EARTHJUSTICE
Because the earth needs a good lawyer

BOZEMAN, MONTANA DENVER, COLORADO HONOLULU, HAWAII
INTERNATIONAL JUNEAU, ALASKA OAKLAND, CALIFORNIA
SEATTLE, WASHINGTON TALLAHASSEE, FLORIDA WASHINGTON, D.C.

Coal Ash: A National Problem Needs a National Solution

After decades of delay, EPA should finally issue regulations to safeguard the public from coal combustion waste.

Coal ash is an abundant and dangerous by-product of burning coal for energy. Despite its hazardous characteristics, coal ash and other coal combustion wastes are not subject to federal regulation, and state laws governing coal combustion waste disposal are usually weak or non-existent. Across the country, millions of tons of coal ash are being stored in precarious surface impoundments and abandoned mines, putting human health at risk from potential large scale disasters and gradual yet equally dangerous contamination as toxins in coal ash seep into drinking water sources. The Environmental Protection Agency (EPA) has long recognized the danger of coal ash and now should act quickly to fulfill its duty to protect public health and the environment by promulgating strong federal regulations on coal ash.

Tennessee Coal Ash Spill: "Largest environmental disaster of its kind in the United States."

On December 22, 2008, a dike impounding decades worth of coal ash failed and the surrounding residential area was flooded with 5.4 million cubic yards of toxic coal ash, or enough to flood more than 3,000 acres one foot deep.[i] Testing of surrounding water bodies showed extremely dangerous levels of arsenic, mercury, and other toxins. One sample showed arsenic at 149 times higher than what is considered safe.[ii] This is not an isolated incident. In August 2005, a dam confining a surface impoundment in Pennsylvania failed, discharging tons of coal-ash contaminated water into the Delaware River. A similar blow-out occurred at an impoundment at Plant Bowen in Georgia in 2002.

Aerial photo of the December 22 coal ash spill in Tennessee

A Slow-Motion Disaster: Over 600 Coal Ash Sites Nationwide But No Federal Regulations

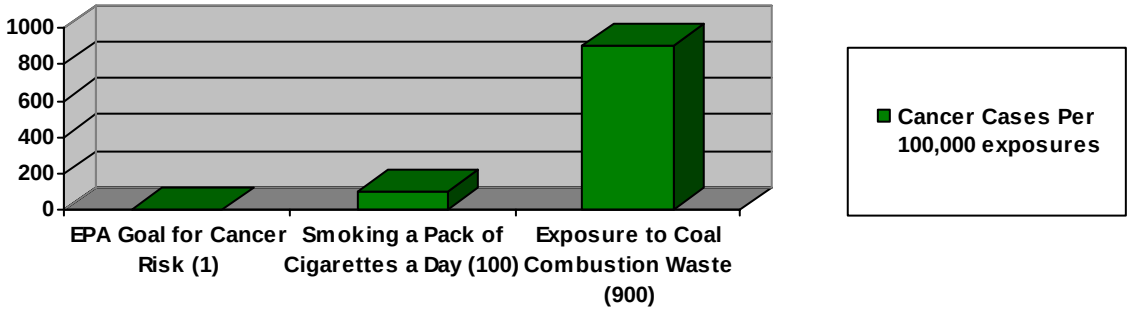
While dramatic events like the coal ash spills in Pennsylvania, Tennessee, and Georgia garner national media attention, dangerous contaminants are quietly seeping from coal ash dumps into groundwater supplies across the country, exposing people and wildlife to toxic and cancer-causing substances. There is no federal regulation of coal ash, and the vast majority of states do not require adequate monitoring or liners to stop the migration of coal ash pollution.

Coal-fired power plants produce approximately 131 million tons of waste per year, making CCW the second largest industrial waste stream in the U.S. Coal ash contains numerous hazardous chemicals including arsenic, selenium, lead, mercury, cadmium, chromium, boron, thallium, and aluminum.[iii] When coal ash comes into contact with water, hazardous constituents leach out of the waste and contaminate groundwater and surface water.[iv] These substances are poisonous and can cause cancer and damage the nervous system or other organs, especially in children. EPA has identified over 600 coal ash sites and documented at least 67 proven or potential cases of surface water or groundwater contamination from coal ash in at least 23 states.[v]

1625 MASSACHUSETTS AVENUE, SUITE 702 WASHINGTON, DC 20036-2212
T: 202.667.4500 F: 202.667.2356 E: eajusdc@earthjustice.org W: www.earthjustice.org

More Dangerous Than Smoking a Pack of Cigarettes a Day

In August 2007, EPA published a draft risk assessment that found extremely high risks to human health and the environment from the disposal of coal ash in waste ponds and landfills.[vi] The chart below compares EPA's findings on the cancer risk from arsenic in coal ash disposed in waste ponds to several other cancer risks, along with the highest level of cancer risk that EPA finds acceptable under current regulatory goals.[vii] While the risk estimates shown below are extremely high, EPA officials admitted that they underestimated risk by at least 50% in some cases by choosing not to use their own risk value in some cases, and instead using a risk value from a source that ranks lower on EPA's hierarchy of sources of risk value.[viii]



Years of Delay

In 1980, Congress ordered EPA to study coal combustion waste and to make a regulatory determination no later than 1983.[ix] On April 24, 2000, EPA finally completed that regulatory determination and found that "coal combustion wastes could pose risks to human health and the environment if not properly managed" and "national regulations under subtitle D of RCRA are warranted for coal combustion wastes when they are disposed in landfills or surface impoundments."[x] Despite that finding and subsequent studies revealing high levels of toxins and carcinogens in coal ash, EPA has failed to promulgate any rules.

Call on EPA to Establish Federal Regulations for Coal Ash

EPA has the authority to put in place commonsense regulations that protect human health and the environment governing the disposal of coal ash, and have already declared that such regulations are necessary. Please join us in asking President Obama to order EPA to establish regulations that will protect us all from coal ash pollution.

For more information:

Lisa Evans, Attorney, 781-631-4119, levans@earthjustice.org
Ben Dunham, Associate Legislative Counsel, 202.667.4500, bdunham@earthjustice.org

---

[i] US EPA, Potable Water Sampling Results Kingston Fossil Fly Ash Response, January 4, 2009.
[ii] US EPA, TVA Kingston Fly Ash Release, Lab Analytical Results for Surface Water Samples, January 1, 2009.
[iii] US EPA, Human and Ecological Risk Assessment of Coal Combustion Wastes, August 6 2007 (draft).
[iv] *Id.*
[v] US EPA, Coal Combustion Waste Damage Case Assessments, July 9, 2007.
[vi] *Id.*
[vii] Human and Ecological Risk Assessment of Coal Combustion Wastes, August 6. 2007 (draft). Date for cigarettes comes from Center for Disease Control, Cigarette Smoking-Attributable Morbidity-U.S. 2000, MMWR Weekly, September 5, 2003 / 52(35);842-844
[viii] EPA Acknowledges Underestimates of Coal Ash Waste Disposal Risks, Inside EPA, Dec. 7, 2007, Vol. 28, No. 49.
[ix] Solid Waste Disposal Act, Section 8002(n), 42 U.S.C. 6982.
[x] US EPA, Reg. Determination on Wastes from the Combustion of Fossil Fuels, Final Rule 65 Fed. Reg. 32214, May 22, 2000.