies across  
20           Kentucky, we appreciate the time to come to  
21           Knoxville to express our concern in opposition to  
22           the proposed regulation of the coal combustion



1 residual rule, Subtitle C hazardous waste, under  
2 the Resource Conservation and Recovery Act.

3           The Kentucky Chamber believes regulating  
4 fly ash under Subtitle C option will impose  
5 significant costs on power-plant operations, and  
6 ultimately result in additional utility cost  
7 increases for businesses and consumers. Kentucky  
8 is proud to be the fifth leading producer of  
9 energy in the country, driving significant  
10 manufacturing in our state, including automotive  
11 production and aluminum production.

12           We enjoy these low-cost utility rates  
13 thanks to the availability and proximity of  
14 Kentucky coal. Without a doubt, Kentucky's coal  
15 industry will be impacted under the Class C plan  
16 due to the potential for utilities to cut back  
17 production at coal-fired electric generation  
18 plants.

19           If this occurs, we feel classifying coal  
20 ash as Class C waste will significantly threaten  
21 electric reliability to businesses and consumers  
22 in our state, and significantly affect local

1 economies through the reduction in payroll taxes  
2 and employment numbers. Increased energy costs  
3 and decreased electric reliability will have a  
4 significant, adverse impact on all sectors of the  
5 business community, and could potentially force  
6 Kentucky businesses to relocate out of our state.

7           We strongly feel, under Subtitle C,  
8 could end the beneficial use of recycling coal  
9 ash into products like cement and drywall.  
10 Regulation under Subtitle C will harm one of best  
11 and oldest recycling industries, and drive up  
12 costs for the construction and home-building  
13 industries, industries that are already struggling  
14 in the current economic climate.

15           We also are concerned with the amount of  
16 potential litigation that could be created due to  
17 products manufactured or constructed in the past  
18 if coal ash is retroactively ruled as Class C  
19 hazardous waste.

20           In closing, the Chamber urges USEPA to  
21 develop nonhazardous waste regulations for coal  
22 ash under Subtitle D of RCRA. Such an approach

1 would allow USEPA to work with states in  
2 implementing regulations that are fully protective  
3 of human health and our environment without  
4 negatively impacting coal ash's beneficial use and  
5 causing an increase in energy prices at a time  
6 when our country can least afford it. Thank you  
7 for your time.

8 (Applause)

9 MS. DEVLIN: Thank you. Your number,  
10 please?

11 MR. HYFANTIS: 117.

12 MS. DEVLIN: Thank you.

13 MR. HYFANTIS: 117, yes, ma'am. Thank  
14 you. My name is George Hyfantis, and I speak here  
15 today as an engineer, an educator, and a private  
16 citizen. First, I'd like to thank EPA for  
17 extending the comment period on your proposed  
18 regulations, and adding Knoxville to your pub --  
19 your list of public meetings.

20 By way of background, I'm a practicing  
21 engineer, and an adjunct professor at the  
22 University of Tennessee, where I teach civil

1       engineering. I teach graduate-level courses in  
2       solid and hazardous waste management.

3               The emphasis of this class now and for  
4       the last 30 years has been teaching engineers how  
5       to characterize waste and to design landfills.  
6       For these last 30 years or so, I've been perplexed  
7       about the decision to allow coal combustion  
8       residuals, CCRs, to be disposed of in ponds along  
9       the side of rivers.

10              The standard technique for determining  
11       whether or not a waste is hazardous has been and,  
12       to my knowledge, continues to be the toxicity  
13       characteristic's leaching procedure. And I'll use  
14       TCLP. There exists abundant data in the  
15       literature concerning the chemical characteristics  
16       of CCRs, and similarly, there exists abundant data  
17       concerning the concentrations of contaminants in  
18       TCLP extracts.

19              Analytical results for both the total  
20       CCR concentrations and TCLPs vary significantly,  
21       and are based on the coal source, the combustion  
22       technology, and the pollution-control technology,

1 among other things.

2           The point of this limited discussion is  
3 that most of the CCRs are nonhazardous according  
4 to the TCLP, but sometimes they are. Our  
5 regulatory strategy ought to err on the side of  
6 safe disposal. The challenge for EPA is choosing  
7 between your two options, and choosing between  
8 your two options is balancing the need to handle  
9 the CCRs in an environmentally-protective manner  
10 while still allowing the beneficial use of these  
11 wastes to continue without chemically analyzing  
12 every single batch of waste produced.

13           In my professional opinion, we cannot  
14 continue to allow CCRs to be disposed of in ponds  
15 or piles along rivers. CCRs should be disposed of  
16 in lined landfills with leachate collection  
17 systems using the design standards of Subtitle D.

18           The siting of these landfills would  
19 similarly follow the siting requirements of  
20 Subtitle D, which means they should not be near  
21 rivers and away from population centers.

22           The disposal of CCRs must come under

1 regulatory authority of EPA and the states. In  
2 order to accomplish this, your options suggest  
3 that the regulatory framework of RCRA under  
4 Subtitle C is necessary. This is the regulatory  
5 framework chosen.

6 I believe that EPA should designate CCRs  
7 as a special waste. A special waste designation  
8 would allow for the continued beneficial use of  
9 CCRs, and will allow for the remaining material be  
10 to -- to be disposed of Subtitle D landfills.  
11 This requirement for a double liner and leachate  
12 collection system would be overkill for CCRs.  
13 Thank you for your time.

14 MS. DEVLIN: Thank you.

15 MR. HYFANTIS: The requirement for a  
16 double liner and leachate collection system would  
17 be "overkill" for CCRs while a single liner and  
18 leachate collection system would provide adequate  
19 environmental protection.

20 Further, it is my recommendation that  
21 EPA consider working closely with the Department  
22 of Interior's Office of Surface Mining to develop

1 a joint program that allows the disposal of CCRs  
2 at abandoned and active surface mine sites using  
3 the same design criteria for RCRA Subtitle D  
4 landfills.

5 The National Academy of Sciences  
6 published a comprehensive study of the viability  
7 of this very idea. Their report entitled  
8 "managing Coal Combustion Residues in Mines" was  
9 published in 2006. Proper disposal at abandoned  
10 surface mine sites provides an opportunity for  
11 land reclamation and reuse. I suggest making this  
12 report a part of your comment record.

13 The Knoxville Field Office of the Office  
14 of Surface Mining has developed an innovated  
15 program for surface mine closure called the  
16 Appalachian Regional Reforestation Initiative.  
17 This very successful program has been used to  
18 restore recently closed surface mines to  
19 productive forests.

20 This technique can be combined with the  
21 design requirements for an RCRA Subtitle D  
22 Landfill cap. Using this combined technique would

1 allow a formerly-mined area to be reforested as  
2 opposed to becoming a large grassy field in the  
3 mountains. I have included a concept design with  
4 these comments for your consideration. Again,  
5 thank you for extending your comment period.

6 MS. DEVLIN: Is there anyone in the  
7 audience with a number of 120 or below who has not  
8 spoken? Okay. I understand that Number 166 is in  
9 the audience and would like to speak? Please --  
10 thank you. And I also understand that Number 268,  
11 uh-huh, you registered today? Okay. If you two  
12 would come forward, please? So 166 and 268.

13 MR. SIMMERS: Good afternoon. My name  
14 is Dennis Simmers, and I live in Cambria Township,  
15 Cambria County, Pennsylvania.

16 I have read many reports on today's  
17 issues, ranging from Earth Justice's "Waste Deep"  
18 to "Fate and Transport" by the Anthracite Region  
19 Independent Power Producers Association, and  
20 others. And I am here to testify in my opinion on  
21 the wide view of my community's perspective.

22 I represent the sixth generation of my



1 family to live in Cambrai County. Through three  
2 successive generations, and now four with my  
3 children, we have been subjected to the hazards  
4 and detrimental consequences of discarding waste  
5 bituminous coal on the surface of the earth. The  
6 effect is well known. Acid mine drainage,  
7 contaminated surface and groundwater, hundreds of  
8 acres of unfit property, public nuisances, and  
9 life-threatening terrain, as well as air quality  
10 issues.

11           The Revlon waste coal pile was a perfect  
12 all- in-one example to me of these detrimental  
13 effects. From my earliest recollection until I  
14 was 30, I can clearly recall the acrid rotten-egg  
15 stench and contaminated water around this pile.

16           Approximately 20 years ago, we witnessed  
17 the arrival of the first of three waste coal-fired  
18 electric generating stations in Cambria Township.  
19 By historic standards, it seemed like the coal  
20 piles was being eliminated in no time. What took  
21 the mining industry 100 years to create was  
22 quickly being taken away. It was done safely, and

1 actually there are -- there's approximately 30  
2 years of research on this removal technique that  
3 does not bear out hazardous consequences to the  
4 ash being replaced in these areas.

5 I would like to close my comments with a  
6 request as a local resident with children. I have  
7 witnessed the arrival of a substantial solution to  
8 our problem.

9 The waste coal power industry is in the  
10 process of safely remediating what I consider to  
11 be Pennsylvania's Number 1 environmental  
12 catastrophe.

13 I urge the EPA to keep the waste coal  
14 power industry's unique position in cleaning up  
15 the environment and -- in mind during your  
16 consideration of ash beneficial use. I do not  
17 live in Boston, Washington, Philadelphia, or  
18 Seattle and visit the area once in a while. I  
19 live in the community 100% of the time.

20 In my opinion, waste coal fired power  
21 ash is the very definition of beneficial use. It  
22 should be encouraged, and not made to be even

1 slightly more financially burdensome or punitive.

2 Thank you.

3 MS. DEVLIN: Thank you. Number 268,  
4 please.

5 MR. MORALES: Thank you. My name is  
6 Patrick Morales. I speak on -- on behalf as -- as  
7 a member of We May Be Back, an organization of  
8 backpackers, hikers, and active environmentalists  
9 or -- not necessarily environmentalists, but  
10 active in the con -- the condition of our  
11 environment for survival.

12 I live in east Tennessee and in the  
13 vicinity of this most recent 2008 disaster at  
14 Kingston. And if that wasn't lesson enough, I  
15 don't know what was. I -- but I -- but I won't go  
16 there. I just want to know that -- let you know  
17 that I do and we, as We May Be Back, support  
18 Subtitle C.

19 And I have problems, as a person, with  
20 self- implementation and self-regulation. I've  
21 tried it myself, whe -- whether it be not eating a  
22 certain food or what have you, some personal

1 discipline. And it didn't work until the  
2 consequences got too bad and the problem had to be  
3 addressed. And I think that's where we're at with  
4 this coal ash.

5           If -- if -- if we're trying to determine  
6 if it's a toxic chemical, I guess we need to test  
7 for that. And I've understood that sometimes the  
8 testing and the determination methods of -- for  
9 determining whether coal ash is toxic or deadly or  
10 not are not necessarily measuring for those  
11 things, those chemicals.

12           There's just one question. I -- I don't  
13 want to -- you-all, I'm sure you-all have heard a  
14 bunch of good stuff and a bunch of good evidence  
15 pro and con. I just want to ask all those who  
16 support Subtitle D, do you or anyone you know live  
17 near a coal impoundment or a sludge pond? And if  
18 not, move your vacation home real to one and see  
19 how you like it. Thank you.

20                           (Applause)

21           MS. DEVLIN: Thank you. At this time,  
22 do -- do we have anyone in the audience who has a

1 number and who has not yet spoken?

2 Okay. Seeing not, and the fact that we are running a  
3 bit ahead of schedule, we are going to take  
4 approximately a 15-minute break. So by my watch,  
5 that'll get us back at five past 4. Oh. I'm sorry,  
6 sir?

7 Please come forward now. Yes, that would  
8 be fine. Okay. And you are Number 265?

9 MR. GOLDEN: Yes.

10 MS. DEVLIN: Great. Thank you. Thank  
11 you.

12 MR. GOLDEN: My name is Jim Golden. I  
13 live here in Knoxville, Tennessee.

14 Back in the 1970s, Jean Heise of Oak  
15 Ridge National Laboratories began pushing TVA to  
16 use a technology called high-intensity magnetic  
17 separation for removal of toxic materials from  
18 coal. This involved crushing coal into a fine  
19 powder, which we already knew to enhance  
20 combustion efficiency; then passing the coal  
21 through a high-intensity magnetic field which  
22 separates the elements, allowing for easy removal

1 of potential toxins.

2           Also under development at Oak Ridge  
3 National Laboratories was a radically different  
4 combustion or furnace technology called fluidized  
5 bed combustion that had higher efficiency and  
6 provided cleaner combustion, first discovered in  
7 the 1920s but never developed to its full  
8 potential. Fluidized bed combustion not only  
9 allows for high-efficient burning of clean fuels,  
10 but also for the high- efficient burning of  
11 low-quality or dirty fuels, wet fuels, coal mine  
12 tailings, toxic fuels, and even allows for the  
13 better handling or concentration of nuclear waste.

14           You see, most fires are horribly  
15 inefficient, creating smoke, plus the high  
16 temperature drives molecules together in an  
17 unnatural form that are pollution. Fluidized bed  
18 combustion operates below the temperature that  
19 fuses molecules unnaturally and below the  
20 temperature that fuses ash into the clinkers with  
21 other potentially toxic substances.

22           Both of these useful technologies were

1 withheld from the 1982 Energy world's Fair by TVA  
2 Oak Ridge National Laboratories and University of  
3 Tennessee. When TVA took public comment for their  
4 nineteen -- for their Energy Vision 2020, TVA  
5 changed our comments concerning fluidized bed  
6 combustion so as to keep the public in the dark.

7           TVA has a fluidized bed project, but it  
8 appears to be designed for failure. Please see  
9 United States Patent Number 4,580,505 for a  
10 fluidized bed design that shut down an \$800  
11 million project slated for Anderson County, and  
12 caused a reorganization of Oak Ridge National  
13 Laboratories.

14           This furnace, with a quadruple expander,  
15 is said to be more efficient than Bull Run Steam  
16 Plant, which is Oak Ridge's -- which is TVA's most  
17 efficient steam plant according to TVA engineers.  
18 Thank you.

19   (Applause)

20           MS. DEVLIN: Thank you. I noticed some  
21 people came in, and I don't know exactly what your  
22 numbers are. So 136, 137, 126, and 210, if

1 you-all would please come up. Thank you. Just  
2 you -- take your seats at the side, and you can  
3 just go in order.

4 MS. ENNIS: Can I go ahead first?

5 MS. DEVLIN: Yes.

6 MS. ENNIS: Good afternoon. My name is  
7 Chelsea Ennis, and I'm a student at the University  
8 of Tennessee, Knoxville. I'm a member of sud --  
9 SPEAK, Students Promoting Environmental Action in  
10 Knoxville.

11 Not only is allowing coal ash to go  
12 unregulated an environmental issue, but it is also  
13 a human rights violation. I find it absolutely  
14 absurd that such toxic materials are not yet  
15 -- not yet regulated.

16 This leads me to believe one of -- of  
17 two things. Either the EPA does not have  
18 knowledge of the dangers of coal ash, or the EPA  
19 does not care about the detrimental and deadly  
20 effects that coal ash -- coal ash has on the  
21 environment and the people of Appalachia.

22 Because of the jo -- because the job of



1 the EPA is to protect -- protect, I deeply hope  
2 that the reason is not a lack of care for people  
3 and the environment, so I'm choosing to believe  
4 that the EPA is unaware of the effects of coal  
5 ash, so I will tell you.

6 Coal ash con -- contains heavy metals,  
7 such as lead, mercury, selenium, and arsenic.  
8 Disturbingly, people living near unlined coal ash  
9 ponds where water is contaminated have an  
10 extremely high risk of cancer, up to 1 in 50.  
11 This is 2,000 times greater than EPs -- EPA's;  
12 acceptable cancer risk.

13 Because of this serious environmental  
14 destruction and human rights violation, I asked  
15 the EPA to regular coal ash under Subtitle C of  
16 the RCRA as special waste. I'm doing to end with  
17 a quote, "Not only when the last tree has died and  
18 the last river has been poisoned and last fish has  
19 been caught will we realize we cannot eat money."

20 (Applause)

21 MS. DEVLIN: Number 136.

22 MS. GERHARD: My name is Danielle

1 Gerhard, and I'm also a student at the University  
2 of Tennessee Knoxville and a member of the student  
3 organization SPEAK, Students Promoting  
4 Environmental Action in Knoxville.

5 Over half of the coal plants in the  
6 country are surrounded by populations that exceed  
7 state averages in terms of low-income individuals.  
8 We are exploiting these low-income communities to  
9 fulfill the American dream. And how do we repay  
10 them? The coal companies are allowed to dispose  
11 of this toxic waste back into the lands of these  
12 communities. Coal ash consists of heavy metals,  
13 like mercury, lead and arsenic and don't belong in  
14 drinking water.

15 In my college chemistry class, I have  
16 learned to dispose of certain solutions in a  
17 heavy-metals container instead of the sink, and I  
18 expect these coal industries to be smarter than an  
19 entry-level chemistry class. However, they appear  
20 not to be and, therefore, I encourage the EPA to  
21 choose Subtitle C of the RCRA because coal ash is  
22 toxic and should be treated as such. Furthermore,

1 my generation should not have to deal with your  
2 generation's mistakes.

3 I will leave you with a quote by the  
4 philosopher Aldo Leopold. "Obligations have no  
5 meaning without conscience." Thank you.

6 (Applause)

7 MS. DEVLIN: Thank you. Number 137.

8 MS. FLOWER: Hi, my name is Sarah  
9 Flower, and I'm also a student at UT and a member  
10 of SPEAK, Students Promoting Environmental Action  
11 in Knoxville.

12 Coal ash is toxic. It contains heavy  
13 metals, including arsenic, mercury, lead, selenium  
14 and beryllium, all of which are toxic to our  
15 rivers and, more importantly, our communities.  
16 For me, it is hard to believe that these coal  
17 companies are taking shortcuts and, therefore,  
18 risking the lives of the thousands of people  
19 living in Appalachia.

20 Coal ash needs to be regulated, and not  
21 just as garbage. It needs to be recognized as the  
22 hazardous waste it truly is. Choosing Subtitle C

1 is the only way to ensure, not only the health and  
2 safety of the people living in these currently  
3 contaminated areas now, but for the future  
4 generations, as well. Thank you.

5 (Applause)

6 MS. DEVLIN: Thank you. Number 210,  
7 please.

8 MR. PINSKY: Good afternoon. My name is  
9 David Pinsky, and I'm a student organizer for  
10 Greenpeace USA, representing hundreds of students  
11 appalled by the crimes that dirty and dangerous  
12 coal has inflicted on people and our planet. I'm  
13 here, also, to have support your efforts to create  
14 a federal minimum coal ash disposal standard,  
15 treating coal ash as hazardous under subtitle C of  
16 RCRA.

17 Nearly two years ago, over one billion  
18 gallons of toxic coal ash gushed from the TVA  
19 Kingston impoundment, devastating Roane County.  
20 As a native from Kentucky and someone who has seen  
21 the impacts of dirty coal, I was grief-stricken.  
22 This is not about industry profits. It's about

1 people's lives.

2           It's about Steve Scarborough of Roane  
3 County. Nearly two years later, Steve is still  
4 shocked to find six-foot piles of coal ash sitting  
5 in once pristine waterways. He has personally  
6 lost hundreds of thousands of dollars from his  
7 property values plummeting. The coal industry  
8 tells residents that it will be cleaned up in five  
9 years. Do you think Steve has five years to wait  
10 when his community is still polluted with toxic  
11 coal ash?

12           It's about Barbara Evans of Lownsdes  
13 County, Alabama. She drove eight hours by herself  
14 to speak on behalf of Perry County residents.  
15 This impoverished, African-American community is  
16 the current dump site for TVA's Kingston plant,  
17 and has drinking-water levels with arsenic  
18 contamination 80 times the safe-drinking-water  
19 standards. Folks are fearful of speaking out  
20 because of intimidation by the coal industry.  
21 Barbara said this to me: Quote, "After a life of  
22 hard work, Perry County residents are being

1 reduced to sickness and death from coal ash. They  
2 are trapped, and they need the EPA's help."

3 The industry reps you hear today are  
4 concerned about money, not human life. This makes  
5 me sick. Show me the non-industry-funded research  
6 proving that heavy metals, carcinogens and known  
7 neurotoxins are safe for human consumption. The  
8 EPA needs to adopt Subtitle C.

9 However, I want to be very clear.  
10 Subtitle C is a good start, but the EPA must taken  
11 even stronger action. The EPA must immediately  
12 shut down high hazardous impoundment sites. The  
13 EPA must do everything necessary to immediately  
14 inspect all sites and protect our communities from  
15 toxic coal ash. Please stand up to the heavy  
16 lobbying efforts of the billionaires of the coal  
17 industry. If you will not protect us, who will?

18 It is a sad day for all Americans when  
19 our Environmental Protection Agency fails to act  
20 with swift and immediate action on this issue.  
21 You have the opportunity to save lives,  
22 communities, children, grandmothers, students, our

1 planet. You have the opportunity to stop this  
2 madness. Now, all I ask is for you to stand up,  
3 be bold, do what science tells us and what is  
4 ethically and morally right: Regulate coal ash  
5 under Subtitle C of RCRA and take whatever means  
6 necessary to protect our people, not the polluting  
7 coal industry.

8 Now, let's get to work. Thank you.

9 (Applause)

10 MS. DEVLIN: Thank you. Okay. May I  
11 have Numbers 146, 147, 148 and 149, please.

12 If you're waiting, if you would sit on  
13 the side. And, Number 146, if you would just go  
14 to the podium and...

15 MR. HARRISON: Good afternoon.

16 MS. DEVLIN: Thank you.

17 MR. HARRISON: Thank you for allowing me  
18 this opportunity to speak. My name is Gary  
19 Harrison, and I'm the CEO/General Manager for  
20 Dixie Electric Cooperative, which is a non-profit  
21 rural electric cooperative serving about 22,000  
22 members in seven counties located in east central

1 Alabama. I also serve as Vice-Chairman of  
2 PowerSouth Electric Cooperative, which is a  
3 generation and power supplier cooperative for 12  
4 distribution cooperatives and 4 municipals in  
5 south Alabama, as well as 4 cooperatives in  
6 southwest (sic) Florida. This year, in Alabama,  
7 we experienced an unusually cold winter followed  
8 by an extended hot summer. The extreme  
9 temperatures caused a tremendous increase in  
10 kilowatt hour usage for our members. With many of  
11 them being low-income families living in  
12 substandard housing, this weather further  
13 magnified their already high usage patterns.  
14 Dealing with the effects of the recession, high  
15 unemployment and the increased electric costs  
16 inflicted a financial stress on many of our  
17 members. This has been the same throughout south  
18 Alabama and northwest Florida.

19           Therefore, on behalf of our members, I'd  
20 like ask that you do not make any changes that  
21 could significantly increase the cost of  
22 production of electricity to our members.



1           PowerSouth's coal-fired units were built  
2           in 70s, in a time where electric generation was  
3           greatly needed. At a time where coal, to a large  
4           extent, was the only fuel available to the  
5           cooperative generation to use because of the Fuel  
6           Use Act and prevailing economic conditions. As a  
7           result of our dependence -- as a result of the  
8           dependency on generation from these coal-fired  
9           units, our cooperative, as well as other  
10          PowerSouth members, will be directly affected by  
11          the final CCR rule.

12                 We understand the need for the  
13          development of federal regulations that assure the  
14          safe disposal of CCRs, and we feel that the  
15          subtitle D prime option will meet this objective.  
16          On the other hand, we strongly oppose using the  
17          subtitle C approval. EPA can obtain a high level  
18          of protection for the environment and human health  
19          without resorting to the unnecessary and extreme  
20          measures of regulating CCRs under RCRA's  
21          hazardous-waste rules.

22                 PowerSouth has always worked with each

1 of our members since it was organized in 1951 to  
2 be environmentally conscious, and we've always  
3 taken care of our fly ash in a way that has --  
4 that we have produced over 30 years. From the  
5 information I obtained, the ash spill at TVA's  
6 Kingston plant was the result of safety issue with  
7 a dam, a pond dam. All we ask is that you use the  
8 appropriate government agency to regulate the dam  
9 safety.

10 And in conclusion, with almost 60% of  
11 our generation of electricity produced by  
12 PowerSouth generated by coal, we feel that change  
13 with increased regulatory costs would cost our  
14 members financially and affect their current  
15 lifestyle.

16 MS. DEVLIN: Thank you. Number 147,  
17 please.

18 MR. MOORE: Good afternoon. My name is  
19 Ronald Moore. I'm the current president the  
20 International Brotherhood of Electrical Workers,  
21 Local 2298, in Washington County, Alabama. I'm  
22 here to represent more than 130 families in this

1 area who live in Clarke and Washington Counties.

2 I have been an employee for PowerSouth  
3 Energy for 32 years. I was hired in 1978 with the  
4 construction of Units 2 and 3 at Charles R.  
5 Lowman power plant in Leroy, Alabama.

6 The Lowman plant produces more than 500  
7 megawatts of coal-fired electricity. I have been  
8 an operator at this plant for -- since 1981. The  
9 plant has safely disposed of its coal ash for more  
10 than 30 years. In fact, much of the coal  
11 combustion residue from Lowman plant is used  
12 beneficially in concrete, road construction,  
13 agriculture and wall board.

14 CCRs have been used for decades to  
15 enhance concrete and wall-board construction.  
16 CCRs have been used in construction of the Hoover  
17 Dam, San Francisco Oakland Bridge and the I-35  
18 Bridge in Minneapolis, Minnesota. Concrete made  
19 with fly ash extends the life of construction  
20 projects by decades, minimizing the environmental  
21 impact of rebuilding.

22 The nature of the CCRs does not warrant

1 its regulation as a hazardous waste. Such  
2 regulation would destroy the very successful  
3 recycle programs that greatly reduce the need for  
4 cost of disposal.

5 Now, working at this plant, the Lowman  
6 plant, has provided me and my family and many of  
7 my friends well-paying jobs, benefits so we can  
8 enjoy a good standard of living. PowerSouth's  
9 average wage for its bargaining-unit employees is  
10 \$60,000 per year, plus benefits. And most of this  
11 stays in the community.

12 The coal combustion residual rule oppose  
13 -- proposed by the EPA and the subject of the  
14 today's hearing will ultimately have a significant  
15 impact on me, personally, and the people I am here  
16 to represent. So, please, make sure that the  
17 benefits of the decision you make about coal  
18 residue outweigh the costs of those decisions. If  
19 there's a problem with how some utilities store  
20 coal combustion residue, fix the storage problem,  
21 not by declaring coal ash as hazardous, but by  
22 regulating the dams and containment used to store

1 it.

2 I'd like to thank you for your  
3 consideration on this issue and determine that  
4 coal combustion residue should not be regulated as  
5 hazardous. There are more than 130 families in  
6 Clarke and Washington County that are depending on  
7 you to make the right decision.

8 MS. DEVLIN: Thank you. Number 148,  
9 please.

10 MR. SINGLETON: Good afternoon, ladies  
11 and gentlemen. Thank you for allowing me to  
12 address you this afternoon.

13 My name is Charles Singleton. I am the  
14 probate judge and chairman of the county  
15 commission of Washington County, Alabama. I  
16 retired after 35 years of service from the United  
17 States Army as rank of command sergeant major  
18 before I took this job.

19 Washington County is the oldest county  
20 in the State of Alabama. We presently encompass a  
21 1,081 square miles. We have 18,000 residents. So  
22 that makes us a very large and sparsely populated

1 county in rural Alabama adjoining what is known  
2 nationally as the black belt. We had -- we were  
3 the first capital of the State of Alabama. We had  
4 the first school in the State of Alabama. We had  
5 the first bank in the State of Alabama. Today we  
6 enjoy a standard of living that is about the  
7 national average. We consider ourselves to be  
8 about-average Americans.

9 We have in our county BASF, Olin,  
10 PowerSouth and Bay Gas as our prime employers.  
11 PowerSouth has been a tax-paying resident of my  
12 county since the 1960s, when they built their  
13 first coal-fired generator in the little town of  
14 Leroy. They have since added on several times.  
15 They now employ about 190 people. They are the  
16 largest single taxpayer for revenue in my county.  
17 The tax that they pay goes for schools, for roads,  
18 for bridges, for hospitals, for fire protection.  
19 The moneys that they pay to their employees, which  
20 they are a good-paying employer, is turned over  
21 five times before it leaves my county, so they  
22 make a significant contribution to my county.

1                   PowerSouth has safely disposed of its  
2 ash since the 1960s. They continue to do so  
3 today. My only request of you is that you take  
4 into considerations the benefits versus the  
5 dangers. Regulate what needs to be regulated.  
6 Don't go too far as, sometimes, government  
7 agencies are prone to do.

8                   Thank you. The citizens of Washington  
9 thank you. And let's fix the problem, just don't  
10 damage the whole industry. Thank you.

11                  MS. DEVLIN: Thank you. Number 149,  
12 please.

13                  MR. MITCHELL: Thank you. Good  
14 afternoon. My name is Terry Mitchell, and I serve  
15 on the Board of Trustees of Central Alabama  
16 Electric Cooperative in Prattville, Alabama. I'm  
17 elected by my peers to oversee and govern a  
18 32,000-member cooperative providing electric  
19 service to 10 counties in the State of Alabama.

20                  I am also the probate judge of a rural  
21 county in Alabama, and I see people struggling on  
22 a daily basis in good times. I see them really

1 struggling under the current economic conditions  
2 that we're going through today.

3 On behalf of the Board of Central  
4 Alabama Electric Cooperatives, I ask you not to  
5 make changes that would significantly impact the  
6 cost to produce electricity to the folks who are  
7 in need in Alabama.

8 Electricity is the fuel of the  
9 Information Age, and coal accounts for more than  
10 half of the electricity produced in the United  
11 States. Over the past 30 years, utilities and  
12 specialty companies have found ways to increase  
13 the ability to recover coal residue. And I know  
14 for a fact that that is true, for my -- over a  
15 decade, my father fed, clothed and educated his  
16 family by working for a company that's an -- that  
17 -- that collected the fly ash in Wilsonville,  
18 Alabama.

19 I can look each of you in the eye today  
20 and tell you that I have touched fly ash. I have  
21 washed it from my father's truck, and I have seen  
22 it on the clothes of my father when he came home



1 from work. I can tell you that fly ash is not and  
2 does not need to be considered a hazardous waste.

3 For every ton of fly ash that is used is  
4 a ton that doesn't go into a landfill that we have  
5 to back up with our federal moneys and our local  
6 moneys. You know, using fly ash in something as  
7 simple as concrete is a great way to Build Green  
8 without sacrificing quality or cost.

9 Central Alabama, as you've already  
10 heard, is a member of PowerSouth. It's an energy  
11 cooperative that, since 1941, has been able to  
12 handle its own fly ash and has done an outstanding  
13 job with it.

14 But I ask each of you to think about  
15 Winfred and Mable Grogan, an older couple that  
16 lives close to my home. They have a modest home  
17 and they live on a fixed income. Seventy cents  
18 out of every dollar they pay for retail power --  
19 for purchase power, 60% of that comes from coal.  
20 They are the members who remember when the lights  
21 came on. They are not the type of people who  
22 would ask for help. In fact, they would forgo

1 medical treatment just to keep their power on.

2 You know, from the information that I  
3 have obtained, the TVA Kingston ash spill was a  
4 dam safety issue, a pond failure. I ask you to  
5 fix the problem, allow the proper governmental  
6 agency to -- to govern the safety of the pond. It  
7 was the -- it was the container, ladies and  
8 gentlemen, not the product that caused the  
9 problem.

10 So on behalf of Central Alabama, the  
11 Board of Trustees and its management, its  
12 employees and the 32,000 people, I ask you to --  
13 to not declare fly ash as a hazardous waste.  
14 Thank you.

15 (Applause)

16 MS. DEVLIN: Thank you. Number 145.

17 MR. STEPHENS: Good afternoon. My name  
18 is Keith Stephens. I'm the environmental services  
19 manager at PowerSouth Energy Cooperative.  
20 PowerSouth is a non-profit electric generation  
21 transmission cooperative that serves 20  
22 distribution systems in Alabama and northwest

1 Florida who, in turn, provide electric service to  
2 more than one million customers in mostly rural  
3 areas.

4           PowerSouth recognizes public concern  
5 over the handling and disposal of coal combustion  
6 residuals, or CCRs, and the EPA's obligation to  
7 protect the environment. However, the issue of  
8 whether CCR should be regulated as a hazardous  
9 waste has been thoroughly evaluated and resolved.  
10 In its 2000 regulatory determination, the EPA  
11 found that coal ash does not warrant hazardous-  
12 waste regulation, concluding instead that the most  
13 appropriate mechanism for regulation would be  
14 under subtitle D, non-hazardous waste regulations.  
15 There's no basis or need for -- to regulate under  
16 subtitle C, so the final course of action that the  
17 EPA chooses must be carefully considered to avoid  
18 unintended counterproductive consequences that  
19 would jeopardize beneficial uses and increase  
20 energy costs with no real environmental benefit.

21           PowerSouth owns and operates the Charles  
22 R. Lowman power plant in Leroy. The Lowman plant

1 produces about 125,000 tons of coal ash annually.  
2 75% of that is in beneficially used in the cement  
3 industry. Furthermore, the Lowman plant uses --  
4 produces 78,000 tons of gypsum annually, of which  
5 100% is beneficially used. That's over 172,000  
6 tons of material that did not end up in a  
7 landfill.

8 PowerSouth disagrees with the EPA's  
9 supposition that regulation under subtitle C will  
10 spur additional beneficial uses of CCR and, in  
11 fact, that regulation would exactly have the  
12 opposite effect. By dissuading CCR customers from  
13 using this so-called hazardous material, utilities  
14 like us who are, even now, directing CCR to  
15 beneficial uses would be forced to begin  
16 landfilling all that material.

17 PowerSouth is also concerned that EPA's  
18 proposed definition of CCR surface impoundments  
19 may inappropriately affect the impoundments that  
20 are not designed to receive solid waste. None of  
21 the Lowman plant CCR impoundments discharge  
22 directly into the river, but they're routed

1 through another surface impoundment before  
2 discharge. And our plant consistently meets all  
3 of its water- quality discharge requirements.  
4 Since the power plant operation requires water for  
5 various purposes, any adverse consequences would  
6 cripple essential power plant operations with no  
7 associated environmental benefits.

8 For all these reasons, PowerSouth  
9 strongly opposes Subtitle C regulation of CCRs.  
10 Instead, the EPA should strongly consider  
11 addressing public concerns first with impoundment  
12 dam safety rules. And, furthermore, if the EPA  
13 determined that the regulation of landfills is  
14 needed, Subtitle D prime option should be pursued  
15 since it would provide equivalent environmental  
16 protection while still holding down costs, keeping  
17 beneficial use options available, and allow  
18 PowerSouth to continue to provide reliable,  
19 reasonably-priced power to its member owners.  
20 Thanks.

21 MS. DEVLIN: One note to the -- to the  
22 speakers who just spoke: If you would leave a

1 copy of your written comments in the box over here  
2 by our court reporter, we'd appreciate it.

3 Number 123 and Number 142, if I haven't  
4 gotten this .

5 MS. GOSS: Thank you. My name is Sandra  
6 Goss. I'm the executive director of Tennessee  
7 Citizens for Wilderness Planning.

8 Tennessee Citizens for Wilderness  
9 Planning is a statewide environmental advocacy  
10 group that's based in Oak Ridge. I speak on  
11 behalf of our members across the State.

12 Regarding coal ash, there are currently  
13 no federally enforceable regulations specific to  
14 coal ash. And it should not be regulated under  
15 the weak protective standards provided by a  
16 Subtitle D designation. It is a hazardous waste,  
17 and it should be regulated as such. Therefore, I  
18 urge that coal ash be regulated under Subtitle C  
19 of the Resource Conservation and Recovery Act as  
20 special waste. Subtitle D falls short of the  
21 regulatory rigor and enforcement needed.

22 Please adopt Subtitle C and regulate

1 coal ash like the hazardous waste that it is.  
2 Thank you, and thank you for coming to Knoxville  
3 to hear our comments.

4 (Applause)

5 MS. DEVLIN: Thank you. Number 142,  
6 please.

7 MR. BROWN: My name is Doug Brown. I'm  
8 employed by Harrison Construction Company in  
9 Alcoa, Tennessee. I've worked for Harrison's for  
10 the last 31 years.

11 Old Castle Material owns our company.  
12 We're one of the largest Ready Mixed concrete  
13 producers in the nation. We've had lots of  
14 employees in the last 30 years come and go, and  
15 I've never known of one of our employees that had  
16 any issue working with or around fly ash. No  
17 health issues, nothing has ever come up from that.

18 We've used in con -- fly ash in concrete  
19 for the past 25 years. We've produced hundreds of  
20 thousands of yards of concrete containing fly ash,  
21 which, by using it in the concrete, we've -- have  
22 not had to put it into any landfills anywhere.

1 All the used tons of fly ash that would have been  
2 and the fly ash that are in place, most of it on  
3 government jobs who always specify the use of fly  
4 ash.

5           If fly ash is classified as a hazardous  
6 waste, we'll be forced to stop using it in our  
7 daily operations. We will not take the risk of  
8 having to handle or store in our many sites  
9 hazardous material. By us and other producers  
10 like us stopping the use of fly ash, the price of  
11 concrete will increase, which will, in turn, drive  
12 up the building cost, not to mention the amount of  
13 fly ash that we turned away from concrete plants  
14 and sent to landfills.

15           As we go forward in our industry, we're  
16 constantly being asked to Go Green. We have many  
17 projects that are asking for increased use of fly  
18 ash, some as much as 40% as a replacement of  
19 cement instead of the customary 20 -- 20 to 25%.  
20 If fly ash is classified as a hazardous material,  
21 the use of fly ash going to the landfill will be  
22 increased much, much more than that. Thank you.



1 (Applause)

2 MS. DEVLIN: Thank you. May I have  
3 Numbers 169, 264 and 269.

4 169, thank you.

5 MR. GARDINER: Good afternoon. My name  
6 is Robert Gardiner, and I'm a Global Warming  
7 campaigner for Greenpeace USA, here today to  
8 support your efforts to create a federal minimum  
9 coal ash disposal standard; however, I do want to  
10 say that this is a floor and not a ceiling. We  
11 must do more.

12 Coal ash should be treated as a special  
13 waste under subtitle C of RCRA. With that said,  
14 sound science dictates that we immediately shut  
15 down all coal ash ponds and unlined landfills  
16 until best available science is utilized to test  
17 the toxicity of these sites; immediately  
18 investigate all coal ash dump sites for potential  
19 leaching and other structural issues; immediately  
20 clean up all sites contaminated by coal ash when  
21 such contamination is discovered; immediately test  
22 fly ash, bottom ash, slag and Flue gas

1 desulfurization sludge using EPA's -- your LEAF  
2 test to determine the toxicity of each waste and  
3 disclose publicly all test results.

4           We need stricter enforcement because  
5 subtitle C does not require the investigation or  
6 rapid closure of dangerous ash ponds. Subtitle C  
7 does not require immediate clean-up of all  
8 contaminated coal ash sites. Subtitles C does not  
9 require polluters to ensure the healthy air and  
10 water of communities near dumps or fill sites. We  
11 needs you to make sure it is not just shipped to  
12 the community where there is more lax standards.  
13 Ask the people of Perry County about that.

14           That said, I do want to talk a little  
15 bit about the dreaded stigma effect. And it is  
16 ultimately a red herring to continue to burn coal  
17 unabated. The EPA's inspector general faulted the  
18 Coal Combustion Products Partnership with -- for  
19 ethics violations, including not containing  
20 general risk information concerning large-scale  
21 fill operations, including materials giving the  
22 appearance that you endorse the commercial coal

1 ash products. C2P2 is made up almost entirely of  
2 industry and must be dissolved absent any  
3 meaningful scientific or environmental presence.

4 The stigma tech is -- the stigma effect  
5 is speculative at best, while the health effects  
6 of spreading coal are real, verifiable and are  
7 being witnessed throughout our country. I've  
8 spoken with people around the country with arsenic  
9 poisoning, cancer and asthma that are directly  
10 attributable to coal ash. We need a comprehensive  
11 reexamination of how these products are being  
12 utilized to make sure there are no environmental  
13 threats to health or welfare of society.

14 That said, we have discovered that there  
15 -- there have been meetings between the OMB  
16 between October 2009 and April 2010, at least four  
17 months before these public hearings were  
18 announced, in which the industry representatives  
19 held 33 meetings. 33 meetings. That's more than  
20 three times environmental or scientists had on  
21 this -- this particular rule.

22 We challenge the EPA to demonstrate that

1       this public hearing is not a sham, and that  
2       industry can't just gum up the gears of the OMB  
3       when regulating coal ash. It's clearly within  
4       your mandate. You must do what is right, and  
5       designate coal ash for what it is: Hazardous.  
6       Thanks.

7                               (Applause)

8               MS. DEVLIN: Thank you. Number 264,  
9       please.

10              MS. PERRY: I'm Tori Perry, and I'm a  
11       Tennessee resident as well as an active high  
12       school student. Although I'm young, the issues we  
13       face today will be affecting my generation. And I  
14       will have to face those along with them, you know.  
15       And coal ash is a very serious issue. And over  
16       140 million tons of coal ash is produced every  
17       year.

18              Some have different views, but the  
19       bottom line is coal ash is hazardous. Toxins such  
20       as arsenic, lead and chromium are present, and  
21       many who have been affected by coal ash have been  
22       devastated by its results: Cancer, respiratory

1 problems, and as far as nerve damage.

2 I myself have not personally been  
3 affected, but this is a major crisis affecting  
4 many communities across the United States. The  
5 TVA Kingston spill is just one example and should  
6 not go unnoticed. The EPA Subtitle prime C  
7 regulations means more money, but the coal  
8 industry does not want to fork out their -- fork  
9 out their wallets.

10 With regulations do come more money, but  
11 money to our people, money to help them recover  
12 from many things that have been taken from them  
13 due to coal ash, money to make sure incidents like  
14 this don't happen again. Does money really mean  
15 more than the health of our people?

16 EPA, you were the -- you are supposed to  
17 be there to feel us for our protection (sic).  
18 Protect our environment and pass Subtitle C prime.

19 Thank you.

20 (Applause)

21 MS. DEVLIN: Is Number 269 in the room?

22 Again, we're running ahead of schedule.

1 Does anyone have a number that I have not called?

2 Please come forward. 129. Thank you.

3 MR. BYRNE:: My name is Russell Byrne.

4 I'm in the fly ash business. I actually have some  
5 of it on my boots. I've just come from work. I  
6 don't have a speech. I figured I'd just wing it.

7 I handle fly ash every day. You know,  
8 we put it in a landfill. It's dry fly ash. It's  
9 not slushed ash like the Kingston. That was a  
10 problem in itself. It pays my bills. I've got  
11 two kids in college, pays their tuition; it pays  
12 the taxes and all that other stuff.

13 Is that not on? Sorry. Like I said, it  
14 pays my bills. I got two kids in college. It  
15 pays their tuition. I actually had a house there  
16 in Kingston when that spill occurred. I still own  
17 the house. I don't live there, but...

18 I'm a bass fisherman. I fished that  
19 lake before and after so, you know, I don't see  
20 any dead fish floating around, if the -- if the  
21 stuff is so poisonous. You know, the birds there  
22 are. I know where there's a bald eagle nest right

1       there off of Caney Creek.  If that eagle was  
2       having trouble catching fish, he wouldn't be  
3       hanging around still, so...

4                 You know, use your eyes.  Get out there  
5       in a boat and go around the lake.  Hell, I don't  
6       see nothing dead floating around.  I certainly  
7       haven't heard any head-counts of dead fish or  
8       anything to that nature.  I mean, we're talking  
9       about five million yards -- cubic yards, they  
10      said, spilled in there.  Well, by God, if it was  
11      that toxic, you'd show effects of it in the  
12      wildlife around the area.  And get in a boat and  
13      go look.  I just don't see it.  Thanks.

14                MS. DEVLIN:  Thank you.  Number 139.

15                MR. MCAMIS:  Good afternoon.  My name's  
16      Sam McAmis.  I work for a Ready Mixed concrete  
17      producer here in east Tennessee.  We have five  
18      locations from the Lowden County area down to the  
19      Hamilton County area along I-75.  I'm the regional  
20      sales coordinator, but part of my job is to design  
21      the mixes that we use to make the buildings that  
22      we have around in this area.  I'm also a certified

1 mix-design technician for the State of Tennessee,  
2 so I deal with our roadways and bridge decks when  
3 we're designing concrete to withstand the  
4 traveling that we're going to be doing over them  
5 with our vehicles.

6 In the course of dealing with concrete,  
7 I do have some beneficial uses for how we design  
8 our concrete using the fly ash, on a road surface  
9 especially. The State of Tennessee allows us to  
10 use 25% replacement by volume of Portland cement  
11 with the dry ash. This is not the wet ash like at  
12 Kingston. This is a dry facility like they're  
13 running in Cumberland.

14 We wouldn't have had the problem if we  
15 were allowed to use the ash their producing at the  
16 Kingston site. Speaking with the representatives  
17 who sell the coal ash to me, type F, is at least  
18 90% of the material produced at Kingston would be  
19 used by local vendors here in the Knoxville area.  
20 I would like to think that we, when making the  
21 concrete, offer a solution for recycling the coal  
22 ash material, which I'm sure you-guys have looked



1       into. I would -- I just want to let you know the  
2       impact it will have on my industry, as far as the  
3       designing for the construction projects we have  
4       and also how it will affect the people that work  
5       at my place of business.

6                If we get into severe regulation of the  
7       ash where I have to take particular precautions at  
8       my site, over and above what we already have  
9       permitted in our air permitting that we run  
10      through the State of Tennessee anyway, I'm  
11      guessing that we will lose at least three jobs and  
12      possibly five in the transportation of material.  
13      And -- and then, as far as being able to recycle  
14      the coal ash material, I'm not sure there's a  
15      better way to recycle than encapsulating it in the  
16      concrete. It helps us gain credits in lead  
17      projects, which I help design and give the  
18      builders credit on their leads course to help  
19      build nice and green.

20               I'm a fly fisherman. I fly-fish the  
21      waters in this area around here, and I, of course,  
22      don't want to see anything happen like happened in

1 Kingston. So if you're going to push for  
2 something, please push for these coal facilities  
3 to switch to dry so that we can use the concrete  
4 up and encapsulate it and recycle it.

5 I thank you for your time, and good  
6 luck. Appreciate it.

7 MS. DEVLIN: Thank you. Again, does  
8 anyone in the audience have a number 102 and 269?  
9 Okay.

10 MR. CARRIGAN: All right. Members of  
11 the EPA, I know you've been here all day. You're  
12 probably a little bit bored, so I'll try to make  
13 this entertaining for you.

14 You've heard a lot of coal-industry  
15 people come through here. They are set up  
16 upstairs in the Carolina Room. What generally  
17 happens is that they're given a little script to  
18 fill out; they say it, and it becomes a very  
19 boring affair. However, after watching the coal  
20 industry's -- the coal-industry representatives, I  
21 believe I have gotten down their script down talk  
22 science.

1           A, thank the EPA. B, say who you are.  
2           C, mention family. D, mention somebody else's  
3           family. E, mention a poor family that will  
4           clearly be negatively impacted by Subtitle C. F,  
5           use absolutely no evidence to back up your claims.  
6           G, squint decisively into space. D -- or whatever  
7           letter comes next, calls Kingston a mistake. I,  
8           mention recycle. J, mention recycle again; helps  
9           make the point even clearer. And finally, end by  
10          thanking the EPA after you have said virtually  
11          nothing of substance. Seriously, that has been  
12          pretty much what every single coal-industry  
13          representative has said over the last several  
14          hours.

15                 Here's what they won't say. They will  
16          not say anything about the health effects of coal  
17          ash. In fact, that's another part of their  
18          script: Ignore any and all health effects  
19          regardless of the scientific evidence. And yes,  
20          true, a lot of them have said that there's  
21          absolutely no claim that coal ash is toxic. Well,  
22          here's the claim right here. It's a wonderful

1 little report called, "In Harm's Way: Lack of  
2 Federal Coal Ash Regulations Endangers Americans  
3 and Their Environment."

4 Here's some of the juicy bits. Okay.  
5 This is from the executive summary. Alpha  
6 particles, arsenic, beryllium, cadmium, chromium,  
7 lead, selenium and thallium in one, two, three,  
8 four, five, six, seven, eight different sites in  
9 about as many states, all posting severely,  
10 severely high levels of all of these metals. Far  
11 higher than what they ought to be allowed.

12 And again, the use of language is  
13 interesting here. We call coal ash "ash" because  
14 that's what it actually is. They call it CCR, an  
15 attempt to basically ignore the true nature of the  
16 substance. We call Kingston not an accident, but  
17 a catastrophe, because that's what it very much  
18 was. Homes being carted away literally by tons  
19 and tons of coal ash which, today, still has not  
20 been picked up.

21 Again, I know that you are going to have  
22 a lot of speakers here, and I know you were

1 probably maybe going to listen to some, maybe not  
2 listen to others, but please, I do hope that you  
3 will focus on the facts and ignore scripted,  
4 canned speeches for what they really are:  
5 Scripted, canned pieces of idiocy.

6 Thank you very much.

7 (Applause)

8 MS. DEVLIN: Thank you. Number 102,  
9 please.

10 MS. LISEBY:: Well, ladies and  
11 gentlemen, after that, I don't want to speak from  
12 a script for sure. So my name is Donna Lisenby,  
13 the Watauga Riverkeeper.

14 The Watauga River flows from Grandfather  
15 Mountain in North Carolina over to Johnson and  
16 Carter County, Tennessee. It crosses two states.  
17 And coal ash is treated very differently in North  
18 Carolina than it is in Tennessee. You've already  
19 heard our Tennessee Riverkeeper comment about need  
20 for federal regulations that balance and create a  
21 level playing field. I don't want to repeat  
22 those.

1                   What I want to do today is talk to you  
2                   from my role as a board member of Waterkeeper  
3                   Alliance and from the perspective of all the  
4                   waterkeepers. So let me just run through a few of  
5                   the waterkeepers that have direct experience with  
6                   coal ash ponds in their watershed, testing  
7                   sediment, water and fish. Real direct live  
8                   experience with it.

9                   That would be David Merryman on Catawba  
10                  River, finding high levels of arsenics from Duke  
11                  Power's discharges now and it's confirmed by  
12                  government agencies. Hartwell Carson, the French  
13                  Broad Riverkeeper, also testing and finding really  
14                  high levels of metals in the water that discharges  
15                  from the coal ash ponds of Progress Energy in  
16                  Asheville, North Carolina. Kemp Burdette, the  
17                  Cape Fear Riverkeeper, who worked the coal ash  
18                  pond breach in the Cape Fear watershed near  
19                  Wilmington two, three weeks ago, tried to get on  
20                  site to see if that breach of that second coal ash  
21                  pond had contaminated the Cape Fear River. Also  
22                  has tests that are pending, not ready yet, but

1 will be soon, David Whiteside, the Tennessee  
2 Riverkeeper you heard from today. Dean Naujoks,  
3 the -- the Yadkin Pee Dee waterkeeper. Also  
4 testing, Ed Merrifield, the Potomac Riverkeeper.  
5 Via -- Maya van Rossum, the Delaware Riverkeeper.

6           So let me just summarize our experience  
7 in our watersheds on our waterbodies' testing.  
8 Coal ash is toxic. It's putting heavy metals in  
9 our waterways repeatedly. It's poisoning our  
10 watersheds and our communities, period. It's our  
11 consistent experience. Not only is that area  
12 experienced, but three of us have been threatened  
13 with lawsuits and arrest by the coal companies for  
14 being on public navigable waterways and conducting  
15 lawful and legal tests of the United States  
16 waters.

17           So I am tired of the coal industry  
18 harassing the hell out of us public advocates for  
19 trying to just find out the truth, test the waters  
20 and tell our communities what's in them. I want  
21 you-all to do your job. And the waterkeepers want  
22 you to do your job. Coal ash is poisoning our

1 waterways and our communities. You need to treat  
2 it as hazardous waste, regulate it, create a level  
3 playing field and remember: This is about people  
4 and communities being poisoned by heavy metals.  
5 This is not about profit for greedy corporations.  
6 It's about people. Do your job.

7 (Applause)

8 MS. DEVLIN: Thank you. May I have  
9 Numbers 158, 159, 160, 161 and 139.

10 If you-all would please come forward,  
11 and 158 would come to the podium and the others  
12 would take a seat at the side.

13 Thank you. You're number 158?

14 MS. KELLY: Yes, I'm Number 158.

15 MS. DEVLIN: Thank you.

16 MS. KELLY: My name is Mary Ellen  
17 Kelley, and I live in Wise, Virginia. And I'm  
18 here to advocate for coal ash to be declared  
19 hazardous waste.

20 There is currently -- I guess, we're  
21 going to be one of the most affected because we  
22 have a waste-burning coal plant that is going to



1 be in our area, so we're going to have a huge coal  
2 ash dump. And like the lady said, you know,  
3 somebody needs to be doing their job.

4 My water -- and I've got pictures, which  
5 I will leave out there in the comment box -- my  
6 water has been completely destroyed. I've been  
7 denied my rights to a formal hearing so far. I've  
8 been denied rights to public information. I have  
9 gone -- even though I've been crippled and very  
10 sick lately, I've gone and checked the files and  
11 nothing in the Department of Mines and Minerals  
12 and the OSM files are correct. They are showing  
13 roads going over high walls, through sludge ponds,  
14 and I actually had one friend that actually went  
15 over that and he came to my house all bloody.

16 And about 20 coal companies used my home  
17 site and my neighbors', which is a residential  
18 area, as a strip mine, active strip mine. And I  
19 have a picture here from Department of Mines and  
20 Minerals which shows a small bit of pond left, and  
21 that actually dried up. And the poor mud turtles,  
22 one I stepped on thinking it was a rock, came out

1 of that thing cloaked in mud. And my young  
2 grandson and I had to get water and pour on the  
3 turtles so they could see to get somewhere else.

4 So that is what's happening. I've got a  
5 picture of the water that was actually taken from  
6 the pond, even though I had a difficult time  
7 getting it. It's on file. So as I say, I've been  
8 affected tremendously, and I have a little story  
9 here, which I was going to leave with you, so  
10 you'll understand. And I do appreciate the  
11 opportunity to come here. And I tell you, we, in  
12 Wise, County in southwest Virginia and also in my  
13 native home of Kentucky need support and help.

14 Thank you so much.

15 (Applause)

16 MS. DEVLIN: Thank you. Number 159,  
17 please. 159?

18 MS. TAULBEE: My name is Dorothy  
19 Taulbee, and I was a former resident of 15709  
20 Stone Eagle Road, which my home is buried by the  
21 slurry pond now. I put up with that six and a  
22 half years, three strip jobs blasted my house

1 clean before it. I got pictures and newspapers.  
2 And then I got lung cancer from it, and my right  
3 lung had to have the whole top of it removed.

4           And I breathed this. You should see, I  
5 have jars of it at home, where I took it out of my  
6 bedroom, off of my porches. Me and my son had put  
7 double-paned windows in their house and it even  
8 come through that. And what I was going to tell  
9 you-all: Slurry is what -- where they washed the  
10 coal, and then, when they burn the coal, we have  
11 the fly ash. All of it is poison and toxic  
12 because they blast these mountains with that  
13 dynamite, and you know what dynamite's got in it.

14           But what I was going to say: I'm so  
15 glad you- all give us opportunities to speak out  
16 against this, because of what we're leaving for  
17 our grandchildren and great-grandchildren. I have  
18 about 15 great-grandchildren, and one of my  
19 great-grandbabies was up there with me, and I  
20 worry about her because she breathed this all the  
21 time. I about raised her. And slurry and stuff  
22 and this fly ash is poison to the people. They're

1 poisoning our water and us, and now we have the  
2 millions built the coal power plant in Virginia  
3 City. And when they get it up and running, they  
4 say it's going to use 500 coal trucks a day and a  
5 million gallons of water. We don't have water,  
6 people, like that in Virginia over there, over and  
7 -- where it's at.

8           And they will be wanting to take the  
9 people's drinking water. You know, this is  
10 terrible. You know, God said, "Do unto others as  
11 you would have them unto you." This is his  
12 creation. When you blow a mountain away, we can't  
13 put it back, can we? And they're making people  
14 poorer and poorer and wanting to close their  
15 schools down over there to get coal. Pound in  
16 Appalachia schools.

17           Well, it's just trouble. We're voting  
18 for this -- this to be done away with. We don't  
19 need fly ash, and we don't need these slurry  
20 ponds. Yeah, my home was buried with a slurry  
21 pond today. You should see, and the whole big,  
22 beautiful mountain that was there is gone. And

1       they burned the trees they got off that land. And  
2       you should see what a huge mountain and what  
3       little bit of coal they got. It's crazy.

4               And we appreciate you-all that we do  
5       need help and we need this stopped, and vote for  
6       the C to control this, because we don't need this.  
7       And I appreciate you-all.

8               (Applause)

9               MS. DEVLIN: Thank you. Number 160,  
10       please. 1-6-0.

11              MR. RAMEY: Good evening. My name is  
12       Carl Pete Ramey, and I want to thank the EPA for  
13       allowing me, as a concerned citizen from Wise  
14       County, Virginia, where perhaps the source of fly  
15       ash begun, to speak on the serious threat of both  
16       fly ash and slurry ponds or to our air we breathe,  
17       the water we drink and to the health of our  
18       people. We, as a community, state and nation  
19       should be considered slow learners if we haven't  
20       learned a valuable lesson from all the  
21       environmental disasters.

22              I want to mention a few tragedies that

1 have often been repeated due to the lack of  
2 regulations and enforcement. Number one, West  
3 Virginia Buffalo Creek happened in 1972 when a  
4 coal slurry dam burst, unleashing approximately  
5 132 million gallons of black waste over 30-foot  
6 high and killed 125 people, injured 1,121 and left  
7 4,000 homeless. There were 507 houses destroyed,  
8 in addition to 44 mobile homes and 30 businesses.

9           Number two, the Appalachian power plant  
10 in Russell County, Virginia had a coal ash pond  
11 burst in the 1960s and contaminated the Clinch  
12 River, killing aquatic life for many miles.

13           Number three, on October the 11th, 2000,  
14 Martin County, Kentucky had a 68-acre holding pond  
15 burst, sending goo washing through an underground  
16 and into two creeks. The 306 million gallons of  
17 sludge blackened 100 miles of waterway, polluted  
18 the water supplies of more than a dozen  
19 communities and killed aquatic life before it  
20 reached the Ohio River.

21           Number four, this country's most recent  
22 sludge pond disaster happened December 22nd, 2008,

1       when a fly ash dike broke at TVA Kingston fossil  
2       plant, erupted and released 1.1 billion gallons of  
3       coal fly ash into the Clinch and Henry rivers,  
4       tributaries of the Tennessee River. It was the  
5       largest fly ash released in the history. How long  
6       must tragedy speak before we pass and enforce laws  
7       to control these disasters?

8               Of the two options EPA has proposed, I  
9       support and recommended Subtitle C, that it be  
10      backed by strong federal enforcements. You know,  
11      we might as well put lead back in paint and  
12      asbestos back in insulation if we continue to  
13      ignore these disasters that are a crime against  
14      nature and a sin against humanity. Poison is  
15      poison in liquid or dry form. Thank you very  
16      much.

17                               (Applause)

18               MS. DEVLIN: Thank you. Number 161,  
19      please.

20               MR. BUSH: Did you say 161?

21               MS. DEVLIN: Yes please.

22               MR. BUSH: Afternoon. My name's Larry

1 Bush, and I live in Appalachia, Virginia.

2 THE REPORTER: I'm sorry. Can you move  
3 the microphone so I...

4 MR. BUSH: Can you hear me now?

5 THE REPORTER: Yes.

6 MR. BUSH: Did you get my name?

7 THE REPORTER: No, sir.

8 MR. BUSH: Larry Bush, and I live in  
9 Appalachia, Virginia. And I don't need to -- I  
10 mean, your own studies show the poisons that's in  
11 this stuff that's dumped from these coal-burning  
12 power plants. I mean, EPA, I mean, I've got stuff  
13 here that's from your own studies, shows the  
14 poison that's in there: The mercury, lead,  
15 selenium, cadmium, thallium, antimony, mercury,  
16 boron, sulfate and other toxins exceeding  
17 drinking- water standards in 26 of 31 sites.  
18 These are your own studies. I mean, you -- you  
19 people know this already.

20 They're destroying -- these -- these  
21 ponds and dumps are destroying waterways. It's  
22 leaching into our -- our own -- our very own water



1 supplies in these Appalachian states that are, I  
2 guess, central to the coal-mining area in our  
3 area, I guess. And it's -- it's a shame that --  
4 that it's not treated as it is, a toxic waste, and  
5 treated with whatever means possible, such as  
6 treated the same way, you know, a landfill would  
7 be, with liners and everything else that -- that  
8 it -- you know, it's not been done before. That  
9 -- but this needs -- it's -- I mean, people can  
10 talk about, you know, industry. They can talk  
11 about conservationists, environmentalists; call  
12 us, you know, whatever you want, I mean, as far as  
13 people.

14 But it -- it -- what it boils down to is  
15 people. It's about people being -- homes and  
16 waterways and our kids growing up in this -- this  
17 filth and breathing this -- this toxic material,  
18 and people having to live in this. I mean, live  
19 right in -- in the heart of this area that's being  
20 -- that's being contaminated with these -- with  
21 these pollutants.

22 And what it comes down to is people, and

1 I think you need to, first and foremost, think of  
2 people and think about the poison that -- that's  
3 being heaped on us and our -- our future and what  
4 -- what is being left for our children and  
5 grandchildren and their children to try to recover  
6 from, and not only recover, but try to repair it,  
7 if that's possible, the damage that's being done  
8 by these -- these dumps. And -- and the poison  
9 that's being dumped into our waterways and, you  
10 know, what's leaching in old and -- old and new  
11 dump sites are -- are leaching into our waterways.

12 I worked in a coal mine for 13 years,  
13 and I was a coal-mine inspector for 13 years. And  
14 I've seen this everywhere, and it -- it's no good  
15 anywhere it -- anywhere it's at. So I appreciate  
16 your giving me the opportunity to speak, and I  
17 appreciate your -- your help. Like I say, you've  
18 got studies of your own. Just ask on them and --  
19 and let's stop this problem before it, you know,  
20 gets to -- to the point that we can't. And our  
21 kids -- like I say, our kids and grandkids and  
22 their kids are going to be the ones to suffer most

1 from it if something's not done. I appreciate it.

2 (Applause)

3 MS. DEVLIN: Thank you. Numbers 139 and  
4 156, please. Okay.

5 Say again, please?

6 SPEAKER: I'm 156.

7 MS. DEVLIN: Please come forward.

8 MS. SELVAGE: My name is Kathy Selvage,  
9 and I live in Wise County, Virginia, where  
10 approximately 23% of our households are under the  
11 federal poverty level and more than 25% of our  
12 entire land surface in the county has been  
13 sacrificed for the energy needs of this country.  
14 A map is attached, and I will leave it for you.  
15 The problem we come here today to discuss begins  
16 in our backyard with the explosion and the  
17 obliteration of the mountains we once called home.  
18 Thank you for the opportunity to speak to you  
19 today.

20 We produce somewhere between 100 and 136  
21 million tons of this hazardous waste every year,  
22 and much of it is buried in coal ash dumps of the

1 east. You should regulate it as it is, as a  
2 hazardous waste. While Subtitle C is not perfect,  
3 it is our best choice. I really wonder just how  
4 safe this toxic soup we lock up in the materials  
5 through beneficial use is. What happens if the  
6 key is turned and it is unlocked in some disaster?  
7 Perhaps even more frightful is the insertion of  
8 coal ash and sludge in hollowed-out mines where it  
9 is very likely to foul, poison and pollute  
10 underground aquifers.

11 We simply cannot afford to delude  
12 ourselves any longer. It is hazardous and  
13 extremely dangerous to human health. The  
14 pollutants are linked, I'm sure you-all know, to  
15 numerous health problems. We are playing Russian  
16 roulette with our own lives and those of our  
17 future generations. Until such time as coal  
18 disappears, we must regulate coal ash on a federal  
19 level and recognize that it is dangerous to our  
20 environment and to our all-important drinking  
21 water.

22 Many examples can be chosen, but none is

1 more blatant for us in the Commonwealth than the  
2 Chesapeake, Virginia golf course, made of coal  
3 ash. Housing sprang up around it, with private  
4 water supplies that are now fouled, and Dominion  
5 is being sued collectively for one billion  
6 dollars. That is the same Dominion coming to Wise  
7 County with a new coal-fired plant. Too many of  
8 the pieces are attached, and these will illuminate  
9 why states cannot be charged -- in charge of  
10 regulation.

11 History will judge us, and our future  
12 generations will long remember what we do here.  
13 Right choices are very often not easy ones, but we  
14 must be determined to make them. If coal ash was  
15 appreciated as an art form or, indeed, was  
16 beneficial, we would likely see it floating in the  
17 reflecting pool between the Washington Monument  
18 and the Lincoln Memorial.

19 And I thank you for your time.

20 MS. DEVLIN: Thank you.

21 (Applause)

22 MS. DEVLIN: Do we have any folks in the

1 audience who have numbers? Okay. We have been  
2 running a bit ahead of schedule, so at this point,  
3 I'm going to try taking about a 15-minute break.  
4 And so, by my watch, it's 5 to 5. We'll reconvene  
5 at 10 minutes past 5. Thank you.

6 (Recess)

7 MS. DEVLIN: Okay. Ladies and  
8 gentlemen, I think we're going to get started  
9 again.

10 I want to announce we've had a couple of  
11 membership changes on our panel. We now have with  
12 me on the panel Frank Ney from our Region 4  
13 Office, and Region 4 is EPA's Office in Atlanta,  
14 Georgia; we also have Alexander Livnat and Steve  
15 Hoffman, and Alex and Steve both work with me in  
16 headquarters in Washington, DC.

17 So we'll get started again. And we have  
18 a number of -- of folks who've signed in. Number  
19 135, Number 201, and we have a number of walk-  
20 ins, Numbers 270, 271, and 272. If I've called  
21 your number, if you could come up to the chairs on  
22 the side and -- and then get up.

1 AUDIENCE: Okay.

2 SPEAKER: Yep.

3 MR. CLARK: Both hands .

4 MS. DEVLIN: So 135?

5 MR. HOFFMAN: You're 135?

6 MR. CLARK: That's me.

7 MS. DEVLIN: Okay.

8 MR. CLARK: Yeah. Let's see if I can  
9 get -- I didn't even have time to print my notes  
10 off here.

11 MR. HOFFMAN: Do you want someone else  
12 to speak; give you some more time?

13 MR. CLARK: No. I mean, I can read from  
14 them (laughs). Give me a few minutes to get  
15 composed here. Okay.

16 Perry County, Alabama, is a poor,  
17 majority black community; it's rural and I don't  
18 look like the average Perry Countian (sic). But  
19 very few of them can afford to take two days off  
20 work and drive 700 miles just to talk to you-all  
21 for three minutes, so I'm who you get.

22 A lot of Perry Countians have spent a

1 lot of time fighting against the shipments of coal  
2 ash from the Kingston disaster to private  
3 municipal solid waste landfill in the south end of  
4 our county. And I couldn't get anybody interested  
5 in to come up here with me today because most of  
6 them have given up the fight. It's hard to see --  
7 or it's not hard to see why. At are first meeting  
8 with EPA, before the shipments even started  
9 coming, and -- and actually before we even knew we  
10 were the place that was getting the coal ash, a  
11 representative met with some concerned citizens,  
12 I'd say about 100, and told us that while he  
13 appreciated us coming, he wanted us to understand  
14 he wasn't here to ask for our permission to -- to  
15 ship the coal ash here because he didn't need it.  
16 And there's nothing I can say here today that will  
17 change that fact.

18 But as editor of the local newspaper,  
19 I've watched a lot of disconcerting things happen  
20 out of that Subtitle D landfill, handing coal ash.  
21 We've published on the front page photographs of  
22 80-foot high mounds of coal ash, uncovered,



1       against regulations, rising up out of flat prairie  
2       farmland, which is just a -- a massive change to  
3       -- to that landscape.

4                We've published photographs of electric  
5       -- electric pumps set up to pump what was pretty  
6       clearly sludgy rain water that was contaminated  
7       with coal ash offsite and into the ditches around  
8       the property.

9                If coal ash were regulated more firmly,  
10       we wouldn't have situations like we have in Perry  
11       County with potentially toxic heavy metals getting  
12       released into our groundwater by a shoddily run,  
13       poorly overseen Subtitle D landfill.

14               And so I'm here to ask on behalf of the  
15       11,000 souls in Perry County that the EPA consider  
16       changing that regulation.

17               Thank you.

18               MS. DEVLIN: Thank you. Sir?

19               (Applause)

20               MS. DEVLIN: Sir? Sir?

21               MR. CLARK: Yes, ma'am.

22               MS. DEVLIN: Could you come and state

1 your name and affiliation for the record?

2 MR. CLARK: Oh, Lord, I'm sorry.

3 MS. DEVLIN: That's okay.

4 MR. CLARK: John Alan Clark, and I'm  
5 publisher and editor of the Perry County Herald in  
6 Marion, Alabama.

7 MS. DEVLIN: Thank you so much.

8 MR. CLARK: Thank you.

9 MS. DEVLIN: Number 201? No? 270, 271.  
10 271.

11 MR. HOFFMAN: 271.

12 MS. DEVLIN: 271. Thank you.

13 MR. MCKINNEY: My name is Carson  
14 McKinney. I'm a freshman at the University of  
15 Tennessee, and I'll keep this short.

16 I think the choice between jobs and  
17 coal, when it comes to regulation is a false  
18 choice. I think in order to protect our future,  
19 environmentally, we need to regulate the dangers  
20 -- the dangerous coal ash, which is unregulated  
21 right -- or -- and I think that we need to  
22 regulate coal ash.

1 Thank you.

2 (Applause)

3 MS. DEVLIN: Thank you. Number 272?

4 MR. MCQUEEN: Hello. My name is Matt  
5 McQueen. I am a freshman at the University of  
6 Tennessee here Knoxville.

7 My generation is faced with finding  
8 solutions to the problems developed by past  
9 generations. Sustainability of our world -- world  
10 is a moral movement, not simply social. This is  
11 why I plead the EPA to enacted and enforce the  
12 highest amount of regulations on the coal industry  
13 for the good of my health and our environment. If  
14 these regulation are not strongly enforced, the  
15 current presiding generation, yours, will have the  
16 legacy of putting heavy metals into our public's  
17 drinking water and further highering (sic) the  
18 density of air pollution. Your generation will  
19 have the legacy of doing nothing but promoting the  
20 failing health of our public and the environment.

21 Support Subtitle C to it's fullest  
22 potential. Thank you.

1 (Applause)

2 MS. DEVLIN: Thank you. Is there anyone  
3 in the audience who has a number? Number 132  
4 please come forward. Is there anyone else in the  
5 audience who has a number whom I have not called?  
6 Okay. There's anyone in the audience who has number  
7 132? Come forward. There's anyone else in the lower  
8 who has a number that I have not called?

9 MR. FRANKLIN: My name is Ben Franklin.  
10 I'm a concerned citizen, and I have 15 years in  
11 the coal combustion product industry.

12 When I heard on the news of the spill  
13 that had happened in the Kingston -- the Kingston  
14 spill, my ni -- initial rec -- re -- reaction was,  
15 I hope everyone is okay. But then I got to  
16 thinking, Well, there's 500 million tons of these  
17 combustion residues spilled. It's obvious TVA had  
18 a major problem marketing this material and taking  
19 it offsite.

20 Perhaps this spill will bring the issue  
21 to the forefront, and the EPA and congress will  
22 figure out a way to utilize more of these CCRs to

1 keep them out of the ponds and the landfills.  
2 After all, the EPA, since the mid 70s, has been  
3 encouraging my industry to utilize as much of the  
4 CCRs as possible. And why would the EPA not  
5 encourage CCR's utilization? The EPA is on record  
6 as considering CCRs as a non-hazardous and  
7 beneficial use material, recognizing that CCRs  
8 reduce CO2 by reducing Portland cement consumption  
9 and reducing pressure on other natural building  
10 materials, such as stone, sand and water.

11 As I have sat through the last three EPA  
12 hearings, I have heard citizen after citizen  
13 complain that they are worried about the ponds of  
14 CCRs stored onsite at their local power plant.  
15 And they suggest the EPA rule in favor of Subtitle  
16 C.

17 To be frank, I, too, am worried about  
18 the tons of ash stored on these plant sites, but I  
19 am also worried greatly about the EPA ruling in  
20 favor of Subtitle C. Why? Because if the EPA  
21 rules in favor of Subtitle C, the ruling will  
22 inadvertently cause more ash to be stored on site.

1 The reason is simple. The passing of Subtitle C  
2 will create liability and stigma for the  
3 industry; it creates liability for the power plant  
4 that we contract with to market these materials;  
5 and it creates liability for companies such as  
6 mine when we sell the materials to the end-user;  
7 Ready Mix concrete, shingle, tile companies, et  
8 cetera.

9 I've personally spoken with a number of  
10 these companies and they all tell me they will not  
11 continue to use these CCRs in production of their  
12 products if we go with Subtitle C. Further, I've  
13 been told by a large majority of the power  
14 companies that they will not allow companies such  
15 as mine to market the ash. So that in and of  
16 itself creates more and larger ponds of CCRs in  
17 the future, which is counterintuitive to what both  
18 my industry, the EPA, and the citizens of this  
19 country are trying to accomplish.

20 Let's be clear, even though we all love  
21 wind, solar and hydroelectricity, coal-fired power  
22 -- power plants are not going away for another 20

1 years in my opinion, which means that there will  
2 be CCRs left over. We do not have the land to  
3 bury it all. And when faced with liability, the  
4 EPA cannot make the building industry use the  
5 CCRs, and the EPA cannot make the power companies  
6 sell these CCRs.

7 For proof of stigma, I have attached a  
8 copy of an invoice from a company that produces  
9 concrete block and is warranting their block to be  
10 free of coal ash, as coal ash is currently under  
11 investigation by the EPA to be classified as a  
12 hazardous waste, as they've placed on their  
13 invoice. And if that's not stigma, I don't know  
14 what is.

15 Subtitle D is the only option.

16 MS. DEVLIN: Thank you.

17 MR. FRANKLIN: Thank you.

18 MS. DEVLIN: Is there anyone else in the  
19 audience who has a number who wishes to speak at  
20 this time? Okay. Again, we're running ahead of  
21 schedule, and we have a great number of speakers  
22 who are signed up to speak at 6:00 or after. And

1       so given that, I am going to take a break.  This  
2       time we'll take it for a half an hour.  So we will  
3       con -- reconvene in this room at 6:00.

4                   Thank you.

5                               (Whereupon, an afternoon recess was  
6                               taken.)

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1 option to have the coal ash to be a special  
2 hazardous waste. It's the health of people; it's  
3 extremely important for the groundwater. We've  
4 got mountaintop removal; we've got lots and lots  
5 of problems keeping our water clean. I mean, it's  
6 one of many threatening things and it's something  
7 that we can -- we can do something about right  
8 now.

9 So I'm urging, it's for our whole  
10 environment and for everybody that's living in it.  
11 I urge you all to go with Subtitle C. And please,  
12 please take care of this for us.

13 Thank you so much.

14 MR. DELLINGER: Thank you.

15 Number 274.

16 MR. SHELTON: I'm 273.

17 MR. DELLINGER: Okay.

18 MR. HOFFMAN: Close enough.

19 MR. DELLINGER: 273.

20 MR. HOFFMAN: Whenever you're ready.

21 MR. SHELTON: Okay. My name is Todd  
22 Shelton, and I live in Knox County.

1           I want to thank the EPA for adjusting  
2 your schedule and having a hearing here close to  
3 the spill in Harriman. We appreciate that.

4           And I am hoping and asking the EPA to  
5 approve Subtitle C of the Resource Conservation  
6 Recovery Act (sic). And it would designate the  
7 coal ash as a toxic waste as far as its content  
8 and whatnot and how it's stored and managed and  
9 regulated. I just feel like this has been a long  
10 time coming.

11           The facts are certainly there as far as  
12 the heavy metals are involved and the threat that  
13 can happen, as we've seen in Harriman when there  
14 was a spill not only in liquid form, but then in  
15 -- in -- in the air itself. It's also brought to  
16 life, as you-all were probably very aware of but I  
17 wasn't, ab -- about how many places there are like  
18 this and -- and how poorly they are stored.

19           So the Subtitle C is not as strong as I  
20 would like it to be, and I would encourage EPA to  
21 continue to look at the testing that they've done  
22 recently that has shown the sot of toxins that are

1       there, and -- and consider the reuse and the  
2       recycling of the ash, as I understand does happen,  
3       for instance, in Sheetrock.

4               I'm a builder; not a large builder, but  
5       I certainly don't want to be handling that sort of  
6       thing. And I certainly don't want to breathe the  
7       dust. I don't want my customers to then have to  
8       find out later that we have to tear out entire  
9       rooms in their house.

10              So I'm hoping EPA will think about  
11       strengthening those regulations on the recycling,  
12       and be concerned that most of these -- so many of  
13       these waste collection areas are in minority and  
14       poor neighborhoods.

15              So, once again, I am supporting Subtitle  
16       C. And I want to thank all of the -- the group  
17       that came together to put some pressure  
18       politically on EPA, and I knew to get you-all down  
19       here.

20              Thank you.

21              MR. DELLINGER: Thank you.

22                              (Applause)

1 MR. DELLINGER: Number 151.

2 Please state your name and affiliation.

3 MS. HAYES: My name is Meredith Hayes,  
4 and I'm with Students Promoting Environmental  
5 Action at Knoxville. I'm a UT student as well.

6 And, first of all, I just want to thank  
7 you-all for coming out. You-all are taking the  
8 first step in wanting to protect America's  
9 citizens by having this hearing for us to come out  
10 and tell you why we think that you-all should vote  
11 on Subtitle C.

12 I mean, I guess when it comes down to  
13 it, it's a matter of corporate dollars and  
14 people's lives and their health. And I think that  
15 the answer to that question, it's pretty obvious.

16 You've heard, probably, from many people  
17 today about the heavy metals that are in the coal  
18 ash and they are very toxic. They seep into the  
19 groundwater, and these families are drinking them.  
20 And it's just very, very, very hazardous to their  
21 health.

22 So I just want to ask you-all today to

1 please decide on Subtitle C -- on Subtitle C, just  
2 put in a lining and make sure that this doesn't  
3 get into the groundwater.

4 Thank you again.

5 MR. DELLINGER: Thank you.

6 (Applause)

7 MR. DELLINGER: Is anyone else in the  
8 room that has a number?

9 All right. 174?

10 MS. MCCUE: That was easy .

11 MR. DELLINGER: Well, you get to go  
12 first then (laughs).

13 MS. MCCUE: That was easy. Thank you  
14 for holding the hearing. My name is Maureen  
15 McCue. I've worked in primary healthcare for the  
16 last 30 years and in public health. The last 15  
17 years I've worked international in global health,  
18 teaching and working.

19 Today I'm speaking from my experience  
20 both in global health and about my concerns about  
21 the management of coal ash or coal combustion  
22 waste in Iowa. I speak in support of Subtitle C

1 in the current effort to regulate coal ash as a  
2 special hazardous waste. I believe this option  
3 provides the greatest likelihood to protect human  
4 health and the environment.

5 Due to a lack of national enforceable  
6 standards in Iowa, we have large quantities of  
7 coal ash we imported. With at least 43 surface  
8 impoundments, we're second -- or rather, third  
9 behind Kentucky.

10 Evaluation of downstream water sources  
11 is not done routinely, but a recent evaluation  
12 showed about 48% of our wells are co --  
13 contaminated with arsenic. However, 8% are above  
14 the safe water standards.

15 As the scrubbers capture and concentrate  
16 more of the toxic by-products of burning coal,  
17 they will continue to accumulate in the  
18 environment.

19 Iowa has experienced two 500-year floods  
20 in the last 15 years. That makes the risk of  
21 these impoundments overflowing much graver.

22 I work also in Bangladesh, where the

1       devastating effects of arsenic poisoning from  
2       chronic water pollution are readily seen. The  
3       difference is, those people were effected  
4       accidentally when wells were dropped into  
5       arsenic-containing rock.

6                If we continue to do what we're doing,  
7       it will be knowingly. And when our children and  
8       our families manifest these effects, we will have  
9       not done it by accident but knowingly.

10               The health hazards posed by the toxic  
11       elements contained in the coal ash are well  
12       documented. Do we have to wait until we manifest  
13       the effects or can we do something now to protect  
14       our population? I think Subtitle C is at least a  
15       good beginning.

16               Thank you.

17               MR. DELLINGER: Thank you.

18               (Applause)

19               MR. DELLINGER: 174?

20               DR. RACHOW: Good after evening (sic).

21       My name is Dr. John Rachow. I'm speaking on  
22       behalf of the Physicians for Social Responsibility



1 in my capacity as president-elect of the  
2 organization. And I'm here to voice Physicians  
3 for Social Responsibility's report -- support for  
4 Subtitle T -- Subsi -- Subtitle C as it has been  
5 proposed.

6 I hold a doctorate in chemical  
7 engineering, and I'm a medical doctor with  
8 specialties in internal medicine, rheumatology and  
9 geriatrics. In these capacities, I am also  
10 deeply, personally concerned about the toxic  
11 threat to the health of us all posed by the  
12 failure to date to safely manage coal combustion  
13 wastes.

14 We now live in an age of consequences.  
15 Previous clean air regulations effectively shifted  
16 some coal combustion products from stack emissions  
17 to create a poorly anticipated toxic waste  
18 disposal problem. Missing were the companion  
19 regulations to stipulate safe management of what  
20 has become a huge stream of wet and dry toxic coal  
21 ash.

22 Business as usual will guarantee that

1 within a century or two, last century plus this  
2 century, most of heavy metals in accessible coal  
3 reserves on the planet will be permanently  
4 released into the thin veneer of life that we term  
5 the "biosphere."

6           Heavy metal toxicity to humans is a  
7 (sic) established medical fact. And there is  
8 ample evidence of the mechanisms by which toxic  
9 heavy metals move from dumped coal ash into our  
10 soil and water to be taken up directly or, in more  
11 concentrated form, via the food chain.

12           Current management practices vary  
13 markedly from state to state resulting in the dis  
14 -- disturbing interstate transport of coal ash to  
15 states where dumping is less strongly regulated.

16           I am from Iowa, a state where -- with --  
17 that has become an importer of coal ash for  
18 disposal, often in open dump sites that were  
19 exposed to the two 500-year floods that we've  
20 recently had, in Iowa, just 15 years apart.  
21 Run-off enriched in leached heavy metals,  
22 certainly makes Iowa a leading contributor to the

1 toxic burden on the Mississippi River Watershed to  
2 the Dead -- Dead Zone in the Delta and to the  
3 invaluable Gulf fisheries.

4 The cheapest, easiest methods of  
5 disposal are chosen by industry. In fact,  
6 industry even touts the beneficial uses of coal  
7 ash where benefits accrue to the industry, but at  
8 the same time, failing to accept responsibility.

9 The health costs of mishandling of coal  
10 ash are clear. The safety of so-called beneficial  
11 uses of coal ash are unproved.

12 Coal ash does not pose a -- a health  
13 risk in just an individual state, it is not just  
14 an interstate health issue, it is a grave national  
15 problem. Failure to safely, responsibly manage  
16 coal ash with the obvious consequences for human  
17 health is a growing national threat that requires  
18 federal regulation.

19 Thank you.

20 MR. DELLINGER: Thank you.

21 (Applause)

22 MR. DELLINGER: Number 167?

1           SPEAKER: That's you.

2           MR. HOCH: I'm sorry, 167?

3           MR. DELLINGER: 167.

4           MR. HOCH: Thanks. Should I just start?

5           MR. DELLINGER: Sure.

6           MR. HOCH: My name is Dave Hoch. I'm a  
7 member of both SOCM and United Mountain Defense,  
8 and I'm from Nashville, meaning the big coal would  
9 have my remarks dismissed as meaningless because I  
10 am an outsider, even though over half the mineral  
11 leases in central Appalachia are held and  
12 exploited by corporations outside the region.

13           The issue before us tonight is not the  
14 ostensible question of whether coal ash is a  
15 hazardous or special waste, which everyone,  
16 including the EPA, and the coal industry already  
17 know it to be, based on long since documented  
18 scientific evidence, but whether the Obama EPA  
19 will fulfill its statutory mandate or continue the  
20 Bush-era sellout of both science and the public  
21 welfare to the coal industry.

22           The agency is now at a momentous

1 crossroad with an opportunity to move beyond the  
2 anti-regulatory darkness of the Bush years and  
3 protect our lands, air, and water as is its legal  
4 and moral charge to do. But the Obama EPA has  
5 thus far shown political and regulatory  
6 ambivalence as evidenced by its failure to  
7 schedule a public hearing in Tennessee, in spite  
8 of the fact that the worse coal ash spill in  
9 history occurred in Kingston 35 miles from  
10 Knoxville. Only an ex officio citizen's hearing  
11 and pressure from Senator Lamar Alexander led to  
12 today's inquiry.

13 So the public is understandably unsure  
14 of the EPA's future intentions; protect the people  
15 or protect corporate profits? Let us remember  
16 that all EPA personnel, including Administrator  
17 Jackson, are our employees. They work for us.  
18 Not the coal industry.

19 Now is the time to regulate coal ash as  
20 the dangerously toxic hazardous and special waste  
21 that it is. The unconscionably lax D Prime  
22 designation being peddled by big coal and the

1 almost equally poor D designation, neither of  
2 which require federally enforceable regulations,  
3 are both clearly insufficient standards by which  
4 to effectively regulate coal ash.

5 A C designation may show bona fide  
6 desire to curb egregious coal industry abuses, but  
7 even that designation is too lax. It fails to  
8 require rapid closure of dangerous ash ponds,  
9 timely investigation of all toxic coal ash dumps,  
10 and immediate cleanup of all toxic coal ash sites.

11 It is far past time, scientifically,  
12 legally, ecologically, and ethically for the EPA  
13 to promulgate and vigilantly enforce stringent  
14 coal ash regulations pursuant to adoption of the  
15 only standard that can provide for efficacious  
16 regulation, that standard being a C Prime or  
17 "Super C" designation.

18 Thank you.

19 (Applause)

20 MR. DELLINGER: Thank you.

21 Is there anybody else in the room that  
22 has a number? You can come forward.

1 MR. WOOD: Okay.

2 MR. DELLINGER: State your name and  
3 affiliation.

4 MR. WOOD: Hello. My name is Bruce  
5 Wood, and I'm the president of -- of -- elected  
6 president of BURNT, a Nashville Citizens Group.  
7 I'm an elected member of the executive committee  
8 of the Nashville Branch of the NAACP. I'm the N  
9 doub -- State NAACP Liaison to Dickson County  
10 Landfill. And I'm also a two-year member of SOCM,  
11 which I very much appreciate.

12 I'd like to say, first, I know there's  
13 very many nice and capable people who work for TVA  
14 and E -- EPA.

15 I'd like to say, I think TVA has failed  
16 abysmally in one of their key goals, which is the  
17 economic development of the south. They have a  
18 mistaken belief that putting a ma -- a marina on a  
19 man-made lake that's destroyed property of people  
20 so that white males can go boating is economic  
21 development. Ye -- 40 years after TVA started, 70  
22 years after EPA started, look at the states that

1 are served by EPA to see that they se -- are -- at  
2 the bottom of every economic measure of hea -- in  
3 health measure in the state -- in -- in -- in the  
4 United States, and actually the world.

5 We have to understand we are a very  
6 unhealthy country. We have a long -- life  
7 longevity; we're ranked 50th among all countries.  
8 And that's because of coal ash. That's because of  
9 the solid waste.

10 I'd like to say, I certainly come here  
11 to talk in favor of Subtitle D and a stringent  
12 regulation of coal ash is possible. I think we  
13 have blown solid waste and landfill. We have a  
14 necklace of landfills across the country that  
15 leaking just like cavities and infected rooted  
16 canals.

17 Dickson County is a 75-acre landfill  
18 that's now polluted, 12 square miles of water.  
19 And people are dying.

20 I think individual states should have  
21 very little control over permitting and regulating  
22 landfill solid waste and coal waste. It's just to



1 dangerous, the chemicals in our food and our  
2 consumer goods.

3 We -- again, we have to recognize the  
4 basic poor health of our country and where that  
5 comes from. That comes from what we eat and it  
6 comes from how we dispose our waste.

7 And I've submitted, this is, again, an  
8 argument against state regulation, and the title  
9 of this is "How State Enforcement and Cover-Up  
10 Contributed Death in Dickson County." That's a  
11 liquid hazardous waste dump site. And they  
12 invented a whole new term to sidestep federal  
13 regulation, "Groundwater Protection Plan," and  
14 there's no such term in the federal or state  
15 regulations.

16 Thank you very much.

17 MR. DELLINGER: Could you --

18 (Applause)

19 MR. DELLINGER: -- could you tell me  
20 what your number was? The number that --

21 MR. WOOD: Excuse me?

22 MR. DELLINGER: The number that you had?

1 MR. WOOD: Yes.

2 MR. DELLINGER: I'm just trying to keep

3 --

4 MR. WOOD: 192.

5 MR. DELLINGER: Okay. Thank you very  
6 much.

7 MR. WOOD: Yes. Thank you.

8 MR. DELLINGER: Is there anyone else in  
9 the room that has a number? Betsy, is there  
10 anybody out in the -- at the table?

11 We'll call a 15-minute break in the proceedings, and  
12 we'll -- let me check my... Let's make it 6:50,  
13 that'll be a 17-minute break. We'll reconvene in --  
14 in -- at -- what did I say (laughs)? Six -- 6:50.

15 (Recess)

16 MR. DELLINGER: I'll call the hearing to  
17 order.

18 I'm going to go over the rules. We have  
19 a -- a (sic) influx of people who I don't think  
20 have heard the -- the logistics of the -- the way  
21 we operate.

22 You get three minutes to speak. What

1 I'll do is call numbers in order. And -- and I'll  
2 usual -- usually do it for or five at a time. The  
3 spe -- those speakers would go over to those  
4 chairs to my right, your left, and then -- and  
5 then come to the podium in order. And then you  
6 would state your name and your affiliation. And  
7 -- and then what we -- we do is to remind you, we  
8 hold up cards; one at two minutes, one at one  
9 minute, one at 30 seconds, and then one -- when  
10 you get the red card you're supposed to quit  
11 talking -- or, you know, quit testifying. So  
12 that's -- that's pretty much the way it works.

13           And we're going to get started right  
14 away. I'm starting with pre-registered people  
15 right now. That would be 116, 153, 202, and 208.

16           The other thing is, is that if you have  
17 -- if you have written notes, it would be useful  
18 to -- to -- to us to have copies of those. And so  
19 there's a box that says "Written Comments" over  
20 here on my left, your right, and that makes it  
21 easier for us to make sure that we've captured  
22 your testimony as close to verbatim as possible.

1                   116? 202?

2                   MS. KUEBBING: Okay. My name is Sara  
3 Kuebbing. I'm a resident here of Knoxville,  
4 Tennessee, so I'm coming to speak as a citizen.

5                   Thank you guys for coming down here. I  
6 really appreciate you giving me the opportunity to  
7 speak right here in my hometown.

8                   I've done a little research today and I  
9 was looking on Source Watch. And I realize I've  
10 lived -- I just recently moved to Knoxville,  
11 Tennessee. And I've lived in five different  
12 states along the eastern seaboard. And except for  
13 about four years when I lived in Vermont, the -- I  
14 have always lived within 40 miles of a coal plant,  
15 and I've also lived in a watershed that has a coal  
16 plant upstream of me. So it's a little fact that  
17 I figured out today, and it's something that  
18 interests me, and it sort of links in.

19                   When I moved to Knoxville about a  
20 year-and- a-half ago, there were two things that  
21 people up in Vermont said to me. The first was,  
22 "Hope you like the color orange because they

1 really like their football down there," and,  
2 second thing they said to me was, "Isn't that  
3 where that big coal ash spill was there? And  
4 isn't there a problem with the water?" And it's a  
5 really interesting perspective that the two things  
6 that people think about Knoxville are (a) the  
7 football team, which may be a good thing, but (b)  
8 is something that's -- that's pretty negative.

9           So I'm here just as a repre -- as a  
10 citizen to tell you as I've drank 27 years of  
11 water from the east coast and all my five states,  
12 and I breathed the air, that I would like to you  
13 regulate coal ash. And I would like to you  
14 regulated it by using Subtitle C, because your  
15 mission as the EPA is to protect human health and  
16 protect the environment. And I see Subtitle (sic)  
17 C doing that. So as someone who has paid her  
18 taxes and supports the EPA's mission, I'd like you  
19 to continue to do your job to do that, and I  
20 support you in picking Subtitle C.

21           So thank you guys for having us here  
22 today, and I hope you pick Subtitle C.

1 MR. DELLINGER: Thank you.

2 (Applause)

3 MR. DELLINGER: Number 153.

4 MS. JUDY: Hi. I'm Carol Judy, and I  
5 live up in Clear Fork Valley in Tennessee, it's  
6 the northeast corner up from here.

7 I've raised my children there and now my  
8 children are raising their children and my  
9 great-grandchildren there. On one side of my  
10 family we've been there for generations and on the  
11 other side not quite so many generations.

12 What's it like living near where the  
13 coal ash is in your yard? Well, I burn coal and  
14 wood. And I always have to think about every  
15 winter what we're going to do with that coal and  
16 wood. Now, mind you, we're just a small  
17 household, so I can't imagine what these coal ash  
18 disasters are having to deal with. It's mega  
19 households, I imagine, hot garbage.

20 But I do know that when we think about  
21 it at home, we make sure that the wood ashes go  
22 near where we can do gardening or things like

1 that. And when it's coal ashes, we try not to  
2 burn it because it has "clankers" in it. You-all  
3 know what clankers are? It's them heavy pieces  
4 that will not burn and they'll cut you because  
5 they're so sharp when you dig them out. You can  
6 use them to build -- fill in holes in the road,  
7 long as you put something else on top because you  
8 don't want to cut your tires.

9           And anything -- you know, and you can  
10 use a little of that in your flowerbeds. But the  
11 one thing I guarantee you is, we are not going to  
12 put a whole lot of coal ash in our garden spots or  
13 near where the water is. Because we may not know  
14 the right names of what's in it, but we dadgum  
15 sure know we don't want it in us within a few  
16 years.

17           I live on the other side of the spectrum  
18 when it comes to disasters in environments and  
19 things like that because years ago, before there  
20 was some regulations, the mountains were left a  
21 disaster from strip-mining. We've had 40 years of  
22 figuring that out with government assistance. And

1 I would say that if we ha -- could turn back the  
2 hands of time, we would have implemented that from  
3 the beginning. I urge you to look at until coal  
4 ash disaster as an opportunity to work with folks  
5 who have been living with something very similar  
6 to that and benefit from some generational  
7 knowledge.

8 I also am part of the Clear Fork  
9 Community Institute. In remodeling our building,  
10 we chose to go with geothermal. That place is a  
11 \$500 a month debt burden on us and we accept it,  
12 because I have no idea what would -- we would do  
13 with coal ash if we were trying to heat with coal  
14 and wood because electricity is unaffordable, both  
15 for the bock -- pocketbook and for the  
16 environment.

17 SPEAKER: Yeah.

18 MS. JUDY: So I don't know what else to  
19 tell you except to say that we would be pleased to  
20 work with anyone who wants to work on the  
21 proactive.

22 MR. HOFFMAN: Time.



1 MS. JUDY: Thank you.

2 (Applause)

3 MR. DELLINGER: Number 208.

4 MR. MINCY: Hello. My name is Grant  
5 Mincy, and I am a graduate student at the  
6 University of Tennessee. I'm also a member of  
7 United Mountain Defense. I'm in the Earth and  
8 Planetary Sciences Department, and by training I'm  
9 an environmental geologist.

10 And coal ash contains concentrations of  
11 -- of heavy metals that are -- have been linked to  
12 lung disease, heart disease, cancer, things like  
13 that. And I know that the industry continues to  
14 claim that coal ash is neither toxic nor poisonous  
15 and has no concern to the public. But there have  
16 been a lot of scientific studies done on -- done  
17 on this and -- and it's been proven false. The  
18 scientific community greatly believes that coal  
19 ash is of a toxic threat to -- to people.

20 So, I mean, there's -- there's great  
21 threats posed to human health and -- and to the  
22 environment from decades of dumping toxic coal ash

1 and -- and this must end.

2 The 30-year failure of state and federal  
3 governments to ensure safe disposal of coal ash  
4 requires swift and decisive action by the EPA to  
5 prevent future damage.

6 Those whose health is at risk from coal  
7 ash and whose communities are threatened by -- by  
8 the next catastrophic collapse of a toxic pile and  
9 can't wait any longer.

10 I believe that coal ash deserves a C  
11 Prime status and that there needs to be rapid  
12 closure of dangerous coal ash ponds, timely  
13 investigation of all toxic coal ash dumps,  
14 immediate cleanup of all contaminated coal ash.  
15 And because there is a great threat to the health  
16 of the environment from toxic waste and -- and,  
17 you know, right now there is no requirement of  
18 pollut -- the polluters to ensure the healthy air  
19 and water of communities. And I -- I believe this  
20 needs to be fixed.

21 Thank you.

22 (Applause)

1 MR. DELLINGER: Thank you.  
2 Numbers 275, 276, 277, 278, and 279.

3 MS. FARNSWORTH: My name is Evan  
4 Farnsworth, and I'm here with Students Promoting  
5 Environmental Action in Knoxville. I'm also a  
6 student of UT.

7 And like everyone else, I want to thank  
8 you for coming here because, obviously, this issue  
9 is very important to Knoxville specifically.

10 I want to ask you to support Subtitle C  
11 for many reasons. One is because I have  
12 respiratory problems, and I don't live in  
13 Knoxville except for when I attend college here.  
14 And my problems kind of worsen whenever I'm here  
15 and it's very noticeable. And because of that, I  
16 think it's -- like if there are noticeable things  
17 like that happening, it would be important to  
18 recognize that things like coal ash are like a  
19 reason for that happening here.

20 And I just want to ask you to support  
21 that. And that would be wonderful. And I  
22 appreciate your time here.

1 Thank you.

2 (Applause)

3 MR. DELLINGER: Thank you.

4 MR. SMITH: First, I'd like to thank you  
5 for providing me the opportunity to speak here  
6 tonight.

7 My name is Ryan Smith and I'm a student  
8 from Asheville, North Carolina. And I'm here to  
9 speak in favor of the regulation proposed under  
10 Subtitle C of the Resources Conservation and  
11 Recovery Act, which will provide the minimum  
12 standards and levels of enforcement we need for  
13 the storage of coal combustion residuals.

14 Both the EPA and the Academy of Natural  
15 Sciences have years of research showing that coal  
16 is becoming increasingly toxic. The sou -- the --  
17 the thousands of toxic coal waste dump sites  
18 across the country pose serious threats to our  
19 heath. Improved testing methods reveal that coal  
20 ash toxins lead -- leach into waters at  
21 significantly higher rates than originally  
22 understood. Concentrations of metals and

1 chemicals in coal ash have been found at levels  
2 many times higher than what is currently  
3 considered hazardous wastes.

4 The toxins found in coal ash have been  
5 linked to organ disease, cancer, respiratory  
6 illnesses. I have asthma, and so this affects me  
7 personally. People living with one mi -- within  
8 one mile of coal ash ponds have been found to have  
9 at least a 1 in 50 chance of developing cancer.  
10 And there's an estim -- or the EPA has -- has  
11 found out that there is ov -- are almost 2 million  
12 children living near coal ash sites.

13 The environment -- en -- environmental  
14 impacts of currently unregulated coal ash are dire  
15 as well. Much of the toxins end up in rivers.  
16 And it's been proven to kill plants and animals,  
17 lower birth rates, cause tissue damage and slow  
18 development in organisms, unbalancing wildlife  
19 populations and destruct -- disrupting ecosystems.  
20 The toxins can accumulate to very high  
21 concentrations in animals as they pass through the  
22 food chain.

1           We find the need for coal ash to be  
2 regulated unquestionable. However, recognizing  
3 that the options proposed under Subtitle D,  
4 relying on suggested state guidelines is not  
5 substantially different from current policies and  
6 will re -- result in few, if any, changes.

7           We support the changes proposed under  
8 Subtitle C. The common sense guidelines backed by  
9 federal en -- enforcement and financial  
10 accountability provide much needed environmental  
11 and public safeguards.

12           Despite the known toxicity of coal ash,  
13 a vast majority of states do not even recognize --  
14 or do no -- do not even require monitoring to see  
15 if coal ash is polluting drinking water.

16           Coal ash is not only toxic when put in a  
17 pond or landfill; it needs to be regulated from  
18 the cradle to the grave. If the recent BPA (sic)  
19 Oil disaster and the Tennessee TVA coal ash  
20 tragedy has taught us anything, is that we just  
21 can't believe the polluters words anymore. It's  
22 time for the federal government to step in.

1                   For our future, regulate core ash --  
2 coal ash according to Subtitle C.

3                   (Applause)

4                   MR. DELLINGER: Thank you.

5                   MR. WILLIAMS: Good evening. My name is  
6 Rhys Brydon-Williams and I am currently a student  
7 in Asheville, North Carolina.

8                   As a youth in Louisville, Kentucky, I  
9 spent much time involved with the citizen advocacy  
10 group, Kentuckians for the Commonwealth. During  
11 this time, we received testimonials from citizens  
12 on the outskirts of town in the Fern Creek area  
13 who had to live by a coal ash pond. The -- those  
14 stories we heard were sometimes tragic and  
15 sometimes quite infuriating. People described  
16 respiratory illnesses, sometimes new, sometimes  
17 old ones aggravated from the ash. So as other  
18 problems resultant from the poisons leached from  
19 the pond to their soil.

20                   I remember seeing that people had rashes  
21 occasionally that I would pop up. Sometimes  
22 family pets took ill by drinking water. The

1 health of the community was decreased multi-fold  
2 since the pond had been installed. And the metals  
3 derived from coal ash appeared to be poisoning the  
4 population. The situation was grim and only  
5 seemed to be worsening as the residents became  
6 irate over their illness.

7 Is this what we want to have acc --  
8 across the nation, sick, angry citizens having to  
9 campaign simply to maintain their health? I think  
10 not.

11 Thus, I urge you to pass Subtitle C,  
12 even though it does not require timely  
13 investigation or immediate cleanup of coal ash  
14 ponds. Even a little safety, a little increased  
15 safety for our citizens is better than letting  
16 them suffering like this.

17 When economic interests come before the  
18 health of our citizens, we can know that the  
19 American spinguish -- spirit has been  
20 extinguished. Let's make sure that never happens.

21 Thank you for your time.

22 (Applause)



1 MR. DELLINGER: Thank you.

2 MS. SHOHADAE: My name is Roxanne  
3 Shohadae and I am a member of Students Promoting  
4 Environmental Action in Knoxville. I'm a student  
5 and I'm a young person. And I am here to tell you  
6 thank you for coming, for op -- giving us the  
7 opportunity to speak to you.

8 It's your job. You are the environmen  
9 -- you are members of the Environmental Protection  
10 Agency and it's your job to protect the  
11 environment. And our environment is being  
12 polluted. Our lives are being polluted. And this  
13 is -- this has heavy metals that is -- that are  
14 poisoning the people. And it's -- it doesn't  
15 matter if you don't live here to ha -- you don't  
16 have to live here to see what's happening.

17 And eventually you will experience it  
18 because in our lifetimes -- if it's not in your  
19 lifetime, it's in your children's lifetimes.  
20 There -- our water is going to be such a scarce  
21 resource. And our Highland Watersheds are being  
22 polluted. They're being polluted. And -- and we

1 -- we can't continue to have people in this region  
2 having children, living, and these children are --  
3 are -- are being poisoned from the minute that  
4 they're born. I ju -- it's not fair that we have  
5 to come and tell you. I mean, I appreciate that  
6 you're here. I appreciate so much that you're  
7 trying.

8           And I think that Option C is a good  
9 start. But I think you need to do more than that.  
10 I think things happen -- need to happen  
11 immediately.

12           A lot of the ash that was -- that  
13 spilled in Kingston is being shipped down to Ala  
14 -- was being -- wa -- was shipped down to Alabama  
15 to these poor communities. And it does -- it's  
16 not fair that they have to continue, just because  
17 they're already a poor community, to -- to have to  
18 be poisoned more.

19           And it's -- and it's just -- I don't  
20 know. I'm shaking because I'm so furious and sad  
21 at the same time. But I just hope that you can  
22 hear us. And I hope that you can hear that each

1 of us here are speaking for all of the people who  
2 don't know, who don't know about this, who don't  
3 know how horrible this is. And (cries) we have to  
4 tell you so that you can do something. (cries)  
5 And I hope that you do something (cries).

6 MR. DELLINGER: Thank you.

7 (Applause)

8 MR. VARGAS: My name is Michael Vargas,  
9 and I came here to tell you the truth today.

10 I'm no expert in just about anything  
11 really. And I didn't even really even plan on  
12 coming out here today, to tell you the truth. My  
13 girlfriend told me about it for community service  
14 hours. And so I was standing outside and there  
15 was this reoccurring theme of people telling me  
16 coal was bad. And, at first, to tell you the  
17 truth, I didn't have a stance, really, on it  
18 because I knew nothing about it.

19 But they gave me a sheet of paper here  
20 outside, and it has lots of just common facts, I  
21 guess you would say. It's a -- common questions  
22 about coal. And, well, looking over it, it just

1 -- now, mind you, I don't know too much about the  
2 subject, but it convinced me instantly to realize  
3 that there's a problem situate -- or there's a  
4 problem that we're all being situated with, and  
5 that there's coal being -- coal ash being  
6 unregulated in Tennessee.

7           And, you know, I -- I've always heard  
8 that Knoxville has bad pollution. But it really  
9 didn't like affect me at first, other than I would  
10 have to wipe my glasses down a little bit more for  
11 the -- the pollution in the air in -- compared to  
12 Nashville where I'm from.

13           But what I've been convinced of so far  
14 today is that there's Subtitle C and that a lot of  
15 people here that know a lot more than me are  
16 advocates of it, and they've done their research,  
17 and they have their information. And that if they  
18 put this much effort and time into it to come up  
19 with a decision to support Subtitle C, I will also  
20 stand by them and say that Subtitle C is what you  
21 should vote for.

22           Thank you and have a nice day.

1 (Applause)

2 MR. DELLINGER: Numbers 116, 182, 175,  
3 179, and 198.

4 MR. MOTTLEY: My name's Don Mottley.  
5 I'm spokesperson for a group called Save Our  
6 Rivers from southwest Indiana.

7 MR. DELLINGER: What number are you?

8 MR. MOTTLEY: 116.

9 MR. DELLINGER: Thank you.

10 MR. MOTTLEY: I want to read a  
11 resolution. Resolution Number 210-01 (sic), Town  
12 of Somerville.

13 WHEREAS, the Town Council of the Town of  
14 Somerville has established under Subtitle C of the  
15 Resource Conservation Recovery Act (sic), RCRA,  
16 would effectively regulate coal ash as hazardous  
17 waste with associated safeguards for storage,  
18 handling, transport, and disposal; and

19 WHEREAS, Subtitle D would not establish  
20 any uniform, federally enforceable standards,  
21 leaving us with inadequate state regulations that  
22 have already failed us; and

1                   WHEREAS, Subtitle C establishes  
2 requirements for our state through the Federal  
3 Enforcement Authority of the US EPA; and

4                   WHEREAS, Somerville is a town in Gibson  
5 County, Indiana, that has seen groundwater and  
6 dust issues in the coal combustion waste/fly ash  
7 at the Duke Energy Gibson Generating Station, and  
8 sees the need for federal regulation of coal  
9 combustion waste.

10                   THEREFORE, BE IT RESOLVED, by the Town  
11 Council of Somerville on September the 20th, 2010,  
12 adopts said resolution to the US EPA Docket Number  
13 EPA HQ 2090640 (sic) in support of Subtitle C.

14                   Bill Huttchison, president, Mary A.  
15 Dyer, clerk treasurer; Rex O'Neal, and Tommy  
16 Carney.

17                   And I would like to submit that for the  
18 record.

19                   (Applause)

20                   MR. DELLINGER: Thank you very much.

21                   Number 182?

22                   MS. SCHANER: Hi. I'm Jes. I'm from

1 Ohio.

2 I know you guys are probably tired. But  
3 I just want -- thank you for listening what I have  
4 to say.

5 Future generations will look back on our  
6 culture as the most destructive to ever exist. We  
7 believe we can infinitely burn non-renewable  
8 resources and fill the ground with toxins and  
9 somehow technology will fix everything. We live  
10 in a reality that doesn't exist.

11 How many of you know someone who has  
12 cancer? Did you know cancer is the result of the  
13 total toxification of the environment?

14 I am here for my grandpa, who worked in  
15 the coal mines, that is now dying of bone cancer.  
16 I want an environment free of intentionally  
17 released toxins.

18 There is no waste in nature. And if we  
19 want to live on this planet, we must imitate it.  
20 I will not stand by as we continue to poison  
21 ourselves and all other life forms.

22 If you really care about the

1 environment, you wouldn't just regulate coal ash;  
2 you would ban the burning of coal altogether.

3 We can do better than Subtitle C.

4 (Applause)

5 MR. DELLINGER: Number 175.

6 MS. HART: Hi. My name is Patricia  
7 Hart, and I'd like to thank you for coming to  
8 Knoxville to hear us.

9 For over 32 years I've lived next to the  
10 Emory River in Roane County, a little over one  
11 mile downstream from the site of the ash spill  
12 disaster. My husband and I raised two sons here,  
13 and every summer our lives revolved around the  
14 lake.

15 My older son bought a home on the river,  
16 upstream from the spill a few miles. He had  
17 planned to raise his family here, too, and enjoy  
18 the life just like we had. All that changed  
19 December the 22nd, 2008.

20 Thousands of people's lives have been  
21 changed by this spill. Tens of thousands of God's  
22 creatures were killed by the spill. Most of them



1 buried alive or choked to death by the millions  
2 of cubic yards of coal ash muck that walked o --  
3 washed over the land and clogged the waterways.  
4 Homes were destroyed, and for almost two years the  
5 people left behind have had to endure living in  
6 the wake of the spill.

7           Seeing the devastation caused by the ash  
8 spill has been heartbreaking, and our lives have  
9 changed forever. We used to look forward to the  
10 spring and knowing that it was almost time to  
11 enjoy the lake again. Our families would come to  
12 visit us and we were proud to live here. Not  
13 anymore. Now when I look at the water, I can  
14 still see the swirls of the cenospheres floating  
15 among the leaves. And it's the ro -- reminder of  
16 all of the cubic -- thousands of cubic yards that  
17 are still in the river waiting to be removed, but  
18 they never will be.

19           A trip up the Emory River to the site of  
20 the spill is even sadder. The beautiful white  
21 farmhouse, the poster child of the spill, is gone.  
22 The homes purchased by TVA sitting along the

1 shores of the Emory River are ghost homes telling  
2 the story of how lives used to be before the  
3 spill. There are no families, no children playing  
4 in the yards or the water (cries). The tall trees  
5 that lined the edge of the Emory, hiding the  
6 growing mountain of coal ash are gone, violently  
7 uprooted by the tsunami of the coal ash sludge.

8 I only think of the "if onlys." If  
9 only regulations had been in place, that would  
10 have prevented TVA's ash mountain to grow so big  
11 that it eventually bust through the dikes to  
12 devastate over 400 acres of land and create an  
13 environmental disaster that will never be cleaned  
14 up, even though over a billion dollars has been  
15 spent.

16 If only there had been regulations,  
17 homes and lives would not have been destroyed.

18 And now, if only EPA will put in place  
19 regulations so this type of disaster will never  
20 happen again, we would all be grateful.

21 I urge the EPA to adopt Subtitle C to  
22 ensure the safe and proper storage of fly ash.

1 Thank you.

2 (Applause)

3 MR. DELLINGER: Thank you.

4 Number 179.

5 MS. ENDERLE: Hi, there. My name is  
6 Emily Enderle. I work at Earthjustice in  
7 Washington, DC.

8 First, I want to thank the EPA for  
9 hosting this hearing as well as the other hearings  
10 across the country. I know it's been a long  
11 process for you guys as well as activists, public  
12 interest folks, and regular citizens across the  
13 country.

14 Basically, I wanted to get up here and  
15 say a lot of things that are very wonky and very  
16 technical. But actually it's been really  
17 inspirational to see so many young people come out  
18 and talk about this particular issue and why it  
19 matters to them. And why, I think, really it's  
20 evident that their generation shouldn't be the one  
21 that has to finally deal with this mess. We're at  
22 a point in time where we can actually deal with

1 coal ash in a way that's going to protect people  
2 across the country. And there's no better place,  
3 I think, to end this particular circuit than in  
4 Knoxville, Tennessee.

5 And I say this because I spent several  
6 hours this weekend at about 1200 feet above a lot  
7 of Tennessee, looking at coal ash impoundment  
8 sites and coal-fired power plants across the  
9 country.

10 And what I don't think is clear to a lot  
11 of people is these dams are enormous. The dam  
12 that broke at the TVA site is -- was 60 feet high.  
13 There are facilities across the country; some are  
14 as high or expected to be as high as 100 feet.  
15 There are facilities, dozens of them, that if they  
16 were to break, they would result in the loss of  
17 live. I think it's a miracle that nobody died in  
18 this case, and that there haven't been more losses  
19 of life.

20 And we're at a point right now with  
21 regulations being proposed under C and D where we  
22 can actually regulate this in a way that will

1 protect not only the people that are dealing with  
2 it now but also generations to come, including the  
3 folks in this room.

4 I did want to pass out just some of the  
5 pictures that were taken from aerial views. What  
6 I think they show is that houses are literally  
7 across the river way from these impoundment sites.  
8 If they were to break, they would knock out those  
9 beautiful homes; they would knock out those nice  
10 boats and docks; they would contaminate those  
11 river ways; and they potentially kill people. And  
12 that's absolutely evident from these sites across  
13 Tennessee. And there are multiple. So I just  
14 wanted to pass these out for you guys to check  
15 out.

16 One point I also wanted to make is we --  
17 I don't think we've talked a lot about arsenic.  
18 Arsenic is a known carcinogen. We all know that.  
19 Science is coming out regularly that says that  
20 even small even smaller doses are contaminating  
21 people and leading to possible cancer across the  
22 country.

1                   This is one particular contaminant of  
2                   many that are in coal ash, and one that's been  
3                   contaminating groundwater across the country.  
4                   There are more than 100 proven damage cases either  
5                   by the EPA or by public interest groups  
6                   demonstrating that either the environment or  
7                   public health has been compromised across the  
8                   country.

9                   And here in Tennessee we've seen that  
10                  not only one community has been devastated by this  
11                  but two. If you look at Perry County and what  
12                  they've been dealing with in terms of this ash  
13                  being taken down there, the Arrowhead Landfill  
14                  declaring bankruptcy, all of the things that  
15                  they've had to deal with.

16                  So I just want to say thank you for opp  
17                  -- providing the opportunity to so many people  
18                  here in Knoxville to talk and for all of you young  
19                  people for caring.

20                  Thanks.

21                                 (Applause)

22                  MR. DELLINGER: Number 198. Is 198 in

1 the room?

2 MS. BICKNESE: Hi. My name is Erin  
3 Bicknese. I'm a citizen of Knoxville.

4 I grew up in Nashville, Tennessee. And  
5 one of the most important parts of my childhood  
6 was being able to play in the water and streams  
7 around my house. I don't have kids but I hope to  
8 in the next ten years. And I know that the world  
9 I live in right now is really different than the  
10 one my parents lived in in terms of what they  
11 could do outside, what water they could drink when  
12 they were hiking. And I know that it already is  
13 going to be vastly different for the children that  
14 I have. But I hope they live in a place where  
15 they're not poisoned by the air that's around them  
16 everyday and by the water that comes out of their  
17 tap and by the places that they'd like to be.

18 I'm a young person right now. That's  
19 going to change. But I hope that the world I live  
20 in now and tomorrow and in the future is protected  
21 by the laws that we have.

22 Subtitle C is going to be a great step,

1 but it concerns me that there are a lot of things  
2 that won't be done, a lot of things that won't be  
3 stopped. There's a lot of poison right now that  
4 could danger (sic) people from coal ash. And  
5 that's really care try to me.

6 Thanks so much for coming here and  
7 listening.

8 (Applause)

9 MR. DELLINGER: Thank you.

10 Numbers 280, 281, 282, 283, and 284.

11 MS. GILMORE: Hello, there. My name's  
12 Sara Gilmore, and I'm a student at the University  
13 of Tennessee.

14 I'm thankful to be here today and talk  
15 to you, but at the same time I can't believe that  
16 it's necessary to be here, that this is even a  
17 (sic) issue of controversy. Because we have here  
18 this few facts about coal ash and the problems of  
19 it, and logically looking at it, it's undeniable  
20 that something has to be done about this.

21 Picture, like, I have myself a  
22 9-year-old nephew, and if you have any kids, your



1 wife, your -- or children that you love dearly,  
2 you wouldn't want to submit (sic) them to drinking  
3 water which is supposed to sustain them, that  
4 could slowly kill them. You wouldn't do that to  
5 someone you love, so why make other people have to  
6 do that to their children.

7 If we just think about it logically, the  
8 stuff on this sheet is evidence enough to us. And  
9 I think Subtitle C is step in the right direction,  
10 as many have said. But more needs to be done.  
11 And I hope you guys realize that and see it.

12 Thank you.

13 (Applause)

14 MR. HOFFMAN: 281.

15 MS. MCKEE: Hi. My name is Freesia  
16 Mckee, and I'm a student. And I would just like  
17 to thank you for sitting here this long day and  
18 listening to all of us speak.

19 I'd like to ask everybody in the room:  
20 How many of you have asthma or other -- some other  
21 kind of respiratory problem? Raise your hand.

22 AUDIENCE: (show of hands)

1                   MS. MCKEE: How many of you have a loved  
2 one who has asthma or some other kind of  
3 respiratory problem?

4                   AUDIENCE: (show of hands)

5                   MS. MCKEE: There's a lot of people  
6 here. And while not all of us are coming from  
7 this, a lot of us are even coming from racial and  
8 economic and geographic privilege and still have  
9 people who have asthma or other respiratory  
10 problems.

11                   So I'm asking you today: Do you know  
12 what asthma is? And do you know what it is to  
13 wake up coughing or crying because you can't  
14 breathe or wanting to pull open your chest for  
15 some air or a breath or driving to the hospital  
16 for a breath or laying on the ground hoping for a  
17 breath with air machines and inhalers and masks  
18 and tests for a breath or plastic and chemicals on  
19 your 10-year- old face for a breath? Or you wake  
20 up in the hospital with dad praying over you and  
21 your mom crying because you need a breath? And  
22 all I wanted my whole childhood was a breath. I

1 have asthma. All I had was asthma.

2           So I'm ste -- I'm asking you today --  
3 I'm telling you that it's in your hands. And it's  
4 in your lungs, the words that -- that you breathe  
5 out to choose Subtitle C so that you can give  
6 people like me a breath of fresh and clean air.  
7 So I'm asking you to make right decisions for kids  
8 who want to play sports outside, for kids who want  
9 to play outside, for kids who want to be healthy.

10           Thank you.

11           (Applause)

12           MR. HOFFMAN: 282.

13           MS. GOSNEY: Hi. I'm Jessica Gosney.  
14 I'm a student here at Knoxville.

15           I've only lived in Knoxville a couple of  
16 years, but I really love it, and I worry a lot  
17 about the pollution here. Today I went on a -- a  
18 run by Three Rivers Creek, which is hugely  
19 polluted. And you just -- you can't -- you can't  
20 ever like get a full, deep, clear breath. And  
21 that worries me.

22           And I also think that Subtitle C is not

1 quite enough. And I would just like to ask you  
2 guys to please do your job and protect the  
3 environment.

4 (Applause)

5 MR. HOFFMAN: 284.

6 MR. PETSCHUBAT: My name test Sam  
7 Petschubat, and I'm also a student here in  
8 Knoxville.

9 I'd -- I -- like everyone else, I'd,  
10 first, like to thank you guys for coming and just  
11 listening to all of our comments.

12 But we live in a capitalist society here  
13 in the United States. People are basically free  
14 to do what they want. And in that society the  
15 government's role is, essentially, to keep us all  
16 from killing each other for money. Because, Lord  
17 knows we would do it if we could. That's why you  
18 guys have jobs, because we need a government to  
19 keep us from killing each other for profits. This  
20 is literally happening --

21 (Applause)

22 MR. PETSCHUBAT: -- every single day.

1 People living near unlined coal ash ponds have a  
2 risk of 1 in -- 1 in 50 -- the risk of cancer is 1  
3 in 50, which is 2000 times the EPA's standards,  
4 your standards.

5 So something clearly needs to be done to  
6 -- to prevent this from happening. This needs to  
7 stop.

8 And C is a start. A lot of people have  
9 been saying that C doesn't go far enough, it's not  
10 quite strong enough. But it's what we have right  
11 now. It's the best option. So for that reason,  
12 if nothing else, you -- it deserves your support,  
13 at least as a beginning point.

14 A lot of the criticisms of C; I heard a  
15 guy argue earlier that he doesn't want Option C  
16 because he makes his living off coal ash; he's in  
17 the concrete industry. And he's paying his kids'  
18 college tuitions with the money he's making due to  
19 the deregulation. But that's not a good excuse.

20 I mean, if he was an arms dealer, if he  
21 was a syndicated mobster or crime syndicate, would  
22 that be an equally valid excuse that he's doing

1       those things to support himself and his family and  
2       to send his col -- his kids through -- to college?  
3       It wouldn't be. And he would still go to jail.  
4       He would still face the repercussions that his  
5       actions were having on other people.

6                People are also arguing that this will  
7       raise utilities costs and people that can't afford  
8       -- can barely pay their bills as it is, it's going  
9       to raise their electricity bills. But money is a  
10      short-term thing. Money is something that can be  
11      replaced. It's something -- if people lose money,  
12      they're resourceful. They go out, they find new  
13      ways to make money. If you lose your job due to  
14      your coal company that you work for is expense is  
15      rising, you'll be able to find a new job. But if  
16      your family member is killed by cancer from one of  
17      these ash deposits, there's no undoing that. It's  
18      completely permanent and irrevocable.

19               And for that reason, I would encourage  
20      all of you to support Option C today.

21                                (Applause)

22               MR. SMITH: My name is William Smith.

1 I'm from Murfreesboro, Tennessee. But I have a  
2 lot of family in the Appalachian area, in east  
3 Tennessee and Virginia and North Carolina and  
4 South Carolina, and their water supply, as the  
5 years go by is getting more and more toxic.

6 As has been made very obvious by the  
7 Harriman County spill, current regulation on coal  
8 ash storage is not enough. We need tighter  
9 regulation.

10 But I see a worse problem. And I would  
11 even go as far as to call it a crime. And that is  
12 an environmental justice problem. Nearly half of  
13 the high azard -- high hazard ash ponds in the  
14 southeast are described by the EPA as high hazard  
15 are in low-income areas.

16 Another environmental crime I see is  
17 that the ash from the Harriman County spill is  
18 being moved to Per -- Perry County, Alabama, which  
19 is another low income and predominantly  
20 African-American community. The water in that  
21 community is so full of arsenic that it contains  
22 80 times the safe amount for drinking water.

1           Cancer, COPD, other respiratory  
2 illnesses, neurological damage, reproductive  
3 problems are the legacy that we're leaving our  
4 children right now. I'm a young person and I care  
5 about my future. I don't want to leave that  
6 legacy.

7           So support Subtitle C.

8           (Applause)

9           MR. DELLINGER: Numbers 285, 286, 287,  
10 288, and 298.

11          MR. NORTON: My name is Jordan Norton,  
12 and I come from the increasingly low-income area,  
13 the low-income town of Greeneville, Tennessee.  
14 Last time I checked we had about 15% unemployment  
15 rated and more and more manufacturing jobs are  
16 moving out and more people are losing their jobs  
17 every day. I bring this up because I know that  
18 unle -- that these coal -- this coal ash is  
19 shipped to low-income areas. It's a (sic)  
20 economic fact. If you're going to store it  
21 cheaper, you ship it to low-income communities.

22          So this is what makes me afraid for my



1 community back home. I've lived there for 20  
2 years. Hopefully, I'll live there in the future  
3 sometime.

4 But I just -- I would have it regulated  
5 so that we can avoid the types of things that go  
6 on in these communities where our wa -- our well  
7 water or our tap water is just contaminated beyond  
8 all belief, people have respiratory problems,  
9 cancer problems, things like that.

10 So I'd ask you to support Subtitle C to  
11 su -- to help us in our future of these small  
12 communities.

13 Thank you.

14 (Applause)

15 MS. DELHEIMER: Hi. My name is Sara  
16 Delheimer and I'm a student at UT.

17 First, I want to thank you for coming  
18 here and holding this hearing and give us all the  
19 opportunity to speak.

20 Coal ash is a health issue; it's a  
21 social issue, an environmental issue. As we've  
22 seen, it can be a disaster. It's an emergency.

1 And so I would strongly encourage you to listen to  
2 the voices of all the young people here today  
3 whose futures you can help protect, and all the  
4 locals who are being directly affected by this  
5 toxic waste.

6 So please, please regulate coal ash as a  
7 hazardous waste, protect lives and the  
8 environment, and please support Subtitle C.

9 (Applause)

10 MS. LAVONE: Hi. My name is Michelle  
11 Lavone. I'm a junior at University of Tennessee.  
12 I'm here with SPEAK, Students Promoting  
13 Environmental Action Knoxville. I'm a science  
14 communications journalist at the university, and I  
15 just want to bring in this tiny little story.

16 After one of my classes, after the  
17 Harriman ash spill, I went and I interviewed a  
18 couple of organic farmers, and I wanted to figure  
19 out, you know, how they were affected by the toxic  
20 ash. And they told me that what they do for  
21 organic farming is, they don't use conventional  
22 chickenfeed. They actually use fish, and they

1 ground up the fish and they feed their chicken  
2 (sic) the fish, which gives them the nutrition,  
3 because the eggs are nutrition. And then people  
4 eat the eggs and gain that nutrition from the  
5 eggs.

6 And what's happening with the fish  
7 populations is the selenium is destroying the  
8 reproductive organs of the fish. And so basically  
9 what happens is that, you know, you don't have as  
10 many fish and the chicken (sic) don't get fed the  
11 nutrition.

12 And so the point is, basically, that the  
13 people who are eating these chicken eggs, you  
14 know, have the potential to be eating this  
15 hazardous waste, this hazardous crap, basically,  
16 that's in the eggs. And nobody wants that.

17 And so basically I just -- I'm asking  
18 you to regulate the coal ash under Subtitle C  
19 because it is hazardous, and it has been linked,  
20 as many people have said, to asthma and cancer and  
21 things like that. So I'm here to support that.

22 Thank you.

1 (Applause)

2 MR. DELLINGER: Thank you.

3 MS. NEGRETE: Hi. My name is Jackie  
4 Negrete and I'm a student.

5 And I was going to come up here and read  
6 all these facts and stuff to you guys, but this is  
7 your job. You're in the EPA, so you guys probably  
8 already know all this stuff already or I'd like to  
9 think, you know, you've spent all this time being  
10 in the EPA, you know, you're going to get -- come  
11 about this information. So you guys know, you  
12 know, what's good and what's right.

13 And I urge you guys to -- okay, you guys  
14 were given -- you guys are in a position of power;  
15 right. And with this power, you know, you have a  
16 responsibility and you were entrusted with this,  
17 you know, that you guys would do the right thing.

18 So I'm just asking you, you know, to use  
19 your brains, because you guys are like smart  
20 people, and to do what you know is right and  
21 responsible because we're taking responsibility  
22 right now saying, you know, how we feel, that this

1 is wrong and coal ash is polluted. And you guys  
2 know it's polluted.

3 So I urge you guys to do, you know -- do  
4 what's in your hearts. And you guys are, you  
5 know, getting up there in years and you have a  
6 legacy. And are you going to look back and say,  
7 Yeah, this is all I did, you know. Like you have  
8 to answer to yourselves ultimately. And you guys  
9 -- I urge you to take responsibility and use your  
10 brains and create something positive. Please do  
11 something for us. Because we -- we've done our  
12 part and now it's your turn, you know. This is  
13 your responsibility from now on. I'm putting it  
14 on you guys.

15 So thank you.

16 (Applause)

17 MR. DELLINGER: Number 289, 290, 291,  
18 292, and 293.

19 MS. PETERS: Hi. My name is Elyse  
20 Peters. I'm a sophomore at the University of  
21 Alabama, and I come today not only as a concerned  
22 student but to take a stand to protect my future.

1 I come here in solidarity with the families in  
2 Kingston and Perry County in Coal River Valley to  
3 force the EPA, the industry, and America to look  
4 at this problem straight in the eye.

5           Founded on the principles of John Locke,  
6 we Americans believe it is our right to liberty,  
7 to life, and to property. Our possessions are  
8 being -- our possessions (sic) of these rights is  
9 deeply engraved in the American psyche. It is --  
10 that is why it is shocking to me to see how  
11 Americans, specifically the government, an  
12 instituted cre -- an institution created for the  
13 sole purpose of protecting and promoting these  
14 rights can allow for the coal industry to strip us  
15 of these rights and justly do it.

16           It is cheaper for companies to break the  
17 law than it is to follow it. Lax regulations of  
18 the coal industry have continued to show direct  
19 ramifications on local communities. Coal ash  
20 communities need water brought because their  
21 groundwater has such high level of heavy metals.  
22 There are increased health problems, such as high

1 cancer and asthma due to the chronic exposure of  
2 these toxins. Their ability to live promised by  
3 our society is destroyed.

4           Subtitle D will do more than harm,  
5 giving the states the rights to regulate these  
6 companies. ADEM, the Alabama Department of  
7 Environmental Management is currently under review  
8 by the EPA due to its continual violation of the  
9 Clean Water Act. How can the government think  
10 about granting such power to a state agency that  
11 is already not following its regulation?

12           Currently there is a proposed strip mine  
13 at Shepherd's Bend on the Black Warrior River in  
14 Alabama. The -- the waste is allowed by a permit  
15 passed by ADEM to be dumped into the Black Warrior  
16 River. Birmingham Water Works Board issued a  
17 letter stating the proximity of the disposal site  
18 only 800 feet in regards to one of its main water  
19 intakes was incompatible and unprecedented. It  
20 takes -- it -- this intake provides water to over  
21 200,000 residents in Birmingham, the city's -- the  
22 state's largest city.

1           If we continue to allow local  
2 communities to expire in the name of industry, we  
3 will continue to show the degradation of our  
4 American morals. Stricter regulations will  
5 illustrate to our society the government's care  
6 and consideration for the values its people hold  
7 so dear.

8           It is in our -- it's -- we are in a  
9 state of reaction. That is why newer, stronger,  
10 more scientifically based regulations, ones even  
11 stronger than those proposed by Subtitle C, must  
12 be enforced. The immoral acts of the ind -- of  
13 the oil -- of the coal industry must be called  
14 out. EPA's recognition of that co -- of coal ash  
15 as a hazardous waste is the first step to  
16 rebuilding a just, moral society that our Founding  
17 Fathers has en -- have envisioned for us.

18           Thank you.

19                           (Applause)

20           MS. OWENS: Hi. My name is Sabrina  
21 Owens. I'm a student. I come from Murfreesboro,  
22 Tennessee.



1           I could stand up here and just tell you  
2 everything that everyone else has told you, that  
3 you've heard at least a million times just said  
4 differently.

5           I think Subtitle C is a good step, but  
6 it's really not enough. You know, I -- I might  
7 have kids in the future. I know all of you are  
8 probably going to have families. And you guys  
9 have grandkids, kids.

10           Our water, our natural resources are  
11 greatly affected by coal ash. We need to work  
12 like the earth works and learn how to use natural  
13 -- I mean, like something more natural than -- and  
14 coal ash is -- is polluting our earth and it's not  
15 really giving us anything back.

16           So I just want to point out a few  
17 things. Subtitle C does not require rapid closure  
18 of the ash in the ponds and it does not require  
19 investigation of all toxins a -- in coal ash  
20 dumps. Immediate clean up of contaminated coal  
21 ash site deposit, which is a threat to health and  
22 environment from toxic waste, this is not required

1 as well. Like, you know, this stuff is important.

2 So we really need to just fin -- I know  
3 -- and I understand coal ash workers also need a  
4 job as well. So we need to think of other ideas  
5 rather than just saying, "Oh, hey, by the way, you  
6 can't work here anymore because of this." So we  
7 need to think there, too.

8 We also just need to work together to  
9 figure out how we can clean up our environment. I  
10 don't know where to start but, you know, there's  
11 group of people in here that are all working  
12 towards the same thing. And I think if we all put  
13 our heads together, including you guys, we can  
14 come up with something really good. So that's all  
15 I have to say.

16 Thank you very much.

17 (Applause)

18 MR. DELLINGER: Thank you.

19 MS. HASHOP: My name is Macy Hashop, and  
20 I'm a student at UTC.

21 Okay. Well, I wanted to start off by  
22 saying that I really care about my health. I try

1 not to -- well, I do not smoke, I do not drink, I  
2 regularly exercise and I don't know what that's --  
3 what the point of that if it -- if the water that  
4 I'm drinking is polluted and the air that I'm  
5 breathing is polluted.

6 Even though I live in Chattanooga and  
7 this is Knoxville. I know that water and wind  
8 travels and it's circulates. And I have pet fish,  
9 and the water in my in tanks, even though I put  
10 the -- sorry, I'm nervous. I don't speak publicly  
11 but I'm doing this because I feel it's an  
12 important thing.

13 (Applause)

14 MS. HASHOP: But -- but my fish -- I  
15 first really realized it when I was drinking the  
16 water and I noticed that it tasted funny. And no  
17 matter how much water I drink, I don't feel  
18 quenched. I feel like -- almost like it's acidic,  
19 like I'm being dried out or something.

20 So my fish, I noticed them. I put the  
21 drops in there that are supposed to get rid of the  
22 chemicals and get rid of the chlorine and help,

1 but they still -- I had four fish already that  
2 have died. And I don't know what's going on. But  
3 I know that I want to be healthy. I care about  
4 our environment. I care about our animals. I  
5 care about you. I care about myself. And I just  
6 want some changes to be made so that we can be  
7 healthy and -- and we can all support a healthy  
8 environment in the community.

9 So thanks for listening.

10 (Applause)

11 MS. RICHMOND: Hi. My name is Reagan  
12 Richmond. I'm a recent graduate of the University  
13 of Tennessee. Go Vols.

14 And thank you, first, for allowing us to  
15 take this time to speak.

16 I will say that I'm with other people  
17 and not surprised anymore, but should be, that we  
18 do have to have this hearing to decide whether we  
19 should regulate coal ash or not. We have a very,  
20 very real event that has happened here in Kingston  
21 that shows us that coal ash is dangerous, that  
22 it's not being taken care of correctly by the

1 states, and it's certainly not being taken care of  
2 correctly by the industries that are supposed to  
3 be doing it.

4 So I won't bore with you all that. I  
5 also won't call you old. I apologize.

6 But I will let you know that as a young  
7 person, I care very much about the legacy. It --  
8 well, one, about just my life, but the quality of  
9 life that I'm going to have moving forward, also  
10 about the legacy that is left. And many young  
11 people in this room are with me on this, too.

12 You've seen several of us with crazy  
13 costumes, face paint -- I'm sorry I don't have  
14 mine on -- but we were outside and we want to let  
15 knew that we were saying coal ash is scary. We  
16 had a big rally. It was really fun. And -- but  
17 it's true, we're not just having fun with this.  
18 Coal ash is a scary thing for our future, thinking  
19 about having to deal with this toxic waste in  
20 just, you know, any old impoundment or being  
21 stored somewhere and not properly being regulated.  
22 That's not right. And that -- that makes me

1 fearful about like the communities that I live in  
2 or have the -- the drinking water that we have.  
3 It's just -- it's a scary thing to think about  
4 this hazardous waste not actually being regulated.  
5 You-all know what impacts there are.

6 So with that, I'll just say, so we have  
7 Option C. You guys have put this on the table.  
8 And Option is C is good, but it's not good enough.

9 I've always been taught my whole life to  
10 never settle for the least. That -- that's what  
11 it's about. It's about reaching for the stars;  
12 right. Doing the best that you can. So that's  
13 what I'm really pushing for. C is great; please  
14 adopt it, at minimum. But let's do more.

15 I have worked with young people across  
16 this country, across the region. I have done  
17 everything I can possibly do. When I first found  
18 out about our issues, I was really sad. And then  
19 I got really angry. But now I'm just really  
20 active. I have done everything I can from going  
21 to -- and picking up trash to meeting at the UN.  
22 Everything you could possibly want me to do. I

1 regularly engage in conference calls with the EPA  
2 administrators and with the White House. I have  
3 the privilege to do that. Not everyone in the  
4 room has that privilege.

5 So I'm asking you, please, step up, do  
6 what is right for my generation and for our  
7 future, regulate. At minimum C. But let's do  
8 better. We know we can.

9 (Applause)

10 MR. DELLINGER: Number 185, 201, 188,  
11 and is 292 in the room?

12 AUDIENCE: No response.

13 MS. HOPKINS: I'm Flo Hopkins. Thank  
14 you guys for listening. You must be really tired.  
15 So I'm going to tell and you little story, a  
16 personal story.

17 My husband and I have been fighting a  
18 coal ash landfill for about a year-and-a-half. We  
19 retired to Tennessee because we wanted to live in  
20 the country in Cumberland County and build a house  
21 there. Well, as soon as we decided to build, we  
22 discovered that there was a coal ash landfill

1 being proposed on our mountain.

2           Because there are no regulations in  
3 Tennessee in regard to coal ash, we had to suspend  
4 our plans for retirement and building and active --  
5 actively engage in educating ourselves about what  
6 coal ash was, what -- what -- and what our rights  
7 were in regard to it and what our responsibilities  
8 to our community were in regard to it.

9           Some of the first things we learned is  
10 that there are no regulations in regard to  
11 transportation of coal ash. What was proposed on  
12 our mountain was 5- to 600 trucks of coal ash  
13 coming up and down our eight narrow winding miles  
14 of mountain roads during all daylight hours, six  
15 days a week for years without end. There were no  
16 transportation requirements for safety, for road  
17 width, for -- there was no protection for airborne  
18 coal ash, for covering the coal ash and transport.  
19 There was no protection for us because there are  
20 no regulations. If there had been a spill on the  
21 roads, going up there to clean up the spill or to  
22 -- or -- or for liability for taking care of



1 financial responsibility for the spills because  
2 there were independent truckers involved, there  
3 was no consistent -- there was go -- no sig --  
4 consistent financial assurances that anyone would  
5 be responsible for the mess.

6 On thing we did res -- discover from all  
7 our interaction with coal ash and with local  
8 politics is that you guys at EPA may very well  
9 have studied a lot and have a lot of science  
10 behind you on the constituents of coal ash and the  
11 effects of it, but you don't know nearly as much  
12 as my community does. There's an expert on every  
13 corner. And everyone is either sure that it's  
14 entirely hazardous and toxic or else that you can  
15 put it on your breakfast cereal.

16 And what we want is for the EPA to use  
17 the -- the science and the expertise that you have  
18 to protect us and pro -- provide the citizens some  
19 consistency so that we can live our lives with  
20 more predictability.

21 And thank you for stepping up to that  
22 responsibility.

1 (Applause)

2 MR. DELLINGER: Thank you.

3 MR. HOFFMAN: 201.

4 MS. SCARANO: Hi. My name is Rachael  
5 Scarano. I'm from Asheville, North Carolina. I'm  
6 a student out there. Thanks for calling my  
7 number.

8 I go to Warren Wilson College. We're  
9 about 15 or so miles from two coal ash ponds that  
10 have been rated poor, and if they broke, they  
11 would spill into the French Broad River.

12 And I'm here to state my support of  
13 classifying coal ash under Subtitle C as a  
14 hazardous waste. As a young person, I'm concerned  
15 with the health of both the planet and myself as  
16 we move into the future.

17 Regulations under Subtitle C will  
18 require safer containment of coal ash protecting  
19 the surrounding environment from contamination.  
20 And this is in direct contrast to the unlined  
21 ponds of today, basically holes in the ground  
22 where they keep the coal ash, where toxic metals

1 are able to leach straight into the ground,  
2 eventually reaching the groundwater.

3           So I believe that it makes sense to  
4 label something that has already been determined  
5 as hazardous waste as hazardous waste, regardless  
6 of the ramifications, economic or otherwise. For  
7 I don't understand how we could place a dollar  
8 value on human health or environmental health.  
9 And I hope you, the EPA, will remember that you're  
10 acronym doesn't stand for the "Economy Protection  
11 Agency," and that you'll do your job to protect  
12 the environment, the Environmental Protection  
13 Agency, and its people by classifying coal ash as  
14 the hazardous waste that you, the EPA, has already  
15 told us that it is.

16           Thank you.

17           (Applause)

18           MR. DELLINGER: Number 185, 188, 178. I  
19 -- I thought I just -- I called 185; right?

20           SPEAKER: Yep.

21           MR. DELLINGER: All right.

22           SPEAKER: You got it?

1                   MR. DELLINGER: Yeah. I'm sorry. I  
2 didn't see -- I didn't -- I didn't check the box.  
3 You're -- you're fine. Here's 185.

4                   MR. HOFFMAN: 178.

5                   MR. MORTIMER: Hello. First of all,  
6 thanks for coming down to Tennessee today and  
7 adding this to your regular schedule programs.

8                   My name is Samuel Mortimer. I'm a  
9 recent graduate of the University of Tennessee, a  
10 20-year resident of the state, and an architect in  
11 the Knoxville area.

12                   I'll keep this relatively short. But  
13 the good people of Tennessee have suffered enough  
14 from the affects of coal. I would ask you to  
15 please classify fly ash as a toxic waste and make  
16 every effort to ensure that disasters -- and let's  
17 not kid anyone, it was a disaster -- at (sic) the  
18 Kingston spill never happen again. This is  
19 certainly an issue of protecting the environment  
20 and not the bottom line.

21                   Thank you.

22                   (Applause)

1 MR. HOFFMAN: What number are you?

2 MS. CHEELY: 188.

3 MR. DELLINGER: What was --

4 MS. CHEELY: I'm Jean Cheely.

5 MR. DELLINGER: What was -- what was the  
6 last person's number? One --

7 MS. CHEELY: He was --

8 MR. DELLINGER: -- seventy --

9 MS. CHEELY: -- walk-in.

10 MR. DELLINGER: -- eight.

11 MS. CHEELY: He was 178.

12 MR. DELLINGER: All right. Thank you.

13 MS. CHEELY: Yeah. Okay. I'm a member  
14 of SOCM, previously Save Our Cumberland Mountains.  
15 I was a previous resident of Kingston for ten  
16 years; presently live in Cumberland County. I'm  
17 one of the authorities on coal ash. We've been  
18 working against having that coal ash landfill  
19 brought up to our mountain at the -- our headwater  
20 streams. I also grew up in Clinton, Tennessee.

21 And the points I would like to raise  
22 with you, I'm going to address -- even though I've

1       been fighting the Cumberland County coal ash  
2       landfill for two years now, I was dismayed to find  
3       that in my hometown of Clinton on the Clinch River  
4       there's a legendary coal ash fill that was unlined  
5       called Lost Ridge.

6               In our many forays with EPA and TDEC and  
7       O -- OSM during this last two-year event I got  
8       some of the records from the Clinton coal ash  
9       landfill. That was a 44-acre landfill that was  
10      done permit by rule, and that there was no public  
11      input into creating that site.

12             In Tennessee we have a lovely law called  
13      the "Jackson Law," which gives communities the  
14      opportunity to say "yes" or "no" to having any  
15      sort of a landfill. Permit by rule circumvents  
16      this opportunity for the public to speak out.

17             Let me regress and say that I do support  
18      Subtitle C and let it be stronger. I would like  
19      it to address the site selection and that no  
20      permits by rule be granted. The public process in  
21      a community needs to be present and utilized.  
22      Transportation considerations need to be addressed

1 and regulated. Legacy sites that have been closed  
2 need continuous monitoring.

3 The site -- the Clinch River was one of  
4 the top eight clear bodies of water in the world.  
5 Today this site, the hydrological reports, which I  
6 will submit, from TDEC before this site was built  
7 showed that there was a stream running through  
8 there, there were springs, that this was one of  
9 the worse possible sites you could put a landfill.  
10 For some reason, it was placed there. It's been  
11 reclaimed, and now it's been granted to the City  
12 of Clinton, if they want to build a recreational  
13 park there for their children to play.

14 There's a large culvert going directly  
15 into the Clinch River that drains a steady stream  
16 of water even during dry weather. There is not  
17 ongoing monitoring of this culvert.

18 MR. HOFFMAN: Your time is up.

19 MS. CHEELY: Okay. I just want to say  
20 that EPA has -- ha -- has refused -- they said, We  
21 are monitoring the Clinch River downstream.

22 And so this culvert of water coming from

1       this landfill, it's -- has not been tested. I  
2       went to my congressional member, who finally got  
3       DOE to do a testing. We haven't gotten the  
4       results in yet. But the legacy landfills need to  
5       be addressed as well.

6                     Thank you.

7                     (Applause)

8                     MR. DELLINGER: Numbers 294 and 295.

9                     MS. GRANT: 295. Do you want me to go  
10       ahead?

11                    MR. HOFFMAN: What number? 295?

12                    MS. GRANT: My name is Anna and I'm a  
13       student outside Asheville, North Carolina. I just  
14       moved there from Philadelphia, Pennsylvania, where  
15       I worked with advocacy groups to pressure Region 3  
16       EPA to deny permits for mountaintop removal coal  
17       mining and valley fills in Virginia, and West  
18       Virginia.

19                    I learned a lot about the process of  
20       coal production throughout this work, and I see  
21       the decision to regulate coal ash, a known hazard  
22       to human and ecological health as a simple choice.



1 Tennessee residents remember the TVA to  
2 -- atrocity that was the coal ash flood that led  
3 to horrific property destruction and severe  
4 ecological di -- damage.

5 I implore the industry and EPA to learn  
6 from the past and act now to regulate coal ash as  
7 a hazardous waste through Subtitle C. Subtitle C  
8 means accountability of the industry that local  
9 communities are in great need of. Subtitle C  
10 means that drinking water will be taken into  
11 account and monitored, which is crucial to  
12 positive community growth.

13 I strongly urge the EPA to reject  
14 Subtitle D because arsenic and selenium are not  
15 household wastes; they are known carcinogens. To  
16 reject the research that shows people who are --  
17 who live within one mile of the coal ash ponds  
18 have a 1 in 50 chance of developing cancer is  
19 simply unethical.

20 EPA, please review the statistic that  
21 you published and please protect the environment,  
22 not the polluting industries.

1 Thank you for your time.

2 (Applause)

3 MR. DELLINGER: Thank you.

4 MR. HOFFMAN: 294.

5 MR. MARSHMAN: My name is Herman  
6 Marshman. I'm the president of IBEW Local 272,  
7 that's in Shippingport, Pennsylvania.

8 I'm here today to address several  
9 issues, and one of the issue (sic) is in regards  
10 to the regulation of fly ash. I have 30 years  
11 experience working with fly ash. I have worked in  
12 the power industry for FirstEnergy Corporation in  
13 the collection and removal of fly ash. Before fly  
14 ash is seen by anyone in the public, I see it  
15 first. I see it when it's hot. I see it when  
16 it's in the -- the finest raw form. Am I afraid  
17 of fly ash? No. Is it hazardous waste? Yes.  
18 Okay. Everyone knows that fly ash has heavy  
19 metals in it. Under OSHA regulations, I must wear  
20 a respirator and protective clothing to work with  
21 fly ash because of the hazards.

22 Now I'm not here to debate, and that's

1 for the EPA to decide, which regulation, C or D.  
2 It's doesn't matter. It's still hazardous.

3 My issue is the workers. Individuals  
4 like myself who have spent 30 years in the power  
5 industry. Companies now are taking away our  
6 health benefits. And I'm proposing any mandate  
7 under the new regulation that there be provisions  
8 that the profits from the reuse of fly ash goes  
9 for the safeguard of the public and the  
10 environment and maintain healthcare coverage for  
11 the workers that are directly and indirectly  
12 exposed to fly ash.

13 Thank you.

14 (Applause)

15 MS. CERULEAN: Hello. I'm Jeannie  
16 Cerulean and I'm from Chattanooga, Tennessee.

17 And being down river from that spill,  
18 you know, caused a lot of people in Chattanooga to  
19 want to know what's in our water. And so I was  
20 really thankful that there were labs that were  
21 doing independent testing, that felt really good  
22 to us to have you guys, TVA, and some independent

1 labs. And I know that a lot of people raised, you  
2 know, some money to make sure that those test  
3 results could be in. So I just really want those  
4 test results to also be considered.

5           And speaking of -- we just heard about  
6 like profits from what you turn the fly ash into.  
7 Well, what you rule on and how toxic you say it  
8 is, then they're going to put in certain things,  
9 like sidewalks in Nashville. Well, what about  
10 playgrounds? So what you classify this fly ash  
11 as, will it go into landfills? Will they be  
12 lined? You the classification of it becomes the  
13 protection so that you don't have like more  
14 problems down the line. And I would just like to  
15 see us, like, front load that whole thing, not  
16 have to pay at the end so much. But to pay at the  
17 front so that we're figuring out like how it's  
18 connected, where it's going, what we're doing.

19           And if we're going to mine coal, then,  
20 you know, make sure that those coal miners are  
21 protected and, you know, that their -- they don't  
22 have really bad working conditions because their

1 union has suffered. And then stop blowing up the  
2 top; right. So that means less coal. So like  
3 slow it down. You know, maybe that energy should  
4 be used to build renewables. That's energy  
5 intensive. And I -- you know, what are we going  
6 to do with that power? Could we use it to make a  
7 front loaded energy system?

8           And when you identify what the true cost  
9 of coal, what is the real cost to these people and  
10 to our mountains and our streams and the people  
11 directly affected who don't have clean drinking  
12 water, you get to decide.

13           And I'm so glad that you've listened to  
14 all of us today about it. And it's a big wait.  
15 But we want our shirt clean, all right?

16           Thank you.

17           (Applause)

18           MR. DELLINGER: Numbers 168, 181, 133  
19 and 186.

20           MR. FORTNER: My name is Larry Fortner  
21 from Mount Carmel, Illinois.

22           And the only reason why I'm here is to

1 my brother is sick all the time. And as soon as  
2 they move him north to go to a hospital, he gets  
3 well. Soon as he gets back home, he's sick a --  
4 again.

5 And the people was -- is sick all the  
6 time around here. And people's got to wash cars  
7 and stuff.

8 And my wife has -- has got hay fever all  
9 the time. While she's in the house, she's okay.  
10 Soon as she goes out of the house, she's sick.  
11 And it just -- you've got to do something about  
12 this ash flying around in the air all the time.  
13 And we -- soon as we get this ash problem took  
14 care of and get the rules changed everybody will  
15 be well.

16 Thank you.

17 (Applause)

18 MR. DELLINGER: Do you -- do you  
19 remember what number, 168?

20 MR. HOFFMAN: Let me look .

21 MR. DELLINGER: 198?

22 MR. HOFFMAN: Yeah.

1 MR. DELLINGER: No. It looks like 168.

2 MR. HOFFMAN: We're okay? Okay. His --  
3 his number is 181.

4 MR. BAILEY: My name is Emanuel Bailey,  
5 and I'm here today to speak as a concerned  
6 citizen, an engineer, a person with a  
7 technological orientation and perspective, a  
8 former TVA employee, a rate payer who was affected  
9 by the spill, a member of the Tennessee Renewable  
10 Energy and Economic Development Council, who's  
11 concerned about the environment, technology, and  
12 the economy.

13 Through my testimony, I intend to urge  
14 EPA to develop rules and incentives which advocate  
15 the application of existing remediation  
16 neutralization technologies to reduce future costs  
17 of risks associated with not addressing fly ash  
18 issues now. I suggest that EPA fund  
19 demonstrations and partner in the development of  
20 funding mechanisms to demonstrate and apply  
21 applicable technologies to troubled fly ash sites.

22 The -- TREDC is an organization which is

1 -- basically supports renewable technology, and  
2 its membership is open to the mayors and other  
3 entities in the State of Tennessee across the  
4 state. It's got representatives from industry and  
5 technology. We were instrumental in working with  
6 the mayors around Kingston, Harriman, and Roane  
7 County with the original spill. We developed --  
8 developed facilitation services to assist the  
9 community. But as a part of our work also, we  
10 worked with a firm in west Tennessee that -- that  
11 develops green technologies and independently to  
12 try and verify -- validate those green technologies  
13 that they market.

14 One of the -- one of the things that  
15 they market are inorganic hazardous waste  
16 treatment reagents.

17 When we started working with this  
18 organization, we became aware of the experience  
19 that this firm and some of its founders have had  
20 in working with some of the most hazardous sites  
21 around -- around the country. They have been  
22 involved in neutralizing waste at those sites.



1 They've work on solidification stabilization  
2 techniques, and they have worked to try to do  
3 this. This is a technology that EPA says is safe  
4 and has validated as a way of microencapsulating  
5 the waste and can be used right on site with  
6 applications.

7 Part of what we do is, we're trying to  
8 urge you to, in fact, incentivize the development  
9 and application of these kind of technologies --

10 MR. HOFFMAN: I'm sorry.

11 MR. BAILEY: -- because they can be --

12 MR. HOFFMAN: You're out of time.

13 MR. BAILEY: Okay. Thank you.

14 MR. DELLINGER: Thank you.

15 (Applause)

16 MR. DELLINGER: 133 or 186.

17 MS. THEW: I have 186.

18 MR. DELLINGER: Okay.

19 MS. THEW: I'm Margaret Thew. I have  
20 severe asthma, and we live about two blocks away  
21 from the ash spill in Roane County. TVA said that  
22 we lived too far from the steam plant to get help.

1 They had us file a claim and I spoke to  
2 Tennessee's chief public health doctor. He told  
3 me that they were waiting to see what the EPA  
4 would do under a new administration. He referred  
5 me to TDEC.

6 TDEC sent a letter saying that they  
7 couldn't see any fly ash hanging off those trucks.

8 Air quality, locally, is measured with  
9 industrial standards. At a meeting Tom Kilgore  
10 said that TVA wasn't transporting fly ash off TVA  
11 property and that the public hadn't been exposed  
12 to fly ash before the spill.

13 We took a picture of a truck on a  
14 Harriman Road with fly ash along the top. And we  
15 watched as the dike went up and saw plenty of  
16 exposed fly ash. My family has seen moving train  
17 cars with exposed fly ash.

18 My pulmonologist has found more density  
19 and blood in my lungs than a year ago. I deal  
20 with daily airway inflammation, almost daily sinus  
21 pressure and headaches, coughing up stuff daily,  
22 and frequent hoarseness.

1           TVA is calling themselves a branch of  
2 government and trying to get lawsuits dismissed.

3           The EPA sent us flyer saying that the  
4 ash spill was almost cleaned up. No, it isn't.

5           The EPA says EPA's mission is to protect  
6 human health and to safeguard the natural  
7 environment, air, water, and land, upon which life  
8 depends.

9           So if government branches are all busy  
10 cooperating with each other and patting each other  
11 on the back for a job well done, then who is  
12 protecting our health and our children's and  
13 grandchildren's future.

14           Thank you.

15           (Applause)

16           MR. DELLINGER: 133.

17           MR. BARTLEY: Good evening. Thank you  
18 for the opportunity of speaking tonight. I am  
19 Gary Bartley. I am from Sullivan, Indiana.

20           My family and I are adjacent landowners  
21 to Hoosier Energy's Merom Station power plant. We  
22 have a serious problem with airborne coal ash from

1 their open landfill.

2 We have neighbors and friends that won't  
3 allow their children out to play anymore because  
4 their toys are coated with coal ash. Several of  
5 those children recently have been have been tested  
6 and diagnosed with high lead. We have tests to  
7 prove that.

8 We cannot open the windows on our new  
9 house, because on a windy day the coal ash fogs  
10 in.

11 My 13-year-old son is having respiratory  
12 and intestinal problems, as well as my wife and  
13 myself. Our neighbors are also complaining of  
14 intestinal problems, respiratory problems, and  
15 aches and pains that didn't start until the coal  
16 ash at Hoosier Energy got high enough to blow in  
17 the wind everyday.

18 I can watch this from my back door.  
19 Every time they dump a load, there is a big plume  
20 of coal ash that goes up that can be seen for two  
21 miles away.

22 On October 18th, 2010 the Sullivan

1 County Commissioners met at their annual meeting  
2 with five representatives from Hoosier Energy.  
3 These representatives were asked to pay for half  
4 of the tests on adjoining properties and to see  
5 what kind of toxins we actually have. Hoosier  
6 Energy's employees, their lawyer and their  
7 environmentalist, after 15 minutes of discussion,  
8 said, no, they would not participate with the  
9 county commissioners to do this testing.

10 At that point the county commissioners  
11 passed the resolution to ask for Subtitle C to be  
12 adopted. One commissioner did recli -- or did  
13 decline to vote because he is an employee of  
14 Hoosier Energy.

15 My family and I also raise national  
16 champion show sheep and pigs. We are seeing in  
17 the last five years an extremely high rate of  
18 birth defects. In 2008, we had lambs with crooked  
19 backs; we had pigs with no ears. In 2009, we had  
20 a lamb born with five legs. In 2010, we had a  
21 lamb born with nine ears, five on one side, four  
22 on the other. I'm sure as most of you know, this

1 is not normal. It never started until Hoosier  
2 Energy went wild dumping the coal ash.

3 My 13-year-old son asked me a month ago  
4 to get involved. And he said, "Dad, how many of  
5 my baby pig and baby lambs this winter are going  
6 to be deformed?"

7 Please protect us. Help us get through  
8 this. Adopt Subtitle C so that we are safe.

9 Thank you.

10 (Applause)

11 MR. DELLINGER: I've run out of numbers.  
12 Is there anybody in the room that has a number?  
13 Oh. I actually didn't run out. I do have your  
14 number here, 296. Sorry.

15 MR. FLENNER: Thank you. My name is Sam  
16 Flenner.

17 I do grassroots outreach work with  
18 Environmental Integrity Project. I've been  
19 working in southwest Indiana. I have testified in  
20 Chicago. I testified in Louisville. I really  
21 wasn't planning to testify here but I'm just going  
22 to sort of wing it because there's just one thing

1       that I think needs to be made very clear. The  
2       people that came and testified from the Mount  
3       Carmel area, including people from east Mount  
4       Carmel or Princeton area, Duke Energy ran  
5       municipal water out to a number of people because  
6       it was clear that they contaminated their wells.  
7       They had to stop fishing in the pond that they  
8       had, and that's when they started the dry  
9       landfill.

10                There are several other neighbors down  
11       the highway from where they ran water to, their  
12       wells are, we believe, contaminated. We don't  
13       have the means to do the testing at this point in  
14       time. We're trying to raise the means so that we  
15       can make this further than hearsay.

16                This is the reason why we need Subtitle  
17       C. We need somebody other than the Indiana state  
18       regulatory regulators who will not do anything  
19       about this.

20                Duke will not do anything about this.  
21       And, in fact, one person who had a lawsuit and  
22       dropped it against Duke, who owns a bait shop that

1 is in east Mount Carmel, has constantly told us,  
2 as we've asked him to testify, "You can't beat  
3 Duke. Duke's got the politicians bought." And,  
4 you know -- and this is just they way people are.  
5 The apathy is just absolutely terrible.

6 Now we go to Mount Carmel, across the  
7 river, to look for some support. Larry here, his  
8 wife was ill today, she was going to come and  
9 speak. She speaks a little bit better. But he  
10 just handed in 250 petitions from people in Mount  
11 Carmel who asked their city council to pass a  
12 resolution and -- endorsing Subtitle C. And they  
13 didn't. And I've heard rumors as to why they  
14 didn't but it's hearsay, so I really can't testify  
15 to it with any accuracy.

16 But, you know, one person who told us he  
17 was going to come here and then didn't come here,  
18 though, told us the -- that Duke's outreach is  
19 very, very and deep.

20 And so we had somebody here who told us  
21 he was going testify, then for some reason,  
22 because of Duke's influence in the area there,



1       decided not to testify.

2                   So, this is -- this is why I'm  
3       testifying today. I know there's just a little  
4       bit of time left. But without Subtitle C, without  
5       federal enforceability, without the federal  
6       government being able to say, yes, you will go out  
7       and see that these, you know -- that you will do  
8       the testing, that you will document and make --  
9       and -- and make explicit or transparent what's  
10      going on, thi -- it's not going to happen. And  
11      the Indiana's regulatory commission, they're not  
12      going to do anything. If the EPA doesn't do it,  
13      then the number of damage cases will continue to  
14      rise.

15                   There's a huge cancer cluster in Mount  
16      Carmel right now. And, again, we have to get more  
17      documentation. It's there. It's just going to  
18      take some time.

19                   Thank you.

20                               (Applause)

21                   MS. SWINFORD: EPA, I'd like to thank  
22      you for choosing to hold a coal ash hearing here

1 in the State of Tennessee. I'd also like to  
2 remind you that there was a citizen's coal ash  
3 hearing that was held about a month ago. And this  
4 morning Sara McCoin submitted comments from that  
5 hearing. And I would ask that you consider those  
6 comments as closely as you would consider comments  
7 of anyone that was able to attend the hearing  
8 today.

9 My name is Bonnie Swinford. I'm a  
10 volunteer with United Mountain Defense, which is a  
11 non-profit based here in Knoxville, Tennessee.  
12 I'm also a schoolteacher by training.

13 I used to be an environmental educator  
14 at a place called John Knox River Ridge  
15 Environmental Education Center, which is a place  
16 that's located just a few miles downstream from  
17 the TVA disaster site.

18 Later, after this job, I became a  
19 teacher in Knoxville, Tennessee. And each fall I  
20 would travel with my students to go back to River  
21 Ridge, where my students -- you know, would enjoy  
22 this place as a special place to learn about

1 science and nature. And it saddens me that --  
2 that this watershed has been degraded and that my  
3 students will no longer swim in the water or be  
4 able to experience hand (sic) on learning about  
5 lake ecology in the same way as did previously.

6           Directly after the disaster I began  
7 organizing with the Roane County community as a  
8 volunteer with United Mountain Defense. I went  
9 door-to-door and met survivors and became  
10 intimately acquainted with their concerns, their  
11 fears, and the devastation that this catastrophic  
12 event created in their lives.

13           I met terrified families who were  
14 evacuated from their homes in the middle of the  
15 night. I met children who could no longer play  
16 outside and who were suffering from breathing  
17 issues, families who were worried about the dust  
18 settling in their homes and who were suffering  
19 from headaches and stress and other related  
20 illness. I cannot even begin to speak to you  
21 about all of the stress and concerns faced by this  
22 community in the aftermath of the disaster.



1 lot about it. And -- and I want to be able to  
2 know that I can live on the farm that my great,  
3 great, great, great grandparents lived on, and be  
4 able to swim in the water and drink from the well  
5 and grow things. And so that's why I would like  
6 you-all to please regulate coal ash as a hazardous  
7 waste.

8 Thank you.

9 (Applause)

10 MR. DELLINGER: 297.

11 MR. BRYANT: Thank you for coming. My  
12 name is Adam Bryant, and I'm a resident of  
13 Tennessee. And I just came up to say that I  
14 encourage you to adopt Subtitle C.

15 Thank you.

16 (Applause)

17 MR. DELLINGER: 207.

18 MR. CASTLEMAN: Hi. My name is John  
19 Castleman. I'm with -- I'm a process engineer  
20 with the SEFA Group, and I develop technologies to  
21 utilize fly ash for the clean, safe, and  
22 non-hazardous applications.

1           Based on my experience, fly ash in and  
2 of itself is not a hazardous material, and the  
3 disposable of fly ash should not be regulated  
4 under Subtitle C. To do so will significantly  
5 reduce, or possibly even eliminate, the beneficial  
6 use of ash.

7           EPA is proposing to label coal fly ash a  
8 "special waste" under Subtitle C, the hazardous  
9 waste section of the law, because it is, in EPA's  
10 words, "capable of posing a potential hazard to  
11 human health when improperly disposed of or ma --  
12 or managed." The EPA position is that fly ash  
13 could pose a potential hazard if it is mismanaged.  
14 I do not disagree with this assessment. And  
15 further, I agree with EPA that the disposal of fly  
16 ash should be properly regulated in such a way to  
17 prevent mismanagement. However, coal a -- go --  
18 coal fly ash does not need to be listed and  
19 regulated under the hazardous waste section of the  
20 law.

21           Of critical concern is that listing and  
22 regulating fly ash under Subtitle C will reduce

1 the amount of fly ash that can be beneficially  
2 used. If the EPA lists coal fly ash as a "special  
3 waste" under Subtitle C, then it will be  
4 considered a hazardous waste by the general  
5 public. The potential for litigation is enormous.  
6 The failure of any concrete structure will be  
7 blamed on the hazardous waste used in the  
8 construction, even though the failure was not do  
9 to the fly ash in the concrete. Just the threat  
10 of such litigation will pres -- prevent any fly  
11 ash use on an industrial project.

12 Fly ash has been used beneficially in  
13 construction applications for thousands of years.  
14 These applications have demonstrated the safe,  
15 reliable use of fly ash and the lack of any  
16 hazardous issues associated with the applications.  
17 Beneficial use of fly ash results in lower costs  
18 of production, reduced raw materials, reduced  
19 greenhouse gases, increased quality of projects --  
20 products, among many other benefits. If fly ash  
21 is regulated under Subtitle C under any name, this  
22 use and these benefits will be eliminated.

1 Thank you.

2 (Applause)

3 MR. DELLINGER: Thank you.

4 199.

5 MR. CUMMINGS: My name is Matt Cummings.

6 I'm from Knoxville, Tennessee.

7 As student in a religious institution  
8 and a future leader of a religious community, I  
9 heed these words of wisdom and advisement towards  
10 choosing Subtitle C as the legislation for coal  
11 combustion. In Christianity, the least of these  
12 in society are given preferial (sic) treatment and  
13 an elevated status throughout the narrative of  
14 Jesus.

15 Islam teaches that a moment of justice  
16 is better than 70 years of worship.

17 The Dalai Lama states that there's no  
18 basis for human hope if there's no justice.

19 In (sic) the New York Times, on  
20 September 12th, 2009, ran a (sic) article about  
21 how clean water laws were being neglected and were  
22 creating harmful circumstances for residents in



1 these areas.

2 In Pines, Indiana -- and I'm a native  
3 Hoosier -- it's a community living next to a coal  
4 ash landfill, watched as children were being born  
5 with hearing impairments and rare bowel diseases.

6 Locally, as we have all in Tennessee  
7 have seen, the TVA spill has destroyed ecosystems  
8 and caused loss in property values for the peoples  
9 in affected areas.

10 NPR has reported that the clean up  
11 located in predominately poor African-American  
12 community in Alabama, where the landfills are  
13 being located, amounts to environmental racism.

14 So the question from a religious  
15 perspective is: How will the EPA's policy affect  
16 the least of these in society?

17 Recent events from the TVA spill to the  
18 BP incident show that corporate businesses do not  
19 always have the interest of creation or the poor  
20 as part of their policy. And it's left to the  
21 government regulations, such as Si -- Subtitle C  
22 to help establish some form of justice for the

1       voiceless.

2                   I depart these with the words of  
3       Christian theologian, Jacques Ellul, he says, in  
4       the 1960s: We know the implications of pollution,  
5       but we go on calming polluting the air, the rivers  
6       and the oceans. We know the dangers of pesticides  
7       and chemical fertilizers, but we continue to use  
8       them in increasingly massive doses. We know all  
9       this, but we are like the masochist who knows  
10      others have put a little arsenic in each bowl of  
11      soup he eats but who goes on eating it day after  
12      day as -- as though impelled by an irresistible  
13      force. We cannot build a just society by unjust  
14      means.

15                   Thank you.

16                   (Applause)

17                   MR. DELLINGER: Thank you.

18                   Is there anybody else in the room that  
19      has a number? We'll take a short break to -- to  
20      double-check and see if there is another crowd  
21      that is seeking to speak here at the hearing. And  
22      if -- if -- if that's not the case, we'll lengthen

1 the break for a few minutes.

2 We'll -- we'll sta -- we'll do it for  
3 ten minutes and then may ha -- may elongate the --

4 SPEAKER: May I make a quick point? Why  
5 do we have so much light in this room? That's the  
6 problem. In this room, in this hotel, in the  
7 world, we are wasting energy.

8 Thank you.

9 (Applause)

10 MR. DELLINGER: We'll reconvene at --  
11 we'll reconvene at 8:40 and then decide what we're  
12 going to do next.

13 (Recess)

14 MR. DELLINGER: We're going to reconvene  
15 the public hearing.

16 We have two (sic) speakers. Number 298,  
17 Number 214 and Number 216.

18 MS. HENDERSON: Good evening. Good  
19 evening, everybody. Thanks for -- for being here.  
20 I appreciate that.

21 My name is Ash-Lee Woodard Henderson. I  
22 was born and raised in the Tennessee Valley. And

1 I'm a student at east Tennessee State University,  
2 a member of the Initiative for Clean Energy  
3 Mountain Justice and United Mountain Defense.

4 I -- I really wasn't going to speak, but  
5 I feel called to because I have met folks from  
6 Harriman, Tennessee. I've seen the rashes on  
7 their hands from the water. I've heard  
8 15-year-olds talk about not being able to have  
9 kids that aren't going to be affected by heavy  
10 metals because of the coal ash disaster.

11 And, as a person of color, I'm also very  
12 concerned about the health impacts for people  
13 Perry County, who mostly look like me, and are  
14 going to have to deal with having ash sent to  
15 them, which not many of them are asking for, from  
16 my understanding.

17 So I really, really want to compel you  
18 to take all of the really awesome information that  
19 the young activists here have shared with you and  
20 that the amazing scientist who spent a long of  
21 time researching these issues and like the health  
22 impacts that -- that people are having because of

1       this coal ash.

2                   And I'm especially begging you to take  
3       into consideration that people of color  
4       communities and poorer working class communities  
5       are the ones that take the most impacts from our  
6       environmental decisions.  And this upcoming  
7       decision that you're going to have to make is one  
8       that's going to affect us, and to -- to seriously  
9       take into account the fact that we're already  
10      taking the brunt of a lot of the environmental  
11      impacts that are happening in the world.

12                   So we appreciate you for being here and  
13      -- and look forward to you making the right  
14      decision.

15                               (Applause)

16                   MR. DELLINGER:  Thank you.

17                               (Applause)

18                   MR. HOFFMAN:  216.

19                   MR. DELLINGER:  216?

20                   MR. HOFFMAN:  Yeah, 216.

21                   MS. ROSALES:  My name is Maria Rosales.

22                   I'm a senior in Environmental Studies at the

1 University of Tennessee.

2 First, I want to thank you for holding  
3 the hearing here in Knoxville. Only three days  
4 before Christmas in 2008, east Tennessee  
5 experienced the largest and worst coal ash spill  
6 in the history of the United States. Therefore,  
7 it is very important for the people and students  
8 to be part of this hearing.

9 As a resident and -- and a student of  
10 Knoxville, I want to be part of a generation who  
11 refuses to settle for anything less than strong  
12 regulation. I care about future generations and I  
13 believe that toxic coal ash is scary. I recognize  
14 that we'll be facing new transitions and  
15 challenges so it is time to take action.

16 As a minority, I am aware that there is  
17 an environmental injustice when it comes to coal.  
18 The ash that devastated Roane County, Tennessee,  
19 after TVA's Kingston coal ash pond failure is now  
20 being shipped to Perry County, Alabama, a largely  
21 minority group community where arsenic  
22 contamination has risen to levels 80 times the

1 safe drinking water standards.

2 Coal ash contamination  
3 disproportionately impacts the poorest  
4 communities. Almost half of the EPA high hazard  
5 ash ponds in the southeast are low-income areas.

6 Finally, as a Christian I believe in a  
7 holy God who created all the heavens and the earth  
8 to be perfect and good, yet we have exploited them  
9 through our greed, selfishness, and pride. We are  
10 called to be good stewards in the environment  
11 because He has entrusted us with the earth and we  
12 are to glorify Him by caring for his creation.

13 Although the EPA's strongest legislation  
14 Subtitle C is a good start, it is not enough.  
15 Subtitle C does not require rapid closure of  
16 dangerous ash ponds, it does not require immediate  
17 cleanup, despite the threat to health and the  
18 environment from toxic waste, and it does not  
19 require polluters to ensure healthy air and water.  
20 That is why I support a stronger Subtitle C Plus  
21 in which the N -- EPA should immediately shutdown  
22 all ca -- coal ash ponds and unlined landfills,

1 investigate all coal ash dump sites, and clean up  
2 all contaminated sites.

3 In addition, the EPA needs to determine  
4 the nature and extent of exposure to human -- of  
5 human and to the toxic material in coal ash,  
6 including instituting medical monitoring, when co  
7 -- contamination is discovered.

8 Moreover, all shipments of coal ash  
9 should also comply with hazardous material  
10 transportation requirements and it should require  
11 all fly ash, bottom ash, slag, and FGD sludge to  
12 be tested under the EPA's new leach test, LEAF, to  
13 determine toxicity.

14 Finally, we should immediately cease use  
15 of coal ash as fill and install composite liners  
16 for all -- for all expanded and new landfills.

17 Thank you for your time.

18 (Applause)

19 MS. WHITE: Good evening. My name is --  
20 you have me listed as Patricia White, but I prefer  
21 to be called Naeema, so I'm going to introduce  
22 myself as Naeema Muhammad. I'm with the North



1 Carolina Environmental Justice Network. I live in  
2 Rocky Mountain, North Carolina.

3           And I am here to night because in 1999,  
4 when Hurricane Floyd tore up eastern North  
5 Carolina, there was a group of citizens out of a  
6 little town called Princeville, North Carolina,  
7 who was underwater for seven days. As a result of  
8 the Hurricane Floyd many, many people in eastern  
9 North Carolina had to be placed in temporary  
10 housing sites. And as a result of that, in  
11 October of 1999, FEMA, the Federal Emer --  
12 Emergency Management Agency, along with some state  
13 agencies out of North Carolina and the local  
14 government of Edgecombe County, North Carolina, ta  
15 -- took the citizens from Princeville, brought  
16 them over to Rocky Mount and put them in indust --  
17 and set up their housing at an industrial landfill  
18 site that had been receiving coal ash right up  
19 until the day of the flood.

20           And the problem with that, they did not  
21 inform people that this had been a coal ash site,  
22 which was a basic denial of peoples right to know,

1 as well as, you know, a denial of peoples human  
2 rights to clean air and clean water.

3           And when the citizens found out about  
4 this site, one of the things that happened was --  
5 I'm a -- I'm a community organizer, first of all.  
6 As a community organizer, I was working with the  
7 Hurricane Floyd survivors and trying to get them  
8 through the recovery process, which was very  
9 discriminating at the time. And so people were  
10 sent to Rocky Mount, placed on this coal ash  
11 landfill without being informed that this had been  
12 a coal ash landfill.

13           When they brought the trailers to the to  
14 site, they had to tear up the ground and stuff.  
15 So that means they were uncovering the ash that  
16 had been being placed there for many, many years.  
17 And the industry that was dumping there was right  
18 across the street from this site that was -- that  
19 citizen (sic) were placed on. So they put them  
20 there, they didn't tell them. And when the  
21 citizens we -- some of the workers -- there is a  
22 prison right back there as well. And some of the

1 workers from the prison came over to the site and  
2 told us -- you know, reminded us that that had  
3 been a landfill site and they had seen numerous  
4 trucks constantly coming in and out of that site  
5 dumping -- dumping stuff. And so they were  
6 concerned about what exactly was there.

7 So as we began to investigate, that's  
8 when we found out about the coal ash. And we went  
9 to our local government of Edgecombe County and  
10 they would not talk to us. We talked to FEMA,  
11 they would not talk to us. The state would not  
12 talk to us.

13 So the citizens --

14 MR. HOFFMAN: Your time is up.

15 MS. WHITE: It's up already?

16 SPEAKER: M-hm.

17 MS. WHITE: No. That's not fair. Okay.  
18 Well, anyway, to make a long story short, they did  
19 nothing about it. And the citizens were never  
20 informed and they -- to this date, we still don't  
21 know what kind of impact that coal ash had on the  
22 citizens of Princeville.



1 name on it so -- that?

2 MS. WHITE: Yes, I do.

3 MR. DELLINGER: Thank you very much.

4 So we'll -- we'll reconvene at 9:15.

5 (Recess)

6 MR. DELLINGER: We're reconvening and --  
7 long enough for me to ask if there are anymore  
8 people who ha -- are in the room that have  
9 numbers.

10 So we are now going to un-reconvene and  
11 -- for -- for -- we'll recon -- re -- we'll  
12 reconvene at 9:30.

13 (Recess)

14 MR. DELLINGER: Is there anybody in the  
15 room that has a number and hasn't spoken? We're  
16 going to -- we're going to stay around for another  
17 10 or 15 minutes in case somebody comes in. But  
18 it's not going to be a full panel. We're going to  
19 let -- we're going to let people go so they can  
20 get some dinner right now before the restaurants  
21 close. But we'll wait here until 9:45. And --  
22 that's when people are supposed to have been here

1 for the -- for the last group of -- of speakers.

2 (Recess)

3 MR. DELLINGER: We're reconvening. We  
4 have a -- a new speaker. A -- and so I'm calling  
5 Number 213.

6 What you -- what you would do is state  
7 your name and your affiliation. And we'll -- you  
8 have three minutes to speak. And we'll -- we'll  
9 kind of coach you along with that, you'll have --  
10 you'll have a warning -- well, you'll -- at --  
11 you'll have a two -- one -- one card will at -- at  
12 two minutes, one at one minute, another one at 30  
13 seconds and then the red one means you summarize  
14 real, real quick, if you haven't finished.

15 MR. NEY: Ready?

16 MR. DELLINGER: Sure.

17 MR. NEY: Ready?

18 MR. ZUGER: Good evening. Yes, I am  
19 ready. Thank you.

20 My name is Ed Zuger. I am a  
21 Kentucky-licensed environmental attorney and a  
22 volunteer member of the Sierra Club, Cumberland

1 Chapter's Energy Committee. And I am here today  
2 and submitting my comment in order to express my  
3 overarching comment that is in support of the US  
4 EPA's proposal to regular CCR under Subtitle C.

5 CCR should no longer be considered  
6 exempt waste because the exemption promotes  
7 illegal industry practices, it ignores the ethical  
8 duties of the US EPA and SIP-state regulators, and  
9 demonstrates a blind-eyed model of regulation.

10 Ongoing business concerns must make  
11 decisions that satisfy portfolio managers and, you  
12 know, foreign investors, and employees. And most  
13 firms also consider locally impacted economies,  
14 social and health issues, and even environmental  
15 results of their activities.

16 However, without the legal obligations  
17 that Subtitle C would impose, where do these  
18 competing indus -- interests fall along the  
19 continuum? Kingston maybe illustrates the answer  
20 to that.

21 Right now the decades-old ponds and  
22 landfills regularly leach CCR, and even without a

1       glaring example of Kingston, show how pervasive  
2       the problem has become. Of course -- because  
3       only, for example, US EPA presents the resources  
4       and the knowledge and impartiality to force the  
5       industry to stop causing the destruction of  
6       precious assets through CCR mismanagement. We  
7       need to rely on you USPE -- EPA and -- and Subchap  
8       -- Subtitle C to control the waste.

9               The industry, of course, is not so  
10       beholden to our rights. That's a good thing. But  
11       things need to be regulated in order to  
12       reintroduce the protection we need.

13               Regulating CCR as an exempt waste flies  
14       in the face of both language and logic. Exempt,  
15       as a status, implies that, at least conceptually,  
16       everybody knows that the subject of the exemption  
17       would not have become exempt but for some forces,  
18       outside forces. CCR is not harmless, and we know  
19       that in spades. Rather, CCR is hazardous. And a  
20       lesson equally understood by living near a coal  
21       processing facility or observing water quality in  
22       the region.



1           So just in closing, I want to point out  
2           that, despite the US EPA's administrative status  
3           as opposed to the dem -- democratic process of  
4           legislative elections, the EPA must see how  
5           heavily weighted the public has been toward  
6           Subtitle C throughout these hearings from all over  
7           the region. Families, scientists, experts,  
8           educators, lawyers, doctors, we've all expressed  
9           our favor of Subtitle C.

10           I urge you to make the legal, ethical  
11           and logical choice of regulating CCR under  
12           Subtitle C of RCRA.

13           Thank you very much.

14           MR. DELLINGER: Thank you.

15           (Applause)

16           MR. DELLINGER: Hang on. We have to  
17           ask. We have to ask.

18           Is there anywell -- anyone else in the  
19           room who ha -- who has a number and wants to  
20           speak? Going once. Going twice. Going three  
21           times.

22           SPEAKER: Sold.

1 MR. DELLINGER: Steve, you're the --

2 MR. HOFFMAN: I am Stephen D. Hoffman,

3 US EPA. I'm officially closing this hearing.

4 (Whereupon, at 9:45 p.m., the

5 PROCEEDINGS were adjourned.)

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CERTIFICATE OF NOTARY PUBLIC

STATE OF KENTUCKY

I, ROSE MARY KITHCART, notary public in  
and for the State of Kentucky, do hereby certify  
that the forgoing PROCEEDING was duly recorded and  
thereafter reduced to print under my direction;  
that the witnesses were sworn to tell the truth  
under penalty of perjury; that said transcript is a  
true record of the testimony given by witnesses;  
that I am neither counsel for, related to, nor  
employed by any of the parties to the action in  
which this proceeding was called; and, furthermore,  
that I am not a relative or employee of any  
attorney or counsel employed by the parties hereto,  
nor financially or otherwise interested in the  
outcome of this action.

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Notary Public ID: 402347

My Commission Expires: August 27, 2013