

Dear Legislators:

On behalf of the Center for a Sustainable Coast, I am voicing concern about the responsible, accountable storage, transport, and disposal of coal-ash in Georgia. As you probably know, coal ash is classified under federal law as toxic and it can be deposited in “Subtitle D” lined landfills that are primarily used for depositing municipal solid waste.

Under Georgia law, there is insufficient distinction between landscape characteristics, including risk of environmental hazards, in determining the location and suitability of such landfills. As a result, Subtitle D landfills have been certified to operate in areas that impose avoidable public health hazards through contamination of groundwater and/or wetlands. Although there are requirements for monitoring surrounding areas using test wells, these are not infallible, and dangerous leaks have occurred despite such requirements.

Accordingly, we recommend that the General Assembly consider adoption of regulatory amendments that call for a higher level of protection applicable to identifying, permitting, and monitoring those sites where toxic coal-ash is deposited. Three aspects of these recommended amendments should be given utmost priority.

- First, sites selected for such landfills should have high, well-drained natural elevation that reduces the risk of contaminating surrounding features, including waterways, wetlands, and groundwater. Such enhanced standards would prevent the imprudent use of environmentally vulnerable areas for Subtitle D landfills, where natural features – and thus public health – would be unjustifiably jeopardized.
- Second, we recommend the adoption of improved monitoring methods, using test wells that include lateral drilling to enable sampling beneath the landfill ‘footprint’ to augment the existing practice of sampling in surrounding areas. By sampling directly under landfills, leaks could be identified earlier, preventing dangerous leaching into a broader area where pollution containment, control, and recovery would be more difficult and expensive.
- Third, we strongly believe it would be a major mistake to allow the rural areas of Georgia to become “sacrifice zones” where environmental hazards and consequential threats to public health and reduced quality of life are imposed by the demand for toxic-waste disposal sites, including coal-ash. When such toxic disposal activities are driven by profit-making and perceived prospects for local revenue generation, unless state regulations seek to reduce toxic-waste transport distance, economically disadvantaged rural communities will become disproportionately and unfairly vulnerable to such hazards. Accordingly, we strongly suggest that Georgia legislators adopt regulatory priorities that give preference to suitable Subtitle D landfill sites that limit the distance that toxic waste is transported, from the sources of such waste to qualified disposal areas. Reducing transport distance will not only ensure that sacrifice zones are not created, but it will help curb the well-documented risk of “fugitive” contaminants being spread along transportation corridors – thereby decreasing public health threats.

It should be noted that under current federal law, we are advised that the import of toxic waste, including coal-ash and municipal solid-waste, cannot be restricted due to “interstate commerce” provisions. To address this issue through state legislation while seeking to prevent the creation of toxic-contamination sacrifice zones, we suggest limiting the size of landfills as well as enhancing acceptable site characteristics (as described above). In addition to limiting the size of individual landfills, to protect public health and welfare we strongly advise restricting the portion of land-area within any given county that can be permitted for toxic-waste disposal.

Above all, local citizens, property-owners, and tax-payers must be given ample opportunity to participate in the decision-making processes for siting and regulating landfills. To empower the public in this endeavor, all relevant information – including proposed site characteristics, waste sources, and waste contents as well as regulatory requirements – should be made readily available well in advance of public hearings and commenting deadlines.

Thank you for giving serious consideration to my recommendations. Please contact me if you would like further details.

Respectfully,
David Kyler, Executive Director
Center for a Sustainable Coast