

February 25, 2008



P. O. Box 92
Gambrills, Maryland 21054-0092

Mr. Stephen Pattison
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Dear Mr. Pattison:

As the Environmental Liaison for the Four Seasons Community Association, I wish to express the concerns of our community with regards to the effects of fly ash on our health and environment. We strongly urge the Maryland Department of the Environment (MDE) to pass regulations, in the spirit of those proposed, for the use of Coal Combustion Byproducts (CCB) in surface mine reclamation. While our community is pleased that progress is finally being made in attempting to secure the future of our health and natural resources, we have the following concerns regarding the regulations in their current form:

1. The proposed regulations do not require facilities authorized to dispose CCBs before April 1, 2008 to implement the new controls specified in the regulations when such facilities seek to expand their operations. Rather, MDE simply reserves the right to impose additional controls or requirements when notified in writing of the expansion of such operations. The fact that a CCB disposal facility already exists in an area should not deny those citizens the protections that will be enforced throughout the rest of Maryland. Therefore, we strongly urge for the requirement of expanded facilities to meet the new regulations.
2. The proposed regulations do not establish any public hearings or review process. The approval, operation, and monitoring of a CCB disposal facility has a significant impact on the quality of life of the surrounding community. In the case of the Turner and Waugh Chapel pits, nearby homeowners cannot drink their water. To shut the public out of deliberations that can have such an impact on their life is unacceptable. Hence, we strongly urge for the inclusion of public hearings and reviews of any modifications to CCB disposal facility operations.
3. The proposed regulations do not include detailed methodology or criteria by which to judge the impact of CCB disposal operations on air quality. Both water and air quality concerns are discussed in the proposed regulations, yet only water quality test schedules and criteria are defined. Moreover, currently air quality at these sites is currently determined purely by visual inspection. We strongly urge for the inclusion of a detailed

air monitoring plan parallel to those put forth for the monitoring of water quality. New regulations should, at a minimum, require the collection of air samples on a prescribed basis. In the event the regulations do not include quantitative air quality standards, the data from air samples will at least be available for analysis.

4. The proposed regulations include a post-closure monitoring plan that spans five years. Contamination of the water supply can occur due to many events that evolve with time, such as liner material failures due to movement of stress load associated with fill settling or the introduction of standing water due to shifting topology. The five-year period is especially inappropriate if these facilities are to be developed after closure. Construction activities that occur after closure will likely result in tears in a facility's cap and exposure of flyash to the elements. At the very least, development will assuredly cause the fill, and any liner, to experience stresses different from those at closure. Consequently, we strongly urge for the expansion of the post-closure monitoring period to 30 years.
5. The proposed regulations direct CCB disposal facilities to maintain a 200-foot setback from surrounding communities. This distance is insufficient, especially in light of current concerns expressed regarding air-borne fly ash. We strongly urge for the setback distance to be increased from 200 feet to 1,000 feet.
6. The proposed regulations do not mandate the use of state-certified laboratories for sample analysis. To avoid any actual or apparent lack of impartiality on the part of testing facilities, we urge the State to require all testing be performed at state-certified laboratories.

We appreciate the opportunity to comment on the new coal combustion byproduct regulations. We also hope that these concerns, along with those expressed by all other citizens, are taken under serious consideration.

Sincerely,

Russell DeHart
Environmental Liaison
Four Seasons Community Association