

# Congress of the United States

Washington, DC 20515

October 19, 2021

The Honorable Michael Regan  
Administrator  
Administrator  
U.S. EPA 1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

Carmen Guerrero  
Director, Caribbean Environmental Protection Division  
City View Plaza II – Suite 7000  
#48 Rd. 165 km 1.2  
Guaynabo, PR 00968-8069

Walter Mugdan  
Acting Regional Administrator, Region 2  
290 Broadway  
New York, NY 10007

Dear Administrator Regan:

We write with great concern about the continued mismanagement of coal ash and violations of the Coal Combustion Residuals rule (“CCR rule”) by Applied Energy Systems in Guayama, Puerto Rico (“AES-PR”). Though AES-PR has proposed a corrective measures remedial plan, including the implementation of Monitored Natural Attenuation (“MNA”) and the construction of a liner: these are not viable remedies. We urge you to enforce the CCR rule, provide oversight over the cleanup at AES-PR, ensure groundwater is timely restored to its original condition, and investigate and call for removal of the remaining, uncovered coal ash piles.

As you know, coal ash contains heavy metals such as arsenic and chromium, which have severely polluted air and groundwater in Puerto Rico. The 2015 CCR rule requires waste piles to comply with all landfill safeguards, including installing proper liners, adhering to location restrictions, monitoring groundwater, remediating contaminated media, and minimizing fugitive dust. However, for almost two decades, AES-PR handled its toxic coal ash by stacking the waste in a massive, uncovered 12-story-high pile on the ground that was left exposed to severe Caribbean winds and rain. As a result, the waste pile blew fugitive dust into neighboring communities and contaminated underlying groundwater. Further, the coal ash pile sits above the South Coast aquifer, which serves as the main source of potable water for tens of thousands of people on the island. Though the waste pile has been largely removed due to a 2019 Puerto Rico law requiring AES-PR to do so, the environmental pollution and public health harms have been extensive and remain un-remediated.

Puerto Rican constituents across our congressional districts who have strong ties to Puerto Rico, including the communities in Guayama and Salinas – largely of African descent and living below the poverty line - have expressed concern about how the latter face significant increases in cancer rates, asthma, and respiratory illnesses since the plant’s opening in 2002. With Puerto Rico being a U.S. colony, environmental racism is heightened and Afro-Puerto Ricans are disproportionately exposed to pollution, including coal ash.<sup>1</sup> For years, AES-PR mixed water with toxic coal ash and used it as “fill” throughout

---

<sup>1</sup> Hilda Lloréns (2021) Toxic Racism in Puerto Rico’s Sacrifice Zone, NACLA Report on the Americas, 53:3, 275-280.

Puerto Rico to build roads and housing developments, leaving a legacy of dozens of uncovered ash piles in residential neighborhoods. Fugitive dust has been a tremendous cause of concern, as coal ash is constantly blown into the air, increasing the risk of asthma exposure among children, and becoming lodged in people's causing serious illnesses.

In the aftermath of Hurricane Maria, the leaching and spread of coal ash in groundwater and the winds blowing fugitive dust were exacerbated. Not only have AES-PR's careless disposal methods poisoned communities, but AES has also taken its coal ash from Puerto Rico and transported it to landfills in Florida and Georgia – bringing its toxic waste into new environmental justice communities. Recently, a ship carrying AES-PR's coal ash ran aground off the coast in Jacksonville on its way to Georgia. Over 14,000 tons of coal ash spilled into the water, spreading heavy metals among fish and wildlife.

Though approximately two million tons of coal ash has been dumped by AES on the island and 400,000 tons of coal ash is produced by the plant each year, neither AES nor the Puerto Rican government have tested community wells. The groundwater monitoring has only been conducted immediately near the plant, leaving thousands of people in the dark about the full extent of contamination. AES-PR now proposes to "remediate" the contaminated aquifer by implementing MNA, excavating the contaminated soil, replacing it with clean fill material, and constructing a liner. Alarming, AES-PR proposes to use toxic coal ash mixed with water (known as Agremax) within the liner system and intends to build the liner within three feet of groundwater – in direct violation of the CCR rule.

For the reasons, we believe EPA should investigate the toxic fill sites, ensure groundwater is restored to its original condition in a timely manner, investigate and require removal of the remaining, uncovered coal ash piles on the island, and enforce the CCR rule, consistent with all applicable laws, rules, and regulations

Respectfully,



Nydia M. Velázquez  
Member of Congress



Raúl M. Grijalva  
Member of Congress



Adriano Espaillat  
Member of Congress



Alexandria Ocasio-Cortez  
Member of Congress



---

Jerrold Nadler  
Member of Congress



---

Jesús "Chuy" García  
Member of Congress



---

Rashida Tlaib  
Member of Congress



---

Steve Cohen  
Member of Congress

Cc:

Carlton Waterhouse, Acting Deputy Assistant Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460