

CITIZEN PETITION BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

HOOSIER ENVIRONMENTAL COUNCIL, INC.)

1915 W. 18th Street, Suite A)

Indianapolis, IN 46202)

CITIZENS COAL COUNCIL, INC.)

1705 Pearl Street)

Denver, CO 80210)

PUBLIC CITIZEN)

1002 West Avenue)

Austin, TX 78701)

SIERRA CLUB)

408 C. St., N.E.)

Washington, D.C. 20002)

CLEAN WATER ACTION)

4455 Connecticut Ave)

Washington, D.C. 20008)

et al.,
Petitioners,

Filed With:

MICHAEL LEAVITT,)

In his official capacity as)

Administrator)

U.S. Environmental Protection Agency)

Ariel Rios Building)

1200 Pennsylvania Avenue, NW)

Washington, D.C. 20460)

PETITION FOR A RULEMAKING PROHIBITING THE DISPOSAL OF COAL POWER
PLANT WASTES IN GROUNDWATER AND SURFACE WATER

I. REQUESTED ACTION

Pursuant to 42 U.S.C. Section 6974 (a) of the Resource Conservation and Recovery Act ("RCRA") and the regulations promulgated there under, the undersigned submit this petition for rulemaking requesting that the Administrator immediately act to protect health and the environment by prohibiting the placement or disposal of power plant waste from the combustion of coal into groundwater and surface water, including manmade waterbodies, until such time as EPA promulgates federally enforceable regulations pursuant to RCRA. The U.S. Environmental Protection Agency ("EPA") committed to adopting a solid waste regulatory program to address the placement and disposal of coal combustion wastes in its most recent Regulatory Determination issued in May 2000, based upon certain findings and recommendations published in its March 1999 Report to Congress and, until such time as these rules are proposed and adopted, the Petitioners contend that the continuing risks posed by the improper management, re-use and disposal of these industrial solid wastes warrant an immediate regulatory prohibition.

II. PETITIONERS

Petitioner *Cook Inlet Waterkeeper* is located at P.O. Box 3269, 3734 Ben Walters Lane, Homer, AK 99603. Cook Inlet Waterkeeper is a private nonprofit organization dedicated to protecting the vast Cook Inlet watershed and the life it sustains.

Petitioner *Alabama Environmental Council* is located at 2717 7th Avenue South, Suite 207, Birmingham, AL 35233. The Alabama Environmental Council (AEC) is a grassroots advocacy organization dedicated to the preservation and protection of Alabama's natural environment and health.

Petitioner *Friends of Hurricane Creek* is located at 5600 Holt-Peterson Road, Tuscaloosa, AL 35404.

Petitioner *Center for Biological Diversity* is located at P.O. Box 710, Tucson, AZ 85702-0710. Combining conservation biology with litigation, policy advocacy, and an innovative strategic vision, the Center for Biological Diversity is working to secure a future for animals and plants hovering on the brink of extinction, for the wilderness they need.

Petitioner *Grand Canyon Trust* is located at 2601 N. Fort Valley Road, Flagstaff, AZ 86001. The mission of Grand Canyon Trust is to protect and restore the Colorado Plateau--its spectacular landscapes, flowing rivers, clean air, diversity of plants and animals, and areas of beauty and solitude.

Petitioner *Sierra Club* is located at 85 Second Street, San Francisco, CA 94105. Sierra Club is a nonprofit environmental advocacy organization seeking to protect and restore the quality of the natural and human environment.

Petitioner *Citizens Coal Council* is located at 1705 South Pearl Street, #5, Denver, CO 80210. Citizens Coal Council is a federation of coalfield citizens groups working for justice, law and order in the coalfields.

Petitioner *Environment Colorado* is located at 1530 Blake Street, Suite 220, Denver, CO 80202. Environment Colorado focuses exclusively on protecting Colorado's air, water and open spaces. We speak out and take action at the local, state and national levels to improve the quality of our environment and our lives.

Petitioner *Oil & Gas Accountability Project* is located at P.O. Box 1102, 863 1/2 Main Avenue, Durango, CO 81302. The Oil & Gas Accountability Project works with communities throughout the Rocky Mountain West and across the country to reduce the social, economic and environmental problems caused by oil and gas development.

Petitioner *San Juan Citizens Alliance* is located at Box 2461, Durango, CO 81302. The San Juan Citizens Alliance organizes for the land and people of the San Juan Basin.

Petitioner *Western Colorado Congress* is located at 7 North Cascade, Montrose, CO 81401. Their mission is to empower citizens to act effectively to protect their natural surroundings and human communities.

Petitioner *Western Slope Environmental Resource Council* is located at P.O. Box 1612, Paonia, CO 81428. Western Slope Environmental Resource Council is a grassroots, nonprofit citizens' group dedicated to protecting and enhancing the natural environment and quality of life in Delta County and on Colorado's Western Slope.

Petitioner *Clean Water Action of Connecticut* is located at 118 Oak Street, Hartford, CT.06106, Clean Water Action of Connecticut works for clean, safe and affordable water, prevention of

health-threatening pollution, creation of environmentally-safe jobs and businesses, and empowerment of people to make democracy work.

Petitioner *Clean Water Action* is located at 4455 Connecticut Avenue NW, Suite A300, Washington, DC 20008. Clean Water Action is a national citizens organization working for clean, safe and affordable water, prevention of health-threatening pollution, creation of environmentally-safe jobs and businesses, and empowerment of people to make democracy work.

Petitioner *Friends of the Earth* is located at 1717 Massachusetts Avenue NW, Washington, DC 20036. Friends of the Earth defends the environment and champions a healthy and just world.

Petitioner *U.S. Public Interest Research Group* is located at 218 D Street SE, Washington, DC 20003. US PIRG acts as a watchdog for the public interest in our nation's capital.

Petitioner *Florida Public Interest Research Group (PIRG)* is located at 704 West Madison Street, Tallahassee, FL 32304. Florida PIRG acts as a watchdog for the public interest in Florida.

Petitioner *Save our Bay, Air, and Canals* is located at P.O. Box 3668, Apollo Beach, FL 33572. Save our Bay, Air and Canals' primary objective is to preserve and protect the environmental quality of the waterways, air, and ensure safe drinking water for Tampa Bay and the surrounding area.

Petitioner *Altamaha Riverkeeper* is located at P.O. Box 2642, Darien, GA 31305. Altamaha Riverkeeper works to protect and restore the water quality and flow of the mighty Altamaha River, from its headwaters the Ocmulgee, the Oconee, and the Ohoopee to its terminus at the Atlantic Ocean.

Petitioner *Canoochee Riverkeeper* is located at P.O. Box 263, Swainsboro, GA 30401. The mission of Canoochee Riverkeeper is to protect, preserve, and restore the Canoochee River.

Petitioner *Coosa River Basin Initiative* is located at 408 Broad Street, Rome, GA 30161. The Coosa River Basin Initiative, a grassroots citizens' organization based in Rome, Georgia, works to inform and empower citizens so that they may become involved in the process of creating a cleaner, healthier, economically viable watershed.

Petitioner *Georgia Center for Law in the Public Interest* is located at 175 Trinity Avenue, SW, Atlanta, GA 30303. The Georgia Center for Law in the Public Interest is a nonprofit public interest law center dedicated to empowering Georgia's citizens by promoting the development and effective implementation of public policy and laws to protect our natural resources.

Petitioner *Savannah Riverkeeper* is located at 816 Mary Avenue, Augusta, GA 30904. The mission of Savannah Riverkeeper is to protect the water quality of the Savannah River and the integrity of its watershed, and to promote an enlightened stewardship of this unique heritage.

Petitioner *Upper Chattahoochee Riverkeeper* is located at 3 Puritan Mill, 916 Joseph Lowery Boulevard, Atlanta, GA 30318. The Upper Chattahoochee Riverkeeper's mission is to advocate and secure the protection of the Chattahoochee River, its tributaries and watershed.

Petitioner *American Bottomlands Conservancy* is located at 527 Washington Place, East St Louis, IL 62205. American Bottom Conservancy is an Illinois not-for-profit organization working to protect the resources, people and communities of Southwestern Illinois.

Petitioner *Citizens Organizing Project* is located at 1455 Knox Station Road, Knoxville, IL 61448.

Petitioner *Environmental Law and Policy Center of the Midwest* is located at 35 East Wacker Drive #1300, Chicago, IL 60601. Environmental Law and Policy Center of the Midwest is a public interest environmental advocacy organization working to achieve cleaner energy resources and implement sustainable energy strategies, promote innovative and efficient transportation and land use approaches that produce cleaner air and more jobs, and develop sound environmental management practices that conserve natural resources and improve the quality of life in our communities.

Petitioner *Illinois Environmental Council* is located at 107 West Cook Street, Suite E. Springfield, IL 62704. The Illinois Environmental Council (IEC) promotes sound environmental laws and policies, provides a forum for environmentalists and facilitates a statewide activist network. IEC performs legislative advocacy and serves as the environmental community's eyes, ears and voice in Springfield.

Petitioner *Prairie Rivers Network* is located at 809 South Fifth Street, Champaign, IL 61820. Prairie Rivers Network is a non-profit conservation organization that strives to protect the rivers and streams of Illinois and to promote the lasting health and beauty of watershed communities by providing information, sound science, and hands-on assistance.

Petitioner *Citizens Action Coalition* is located at First Floor, 5420 North College Avenue, Indianapolis, IN 46220. CAC is working to empower citizens and for economic and environmental social justice.

Petitioner *Grand Cal Task Force* is located at 2400 New York Avenue, Whiting, IN 46394. The Grand Cal Task Force is a community environmental organization working cooperatively to improve the land, air, and water quality of the Grand Calumet River and the urban ecosystem that surrounds it and to achieve environmental justice for the people of Northwest Indiana.

Petitioner *Heartwood* is located at P.O. Box 1424, Bloomington, IN 47402. An association of groups, individuals, and businesses dedicated to the health and well being of the native forest of the Central Hardwood region, and its interdependent plant, animal, and human communities.

Petitioner *Hoosier Environmental Council* is located at 1915 W. 18th Street, Suite A, Indianapolis, IN 46202. Through education, advocacy, and citizen empowerment in Indiana, the Hoosier Environmental Council works to restore and protect the natural systems upon which life depends.

Petitioner *Improving Kids Environment (KSE)* is located at 5244 Carrollton Avenue, Indianapolis, IN 46220-3181. The mission of KSE is to educate, inspire, and empower children to protect the earth's environment. KSE Worldwide provides action-oriented educational materials to kids, families, groups, classrooms and schools.

Petitioner *People in Need of Environmental Safety* is located at 1621 Colorado Avenue, Michigan City, IN 46360. People In Need of Environmental Safety is dedicated to educating Pine Township and surrounding area residents about surface and groundwater contamination caused by coal ash waste.

Petitioner *Protect Our Rivers Now* is located at 4454 Washington Boulevard, Indianapolis, IN 46205. Protect Our Rivers Now is a citizens' group formed in January 1995 to advocate the preservation of Indiana stream corridors.

Petitioner *Protect Our Woods* is located at P.O. Box 352, Paoli, IN 47454. Protect Our Woods is a local grassroots organization dedicated to the preservation of state and national forests as well as to clean air and water and a high quality of life in rural Southern Indiana.

Petitioner *Sassafras Audubon Society* is located at P.O. Box 85, Bloomington, IN 47402-0085. Their mission is to advocate public understanding of the value and need for conservation of wildlife, its habitat, our natural resources, and of the relation of intelligent treatment and wise use of these resources to human progress.

Petitioner *Save our Land and Environment* is located at P.O. Box 163, Mount Vernon, IN 47620. Save our Land and Environment's mission is to organize support or opposition of issues, and to promote projects and ideas that protect and improve the health of our planet.

Petitioner *Save the Valley* is located at P.O. Box 813, Madison, IN 47250. Save the Valley's purpose is to hold the line and prevent further pollution of our air, water, and land in the Valley of the Ohio River between Lawrenceburg, Indiana and Louisville, Kentucky.

Petitioner *Valley Watch* is located at 800 Adams Avenue, Evansville, IN 47713-2213. Valley Watch is an Indiana not-for-profit corporation established in 1981 to protect the public health and environment of the lower Ohio River Valley.

Petitioner *Save our Rivers* is located at 6222 S. Yankeetown Road, Boonville, IN 47601-8279. Save Our Rivers' mission is to preserve and protect Indiana's water.

Petitioner *Save the Dunes Council* is located at 444 Barker Road, Michigan City, IN 46360. Its objectives are to maintain and restore the integrity and quality of the natural environment of the Indiana Dunes region

Petitioner *The League of Women Voters of Indiana* is located at 10 West Market Street, Suite 1720 Indianapolis, IN 46204. The League of Women Voters of Indiana is a nonpartisan political organization that works in the public interest. Through education and advocacy, the League promotes informed citizen participation in government and influences public policy.

Petitioner *Indiana Chapter, Republicans for Environmental Protection America* is located at 2429 Walnut Drive, Highland, IN 46322. Republicans for Environmental Protection America is a 501(c)(4) nonprofit organization established in 1995 to resurrect the GOP's great conservation tradition and to restore natural resource conservation and sound environmental protection as fundamental elements of the Republican Party's vision.

Petitioner *Kentuckians for the Commonwealth (KFTC)* is located at P.O. Box 1450, London, KY 40743. KFTC believes in the power of citizens, working together, to challenge injustices, right wrongs and improve the quality of life for all Kentuckians.

Petitioner *Kentucky Resources Council* is located at P.O. Box 1070, Frankfort, KY 40602. The Kentucky Resources Council, Inc. (KRC) is a membership organization incorporated under the laws of the Commonwealth of Kentucky and dedicated to prudent use and conservation of the natural resources of the Commonwealth.

Petitioner *U.S. Public Interest Research Group- Gulf Field Office* is located at 7808 Maple Street, New Orleans, LA 70118. The Gulf Field Office acts as a watchdog for the public interest in the Gulf of Mexico.

Petitioner *Campaign to Cleanup Brayton Point* is located at 153 Davis Road, Westport, MA 02790. Campaign to Cleanup Brayton Point is a grassroots organization of people from eleven Massachusetts and Rhode Island communities surrounding the plant, which is located in Somerset, MA. Its goal is to encourage the Massachusetts Department of Environmental Protection to promulgate and enforce more stringent air emission standards for the Brayton Point Station, which is the most polluting power plant in New England.

Petitioner *Clean Water Action of Massachusetts* is located at 36 Bromfield Street, Suite 204, Boston, MA 02108. Clean Water Action of Massachusetts works for clean, safe and affordable water, prevention of health-threatening pollution, creation of environmentally-safe jobs and businesses, and empowerment of people to make democracy work.

Petitioner *Concerned Citizens of Freetown* is located at P.O. Box 482, Freetown, MA 02717. Concerned Citizens of Freetown is a nonprofit organization seeking a better environment for the people of Freetown, MA and one in which the needs of all the people are addressed.

Petitioner *Conservation Law Foundation* is located at 62 Summer Street, Boston, MA 02110-1016. The Conservation Law Foundation works to solve the environmental problems that threaten the people, natural resources, and communities of New England. Conservation Law Foundation's advocates use law, economics, and science to design and implement strategies that conserve natural resources, protect public health, and promote vital communities in our region.

Petitioner *Environmental League of Massachusetts* is located at 14 Beacon Street, Suite 714, Boston, MA 02108. ELM is dedicated to protecting the air, water and land for the people of the Commonwealth.

Petitioner *Haverhill Environmental League* is located at P.O. Box 1072, Haverhill, MA 01831. The Haverhill Environmental League is a grassroots citizens' group concerned with all aspects of the environment including air quality, water quality, and the conservation of natural resources.

Petitioner *Healthlink* is located at 4 Sewall Street, Marblehead, MA 01945. HealthLink's mission is to protect and improve public health by reducing and eliminating pollutants and toxic substances from our environment, through research, education and community action.

Petitioner *Salem Alliance for the Environment* is located at P.O. Box 8713, Salem, MA 01970. Salem Alliance for the Environment is dedicated to addressing environmental issues through education, advocacy, and community organizing. Our goal is to assure that Salem is a healthy and prosperous place in which to live.

Petitioner *The League of Women Voters of Beverly* is located at 14 Peabody Avenue, Beverly, MA 01915. The League promotes an environment beneficial to life through the protection and wise management of natural resources in the public interest by recognizing the interrelationships of air quality, energy, land use, waste management and water resources.

Petitioner *Toxics Action Center* is located at 29 Temple Place, Boston, MA 02111. Through group consultations, expert referrals, conferences, and information guides, Toxics Action Center helps citizens wage effective campaigns to force stubborn polluters and unresponsive bureaucracies to protect the health and safety of communities.

Petitioner *Wenham Lake Watershed Association* is located at 6 Quincy Park, Beverly, MA 01915. The goal of the Wenham Lake Watershed Association is to insure the integrity of the drinking water for Beverly, Salem and Wenham by promoting the thorough investigation, impartial evaluation and effective removal of threats to Wenham Lake.

Petitioner *Clean Air Task Force* is located at 77 Summer Street, 8th floor, Boston, MA 02110. Clean Air Task Force is a nonprofit organization dedicated to restoring clean air and healthy environments through scientific research, public education and legal advocacy.

Petitioner *Hands Across the River* is located at 222 Union Street, New Bedford, MA 02740. Hands Across the River strives to protect the environment. Hands Across the River is for those people who think mankind is part of nature, that men and woman are part of the ecosystem, not

the designers.

Petitioner *Marblehead Cancer Prevention Project* is located at 8 Crown Way, Marblehead, MA 01945. The Marblehead Cancer Prevention Project is an issue-oriented, grassroots effort focused primarily on understanding, exposing and eliminating the environmental causes of cancer.

Petitioner *Massachusetts Public Interest Research Group (MASSPIRG)* is located at 29 Temple Place, Boston, MA 02111. The Massachusetts Public Interest Research Group is an advocate for the public interest. Using the time-tested tools of investigative research, media exposés, grassroots organizing, advocacy, and litigation, MASSPIRG uncovers threats to the public interest.

Petitioner *The Coalition for the Health of Aggregate Industries Neighbors (CHAIN)* is located at 19 Essex Street, Swampscott, MA 01907. The Coalition for the Health of Aggregate Industries Neighbors are regular folks leading normal busy lives who stood up one day and said, "NO!" to the increase in air and noise pollution in our neighborhood. CHAIN's common concern for the lack of suitable regulation of local industrial pollution has drawn us together.

Petitioner *Patapsco Waterkeeper* is located at 4798 Roundkill Road, Ellicott City, MD. Patapsco Riverkeeper protects, promotes, and advocates on behalf of the health of the entire Patapsco River watershed - the river itself, the ecosystems it supports, and the human and animal communities it sustains.

Petitioner *Toxics Action Center* is located at 39 Exchange Street, Suite 301, Portland, ME 04101. Through group consultations, expert referrals, conferences, and information guides, Toxics Action Center will help citizens wage effective campaigns to force stubborn polluters and unresponsive bureaucracies to protect the health and safety of communities.

Petitioner *Michigan Environmental Council* is located at 119 Pere Marquette Drive, Suite 2A, Lansing, MI 48912. The Michigan Environmental Council (MEC) provides a collective voice for the environment at the local, state and federal levels. Working with our member groups and their collective membership of nearly 200,000 residents, MEC is addressing the primary assaults on Michigan's environment; promoting alternatives to urban blight and suburban sprawl; advocating for a sustainable environment and economy; protecting Michigan's water legacy; promoting cleaner energy; and working to diminish environmental impacts on children's health.

Petitioner *Public Interest Research Group in Michigan* is located at 122 South Main Street, Suite 370, Ann Arbor, MI 48104. Public Interest Research Group in Michigan works to deliver persistent, results-oriented activism that protects our environment, encourages a fair, sustainable economy, and fosters a responsible, democratic government.

Petitioner *Clean Water Action Alliance of Minnesota* is located at 326 Hennepin Avenue East, Minneapolis, MN 55414. Clean Water Action Alliance of Minnesota is a state chapter of national clean water action working to ensure that Minnesota has clean and safe water now and for generations to come. We promote the fundamental policies needed to improve the quality of our water and our lives.

Petitioner *Kids for Saving Earth* is located at P.O. Box 421118, Minneapolis, MN 55442. The mission of Kids for Saving Earth is to educate, inspire, and empower children to protect Earth's environment.

Petitioner *Montana Environmental Information Center* is located at P.O. Box 1184, Helena, MT 59624. MEIC works to protect and restore Montana's natural environment.

Petitioner *Bull Mountain Land Alliance* is located at 13838 US Highway 87 N, Shepherd, MT 59079. Bull Mountain stands up for land and people, works for renewable energy, family farms and ranches and a healthy local economy. We do this by acting as a watchdog on coal based energy development. Bull Mountain believes in protecting air, water and land and works to ensure the long-term productivity of Eastern Montana and other coal communities..

Petitioner *Northern Plains Resource Council* is located at 2401 Montana Avenue, Suite 200, Billings, MT 59101. The Northern Plains Resource Council organizes Montana citizens to protect our water quality, family farms and ranches, and unique quality of life.

Petitioner *Appalachian Voices* is located at 703 West King Street, Suite 105, Boone, NC 28607. Appalachian Voices is committed to protecting and restoring the ecological integrity, economic vitality, and cultural heritage of the central and southern Appalachians.

Petitioner *Dakota Resources Council* is located at #10, 2010 E Capitol Avenue, Bismarck, ND 58501-2257. Dakota Resources Council is working for preservation of family farms, enforcement of corporate farming laws, soil and water conservation, regulation of coal mining and oil and gas development, protection of groundwater and clean air, renewable energy, and sound management of solid and toxic wastes.

Petitioner *Hackensack Waterkeeper, Inc.* is located at 231 Main Street, Hackensack, NJ 07601. Hackensack Waterkeeper, Inc. is dedicated to preserving rivers from polluters.

Petitioner *Forest Guardians* is located at 312 Montezuma, Suite A, Santa Fe, NM 87501. Forest Guardians seeks to preserve and restore native wildlands and wildlife in the American Southwest through fundamental reform of public policies and practices.

Petitioner *Water Information Network* is located at P.O. Box 4524, Albuquerque, NM 87106. The mission of the Water Information Network is to educate and empower grassroots citizens and organizations to fight for a clean environment on their own behalf and in the most effective manner possible.

Petitioner *Natural Resources Defense Council* is located at 40 West 20th Street, New York, NY 10011. The Natural Resources Defense Council uses law, science and the support of more than 1 million members and online activists to protect the planet's wildlife and wild places and to ensure a safe and healthy environment for all living things.

Petitioner *New York Public Interest Research Group (NYPIRG)* is located at 9 Murray Street, New York, NY 10007-2272. NYPIRG acts as a watchdog for the public interest in New York.

Petitioner *Riverkeeper* is located at P.O. Box 130, Garrison, NY 10524. Our mission is to safeguard the ecological integrity of the Hudson River, its tributaries and the watershed of New York City (protecting the city's drinking water supply) by tracking down and stopping polluters.

Petitioner *Waterkeeper Alliance* is located at 828 South Broadway, Tarrytown, NY 10591. Waterkeeper Alliance connects and supports local Waterkeeper programs to provide a voice for waterways and communities worldwide.

Petitioner *Coalition on the Environment and Jewish Life* is located at 443 Park Avenue South, 11th floor, New York, NY 10016. The Coalition on the Environment and Jewish Life deepens the Jewish community's commitment to the stewardship of creation and mobilizes the resources of Jewish life and learning to protect the Earth and all its inhabitants.

Petitioner *Buckeye Forest Council* is located at P.O. Box 99, Athens, OH 45701. The Buckeye

Forest Council is a grassroots organization dedicated to the protection of Ohio's forests and their inhabitants through education, advocacy, and organizing.

Petitioner *Ohio Environmental Council* is located at 1207 Grandview Avenue, Suite 201, Columbus, OH 43212-3449. The Ohio Environmental Council works across the state to unite Ohio's conservation and environmental community to keep watch of Ohio's air and water quality, take action to better environmental policies, and make change for a greener tomorrow.

Petitioner *Ohio River Foundation* is located at 4480 Classic Drive, Cincinnati, OH 45241. The Ohio River Foundation is a nonprofit organization founded by a group of citizens concerned about the Ohio River. Ohio River Foundation's mission is to protect and restore the water quality and ecology of the Ohio River and its tributaries for the health and enjoyment of present and future generations.

Petitioner *Center for Environmental Equity* is located at 610 SW Alder, #1021, Portland, OR 97205. The Center for Environment (CEE), founded in 1994, is an advocate for people, communities, and natural resources burdened by environmental hazards and degradation. CEE expands public awareness through newsletters, community-partners, media, and community.

Petitioner *Oregon State Public Interest Research Group (OSPIRG)* is located at 1536 SE 11th Avenue, Portland, OR 97214. Oregon State PIRG acts as a watchdog for the public interest in Oregon.

Petitioner *Allegheny Riverkeepers* is located at 48 Center Avenue, West View, PA 15229.

Petitioner *Army for a Clean Environment* is located at 2066 Evergreen Drive, Tamaqua, PA 18252. Army for a Clean Environment works to promote a safe environment through education and fostering the prevention of the dumping of harmful materials in the community and surrounding areas.

Petitioner *Clean Water Action of Pennsylvania* is located at 100 5th Ave, Suite 1108, Pittsburgh, PA 15222. Clean Water Action of Pennsylvania works for clean, safe and affordable water, prevention of health-threatening pollution, creation of environmentally-safe jobs and businesses, and empowerment of people to make democracy work.

Petitioner *Group Against Smog and Pollution* is located at P.O. Box 5165, Pittsburgh, PA 15206. Group Against Smog and Pollution is a nonprofit group in Southwestern Pennsylvania working for a healthy, sustainable environment.

Petitioner *Jefferson Action Group, Inc.* is located at 123 Oakwood Drive, Clairton, PA. Jefferson Action Group works to ensure human health is a priority in all environmental regulations.

Petitioner *Mahanoy Creek Watershed Association* is located at 420 Dutchtown Road, Ashland, PA 17921. Mahanoy Creek Watershed Association is a nonprofit grassroots organization formed to remediate the negative effects of 100 years of anthracite coal mining in the Mahanoy Creek and prevent further damage to our local waters.

Petitioner *Mountain Watershed Association* is located at Box 408, Melcroft, PA 15462. The Mountain Watershed Association is a nonprofit, tax-exempt community-based Pennsylvania corporation concerned with the preservation and remediation of the Indian Creek Watershed from Jones Mills, Westmoreland County to the Youghiogheny River, Fayette County. The major purposes of the Association are to bring about remediation of the numerous acid mine discharges resulting from over 125 years of mining in the Indian Creek Watershed, to develop community awareness, to promote cooperative community efforts for remediation, and to encourage sound

environmental practices.

Petitioner *Tri-State Citizens Mining Network* is located at 140 Sugar Run Road, Eighty-Four, PA 15774. The Tri-State Citizens Mining Network coordinates a group of organizations and individuals dedicated to informing and educating the public about the effects of mining on the environment and on the communities in the coalfields. By working to improve laws, regulations, and enforcement, the Network seeks protection of the environment and justice for coalfield citizens.

Petitioner *Pennsylvania Environmental Network (PEN)* is located at 117 West Wood Lane, Kane, PA 16735. The purpose of the Pennsylvania Environmental Network is to support and encourage local grassroots activism throughout Pennsylvania by networking individuals and groups across the state on a variety of environmental issues.

Petitioner *Clean Water Action of Rhode Island* is located at 741 Westminster Street, Providence, RI 02903. Clean Water Action of Rhode Island works for clean, safe and affordable water, prevention of health-threatening pollution, creation of environmentally-safe jobs and businesses, and empowerment of people to make democracy work.

Petitioner *Conservation Law Foundation: Rhode Island Advocacy Center* is located at 55 Dorance Street, Providence, RI 02903. The Conservation Law Foundation (CLF) works to solve the environmental problems that threaten the people, natural resources, and communities of Rhode Island. CLF's advocates use law, economics, and science to design and implement strategies that conserve natural resources, protect public health, and promote vital communities in our region.

Petitioner *Rhode Island Public Interest Research Group* is located at 11 South Angell Street, #337, Providence, RI, 02906. Rhode Island Public Interest Research Group acts as a watchdog in Rhode Island.

Petitioner *Save the Bay* is located at 434 Smith Street, Providence, RI 02908. The mission of Save The Bay is to ensure that the environmental quality of Narragansett Bay and its watershed is restored and protected from the harmful effects of human activity.

Petitioner *Save Our Cumberland Mountains (SOCM)* is located at P.O. Box 479, Lake City, TN 37769. Save Our Cumberland Mountains is a nonprofit Tennessee grassroots citizen's organization working for environmental, social, and economic justice, in areas such as forestry, strip mining, toxic issues, tax reform, dismantling racism and other issues on a local level.

Petitioner *Southern Alliance for Clean Energy* is located at P.O. Box 1842, 117 South Gay Street, Knoxville, TN 37901-1842. Southern Alliance for Clean Energy is not-for-profit, non-partisan organization working with citizens for clean air, clean water and healthy communities in the Southeast by advancing energy efficiency and sustainable energy policies, promoting clean energy technologies and holding polluters to higher standards.

Petitioner *Clean Water Action, Texas* is located at 715 23rd Street, Suite R, Austin, TX 78705. Clean Water Action of Texas works for clean, safe and affordable water, prevention of health-threatening pollution, creation of environmentally-safe jobs and businesses, and empowerment of people to make democracy work.

Petitioner *Friends of the Sabine* is located at P.O. Box 12071, Longview, TX 75607. Friends of the Sabine is a nonprofit corporation that is organized to protect the Sabine River and Sabine Basin.

Petitioner *Friends United for a Safe Environment (FUSE)* is located at P.O. Box 85, Texarkana, TX 75504. Friends United for a Safe Environment is committed to education and action in protecting all aspects of the environment and dedicated to serve as a watchdog toward that goal.

Petitioner *Neighbors for Neighbors* is located at P.O. Box 661, Elgin, TX 78621. Families working together to protect the lands, economy, and quality of life of Bastap and Lee counties for future generations.

Petitioner *Public Citizen* is located at 1002 West Avenue, #300, Austin, TX 78701. Public Citizen works to protect health, safety, and democracy.

Petitioner *SEED Coalition* is located at 611 S. Congress, Suite 200, Austin, TX 78704. The SEED Coalition is an alliance of Texans dedicated to reducing pollution from power plants, refineries and cars and promoting clean energy jobs in energy efficiency, renewable energy and other advanced technologies.

Petitioner *Sensible Management of Aquatic Resources Team (SMART)* is located at 803 Terrell Hill, Austin, TX 78704 and is an advocate of balanced, non-toxic aquatic weed management.

Petitioner *Texas Black Bass Unlimited* is located at P.O. Box 11729, Houston, TX 77293. Their goals are the education of the youth and the general public in conservation, the protection of Texas fish and fisheries, and the protection and propagation of all species of fresh water fish in the State of Texas.

Petitioner *Texas Campaign for the Environment* is located at 611 S. Congress, Suite 200, Austin, TX 78704. Texas Campaign for the Environment is dedicated to informing and mobilizing Texans to protect the quality of their lives, their health and the environment. They believe that people have a right to know and a right to act on issues that fundamentally affect their lives and future.

Petitioner *Texas Committee on Natural Resources* is located at 3532 Bee Caves Road, Suite 110, Austin, TX 78746. Texas Committee on Natural Resources is a 30-year old conservation organization committed to protecting native ecosystems and promoting efficient use of natural resources in Texas. The Texas Committee on Natural Resources addresses water quality, public land management, wildlife, air quality, coastal issues, and recycling.

Petitioner *Working for Environmental Community Action Now (WE CAN)* is located at 207 N. Center Street, Longview, TX 75601. Working for Environmental Community Action Now strives to promote health communities, healthy homes, healthy environments and better use of resources.

Petitioner *Bastrop County Environmental Network* is located at P.O. Box 1069, Bastrop, TX 78602. The Bastrop County Environmental Network is committed to protecting the air, land and water in Bastrop County so that it continues to provide a healthy habitat for all the creatures who live there.

Petitioner *Dickenson County Citizens Committee* is located at Route 1, Box 602, Clinchco, VA 24226. Dickenson County Citizens Committee works to protect the citizens of Dickenson County, VA.

Petitioner *Vermont Public Interest Research Group (VPIRG)* is located at 141 Main Street, Suite 6, Montpelier, VT 05602. VPIRG's mission is to promote and protect the health of Vermont's environment, people, and locally-based economy. By informing and mobilizing individuals and communities across the state, VPIRG brings the voice of citizens to public policy debates that

shape the future of Vermont.

Petitioner *Clean Wisconsin* is located at 122 State Street, Suite 200, Madison, WI 53703-2500. Clean Wisconsin, an environmental advocacy organization, protects Wisconsin's clean water and air and advocates for clean energy by being an effective voice in the state legislature and by holding elected officials and corporations accountable.

Petitioner *Coal River Mountain Watch* is located at P.O. Box 651, Whitesville, WV 25209. The mission of Coal River Mountain Watch is to stop the destruction of our communities and environment by mountaintop removal mining, to improve the quality of life in our area and to help rebuild sustainable communities.

Petitioner *Friends of the Mountains* is located at P.O. Box 6752, Huntington, WV 25772.

Petitioner *Ohio Valley Environmental Coalition* is located at P.O. Box 6753, Huntington, WV 25773. Ohio Valley Environmental Coalition is a nationally recognized grassroots organization dedicated to preserving and protecting our natural heritage.

Petitioner *West Virginia Environmental Council* is located at 1324 Virginia Street, East Charleston, WV 25301. The mission of the West Virginia Environmental Council is to facilitate communication and cooperation among citizens in promoting environmental protection in West Virginia, to assist in organizing grassroots groups, to facilitate interaction among established environmental organizations, and to correspond with all appropriate local, state, and federal agencies involved in the management of West Virginia's environment.

Petitioner *West Virginia Interfaith Center for Public Policy (WVICPP)* is located at P.O. Box 1061, Chas, WV 25324. The WVICPP is a statewide organization dedicated to the universal values of justice, compassion, and respect for human dignity. Members come from many faith traditions to promote the positive, constructive presence of religion in public life.

Petitioner *West Virginia Interfaith Global Climate Change Campaign* is located at P.O. Box 226, Talcott, WV. West Virginia Interfaith Global Climate Change's goals for the world are global awareness and appreciation of one another, global citizenship, harmony, and responsibility, equal "eco-footprints" (the "mark" we leave on the Earth), sustainable, equitable use of world resources, and being aware and knowledgeable of energy consumption.

Petitioner *Wyoming Outdoor Council* is located at 262 Lincoln, Lander, WY 82520. Wyoming Outdoor Council is Wyoming's largest statewide conservation organization and the state's leading advocate for natural resources conservation and environmental protection. Wyoming Outdoor Council works to safeguard the state's spectacular national parks and protected areas, vast national forests and other public lands, world-renowned wildlife and its habitat, blue-ribbon fisheries and enviable air and water quality.

III. STATEMENT OF LAW

The Resource Conservation and Recovery Act was enacted by the U.S. Congress in 1976 to promote the protection of human health and the environment by regulating the generation, treatment, re-use, transport and disposal of solid wastes while at the same time conserving valuable materials and promoting energy recovery. Section 6902(a) and (b) of the Act specifically provide as follows:

Objectives. The objectives of this chapter are to promote the protection of health and the environment and to conserve valuable material and energy resources by ... prohibiting future open dumping on the land and requiring the conversion of existing open dumps to facilities which do not pose a danger to the environment or to health.

National Policy. Waste that is nevertheless generated should be treated stored, or disposed of so as to minimize the present and future threat to human health and the environment.

Despite its findings in a series of Regulatory Determinations that indicate that the mismanagement of combustion wastes from the coal and fossil fuel industries can and has resulted in surface water and groundwater contamination throughout the United States, the EPA has failed to promulgate *any* regulatory standards to govern the waste management and disposal practices. Currently, the EPA regulates the placement and disposal of municipal garbage far more stringently than it regulates the placement and disposal of coal combustion wastes and other wastes generated by the combustion of fossil fuels, a regulatory distinction that is not based on valid science.

Section 6974(a) of the Resource Conservation and Recovery Act allows any person to petition the Administrator of the EPA to promulgate, amend or repeal any environmental regulations enacted thereunder and within a reasonable time following receipt of such petition, the Administrator shall take action with respect to such petition and shall publish notice of such action in the Federal Register, together with the reasons thereunder. This Petition should be considered to be a formal rulemaking request and processed accordingly.

IV. STATEMENT OF GROUNDS AND ARGUMENT

Each year coal-burning power plants generate approximately 130 million tons of power plant waste in the United States. This volume is expected to grow to as much as 190 million tons per year if additional controls governing hazardous air emissions from these plants are implemented. As the cost of landfilling rises, utilities are turning to “reuse” and disposal alternatives at coal mines as suitable and inexpensive disposal sites for these wastes, as well as continuing to build and expand unlined and unmonitored surface impoundments (ponds). Coal power plant waste (including but not limited to coal fly ash and bottom ash, flue desulfurization waste, boiler slag, and boiler cleaning wastes) may contain many toxic, heavy metals (i.e.; arsenic, cadmium, chromium, lead, manganese, mercury, selenium and thallium among others) as well as sulfates, chlorides and boron. These constituents, which are found naturally in coal, are concentrated in the wastes produced as a by-product of combustion. In addition, these wastes can contain detectable and dangerous levels of polyaromatic hydrocarbons (“PAHs”), benzene, phenols, polychlorinated biphenyls (“PCBs”), cyanide, dioxins and furans. All of these hazardous constituents leach out of power plant waste and into water supplies when the waste comes into contact with water.

The EPA has recognized 65 cases of damage where drinking water, groundwater or surface water has been contaminated with hazardous constituents from power plant waste.¹ EPA also recognizes that power plant waste causes extensive damage to aquatic ecosystems.² And EPA recognizes that power plant waste, when placed in contact with groundwater in mines, can threaten human health and the environment.³ The scientific record, as evidenced by EPA’s list of damage cases from coal power plant wastes, clearly establishes that these wastes, when in direct contact with groundwater or surface water, produce levels of contamination toxic to humans and the environment. For example:

The San Juan Generating Plant and BHP Mine in Farmington, New Mexico. Power plant wastes were dumped into the BHP surface coal mine in a manner that left these wastes in direct contact with groundwater. The resulting contamination of the groundwater and the Shumway Arroyo contributed to the death of over 1000 sheep

¹
² EPA Damage Case List, dated June 2003

³ Ibid.

Regulatory Determination on Wastes from the Combustion of Fossil Fuels (“EPA Regulatory Determination”), 65 Federal Register 32214 *et seq.* (May 22, 2000).

and several hundred cattle.

Yard 520 Landfill in Town of Pines, Indiana. Power plant wastes were dumped in a landfill in direct contact with a groundwater aquifer that supplies the drinking water for the Town of Pines and in low wetland areas in this community. As a result, the power plant waste contaminated the town's drinking water with heavy metals and boron and forced the abandonment of dozens of drinking water wells. A remedial action is being conducted in the town under the Superfund program.

Belews Lake, North Carolina. Water discharged from a coal ash lagoon into Belews Lake in 1974 killed 17 out of 20 fish species in the lake and rendered two other species infertile. Belews Lake is one of the most extensive and prolonged cases of selenium poisoning of freshwater fish in the United States. The contamination caused deformities in fish and amphibians remaining in the lake, and evidence indicates that waterfowl feeding from the lake have been adversely impacted.⁴ A fish consumption advisory was declared for Belews Lake, a formerly popular fishing spot. Ten years after the discharge of ash to the lake ceased, selenium was still present at moderate risk levels.

Highway 59 Ash Landfill, Wisconsin. Power plant wastes were dumped into an old quarry below the water table. As a result, power plant waste contamination at levels toxic to humans has spread to 8 drinking water wells. These wells have been abandoned.

Martin, Brandy Branch, and Welsh Reservoirs, Texas. Power plant waste lagoons discharged directly into all three reservoirs and caused significant selenium contamination. The selenium contamination caused fish kills at Martin Reservoir, and all three reservoirs had to be placed under a selenium fish consumption advisory.

Savannah River Site, South Carolina. At the Savannah River Site near Aiken, SC scientists have documented that discharges from surface impoundments caused death, deformities, reproductive problems and genetic damage in fish, amphibians, reptiles and mammals that inhabited or fed from the receiving waters.⁵

Despite the large body of evidence of contamination caused by these disposal practices, power plant wastes are being dumped into mine pits, unlined surface impoundments and landfills that have been constructed into or adjacent to groundwater and surface water at hundreds of sites across the country. At mines such as the Springdale Pit in Tamaqua, Pennsylvania, the Farmersburg Mine in Sullivan County, Indiana and the Sandow Mine in Lee County, Texas millions of tons of power plant wastes are authorized for disposal in a manner that directly places these wastes into contact with groundwater. At coal-burning power plants across the country, vast quantities of power plant waste also come into direct contact with surface water in onsite impoundments.⁶ According to EPA, hydraulic pressure in surface impoundments "increases the likelihood of releases."⁷

4

Lemly, A.D. 1985. Toxicology of Selenium in a Freshwater Reservoir: Implications for Environmental Hazard Evaluation and Safety. *Ecotox. Environ. Saf.* 10:314-338.

Rowe C.L.; W.A. Hopkins, J.D. Congdon. Ecotoxicological Implications of Aquatic Disposal of Coal Combustion Residues In the United States: A Review. *Environmental Monitoring and Assessment*, 80:207-276, 2002.

6 There are approximately 280 power plant waste surface impoundments in the United States. EPA, 1999, Report to Congress, Wastes from the Combustion of Fossil Fuels, Office of Solid Waste and Emergency Response, March 1999 at page 3-29.

EPA Regulatory Determination, 65 Federal Register at 32229.

In further support of this petition, we submit as evidence a list of scientific articles on coal power plant waste (Attachment 1) and EPA's own list of coal power plant waste damage cases (Attachment 2), all of which demonstrate the adverse impact that the mismanagement of these wastes is having today on the waters of the United States.

Prohibiting the placement or disposal of coal power plant wastes in direct contact with groundwater or surface water will greatly reduce the risk to human health, drinking water and the environment. In the absence of federally enforceable regulations governing the disposal and placement of power plant waste, such a prohibition is essential because existing state regulations are either inadequate or are not consistently enforced in a manner that protects human health and the environment.

V. REQUEST

The undersigned request this rulemaking because the practice of placing coal power plant waste in contact with groundwater and surface water is widespread; because the quantity of coal power plant waste generated annually is so large that the continuation of dangerous disposal practices poses great risk to the nation's water resources; because the states, without federal regulations, oversight and guidance, have allowed over 65 documented cases of damage to occur throughout the United States; and lastly because such placement and disposal clearly constitutes an imminent and substantial endangerment to health and the environment nationwide. Therefore decisive and immediate action by EPA in the form of a rulemaking prohibiting the disposal of such toxic wastes into ground water and surface water is appropriate, reasonable and necessary.

As established by 5 U.S.C. 555(e) and 42 U.S.C. 6974(a), petitioners request that the Administrator take action with respect to this petition within a reasonable time and provide an answer, including a statement of the reasons for denial if denied and publish such decision in the federal register. Failure to respond within a reasonable time will be construed as constructive denial of the request contained herein and petitioners will then consider the pursuit of litigation to compel agency rulemaking necessary for the protection of health or the environment.

Respectfully submitted this ninth day of February 2004.