EPA Confirms 18 New Coal Ash Pollution Sites - 15 Identified by Environmental Integrity Project
Agency identifies "Potential" damage at 49 more locations

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The Environmental Protection Agency (EPA) has confirmed that eighteen more coal combustion waste (i.e. coal ash) disposal sites in thirteen states have polluted groundwater or surface water at concentrations that threaten human health and the environment. Fifteen of the eighteen polluted coal ash sites were presented to EPA for review in reports by the Environmental Integrity Project (EIP) and Earthjustice in 2010: *Out of Control: Mounting Damages from Coal Ash Waste Sites* and *In Harm's Way: Lack of Federal Coal Ash Regulations Endangers Americans and their Environment.*[1] These findings were made public when EPA published a proposed rule to clean up discharges from coal-fired power plants on June 7, 2013.[2] The report identifies all "damage cases" known to EPA as of September 18, 2012.[3] EPA's confirmation of pollution at these eighteen sites brings the total number of ash dumps known to have caused serious offsite pollution to thirty-eight. These thirty-eight sites are called "proven damage cases." According to EPA, leaking coal ash dumps are added to the list of proven damage cases based on one or more of the following criteria:

- Arsenic or other pollutants from coal combustion waste have accumulated in groundwater at concentrations that exceed federal drinking water or other health based standards "at a sufficient distance from the waste management unit to indicate the hazardous constituents have migrated to the extent that they could cause human health concerns,
- a scientific study provides documented evidence of another type of damage to human health or the environment (e.g., ecological damage), and/or
- there has been an administrative ruling or court decision with an explicit finding of specific damage to human health or the environment."[4]

In addition to the fifteen cases identified by EIP, EPA included one site identified by the state of Michigan in its comments on the coal ash rule and two sites EPA claims to have identified in the scope of its own rulemaking, though EIP also highlighted one of these case in *In Harm's Way*. EPA reports that it hasn't yet had an opportunity to review a third report released by EIP in 2011, which identified pollution at nineteen more coal ash disposal sites.[5]

EPA's eighteen additions to the list of sites known to be polluted by coal ash are Gibson Generating Station in Indiana; The JR Whiting Generating Plant and Detroit Edison Range Road Landfill in Michigan; Colstrip Power Plant in Montana; Swift Creek Structural Fill Site in North Carolina; Reid Gardner Generating Station in Nevada; Cayuga Coal Ash Disposal Landfill in New York; Bruce

Mansfield Station, Hatfield's Ferry Power Station and Fern Valley Landfill in Pennsylvania; Clinch River and Glen Lyn Power Plants in Virginia; Columbia Energy Center and Oak Creek Power Plant in Wisconsin; and John Amos Power Plant in West Virginia. See Table 1 for more details.[6] Four of these sites (Michigan's JR Whiting, South Carolina's Urquhart, Virginia's Glen Lyn plant, and West Virginia's John Amos Power Plant) were rejected by EPA in previous reviews prior to the EIP and Earthjustice reports, but the Agency has since determined that the contamination was significant enough to threaten human health or the environment.

EPA's review has also identified 49 more coal ash dumps in 18 states that have contaminated groundwater or surface water at levels that have the "potential" to threaten health or the environment including 42 presented to the Agency by EIP and Earthjustice in the 2010 reports referenced above. Three of these sites in Ohio (Cardinal Fly Ash Reservoir, Gavin Power Plant and Muskingum River Plant) had been rejected by EPA in their 2007 damage cases assessment prior to release of the EIP and Earthjustice reports.[7] The EPA lists a coal ash dump as a "potential damage case" if the available evidence of contamination is found only within or near the boundary of the surface impoundment or landfill, or if the only evidence of pollution offsite is exceedences of secondary drinking water regulations, which protect against cosmetic and aesthetic effects.[8] Six of the new potential damage cases were brought to EPA's attention by the State of Michigan. EPA notes that it discovered another potential damage case in Maryland because of a newspaper report that the State had filed a notice of intent to sue the facility for illegal discharges of toxic metals to streams and groundwater. See Table 2 for more details.

EPA's analysis is limited to sites damaged by coal combustion wastes, and does not include ponds or landfills where mine tailings or the runoff from coal piles mixes with ash or scrubber sludge. Also, EPA is unable to evaluate contamination at many sites, because states do not always require comprehensive monitoring of coal ash pollution in ground and surface water.

Tables identifying new sites that pose a proven or potential threat to human health, as well as a list of the pollutants found and their acronyms are provided below. The spreadsheet obtained from EPA, including its criteria for classifying the contamination from coal ash sites can be found in Appendix A. Brief descriptions of the health effects of the most serious pollutants can be found in Appendix B.

EPA has acknowledged that at least 133 coal ash dumps across the country are or may be contaminating ground and surface waters with toxic pollution, and many more leaking landfills and impoundments are shielded from public review because they are not required to monitor for coal ash pollution. There is no excuse for further delay. Strong federal rules that ensure safe disposal of coal ash and clean-up of leaking and dangerous sites are critical to protecting public health and the environment.

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[1] Environmental Integrity Project & Earthjustice, *Out of Control: Mounting Damages From Coal Ash Waste Sites* (Feb. 24, 2010), http://www.environmentalintegrity.org/news_reports/documents/outofcontrol-mountingdamagesfromcoalashwastesites.pdf; Environmental Integrity Project, Earthjustice & Sierra Club, *In Harm's Way: Thirty-nine New Damage Cases of Contamination from Improperly Disposed Coal Combustion Waste*, (Aug. 26, 2010). http://www.environmentalintegrity.org/news_reports/documents/INHARMSWAY_FINAL2.pdf

[2]EPA, *Final Determination of Identified Proven Damage and Recently Alleged Damage Cases [DCN SE01966]*, Docket No. EPA-HQ-OW-2009-0819-2212 (Reproduced in full in Appendix A).
[3] *Id.*
[4] *Id.*
[5] EPA states "this file doesn't address the 19 damage cases identified in Environmental Integrity Project's December 2011 Report Risky Business: Coal Ash Threatens America's Groundwater Resources at 19 More Sites (DCN SE01985)." *Id. (referring to:* Environmental Integrity Project, *Risky Business: Coal Ash Threatens America's Groundwater Resources at 19 More Sites* (Dec. 12, 2011). http://www.environmentalintegrity.org/documents/121311eipthirddamagereport.pdf.
[6] Tables for this report were created using spreadsheets obtained from EPA. They have been condensed and reformatted for clarity. Appendix A contains a reproduction of EPA's original spreadsheet.
[7] *Id.*
[8] See n.2, *supra.*