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A DECADE LATER: A REVIEW OF CONGRESSIONAL ACTION, ENVIRONMENTAL PROTECTION AGENCY RULES, AND BENEFICIAL USE OPPORTUNITIES FOR COAL ASH

THURSDAY, JUNE 26, 2025

House of Representatives,

Subcommittee on Environment,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 10:15 a.m., in Room 2322, Rayburn House Office Building, Hon. H. Morgan Griffith [chairman of the subcommittee] presiding.

Present: Representatives Griffith, Bilirakis, Crenshaw, Latta, Carter of Georgia, Palmer, Joyce, Weber, Pfluger, Miller-Meeks, Evans, Guthrie (ex officio), Tonko, Ruiz, Peters, Barragan, Soto, Auchincloss, Carter of Louisiana Menendez, Landsman, and Pallone (ex officio).

Staff Present: Ansley Boylan, Director of Operations; Byron Brown, Chief Counsel; Sydney Greene, Director, Finance and Logistics; Christen Harsha, Senior Counsel, Environment; Calvin Huggins, Staff Assistant; Megan Jackson, Staff Director; Ben

Mullaney, Press Secretary; Kaitlyn Peterson, Policy Analyst, Energy; Chris Sarley, Member Services/Stakeholder Director; Matt VanHyfte, Communications Director; Jane Vickers, Press Assistant; Katie West, Press Secretary; Keegan Cardman, Minority Staff Assistant; Waverly Gordon, Minority Deputy Staff Director and General Counsel; Tiffany Guarascio, Minority Staff Director; Perry Hamilton, Minority Member Services & Outreach Manager; La'Zale Johnson, Minority Intern; Kristopher Pittard, Minority Professional Staff Member; Mary Ann Rickles, Minority Intern; Emma Roehrig, Minority Staff Assistant; Kylea Rogers, Minority Policy Analyst; Destiny Sheppard, Minority Intern; Andrew Souvall, Minority Director of Communications Outreach and Member Services; Johanna Thomas, Minority Counsel, Communications & Technology; and Tuley Wright, Minority Staff Director, Energy.

Mr. Griffith. The Subcommittee on Environment will now come to order.

The chair recognizes himself for a 5-minute opening statement.

Today, this subcommittee will examine coal ash management practices and innovative ways people are utilizing coal waste. Coal, historically, has played a major role in keeping our lights on and powering our large industries, and our hospitals, et cetera.

Currently, there are over 200 coal-fired electric power plants in the United States and a fair amount of individual boilers that use coal for fuel. Coal's fuel storage attributes and its dispatchable power qualities continue to make it a crucial component of our domestic electric power mix.

Today's hearing will focus on one of the byproducts of coal use, coal combustion residuals, commonly called CCR or coal ash. The Environmental Protection Agency, or the EPA, first began regulating coal combustion residuals from electric utilities in 2014 under its Resource Conservation and Recovery Act, or RCRA, powers, Subtitle D authority to regulate solid waste.

In 2016, the Water Infrastructure and Improvements for the Nation Act amended RCRA to grant the EPA the authority to approve State CCR permit programs if a State chose to run its own program. However, nearly a decade later, only three State programs have been approved. Hopefully, today we will learn more about States' permitting programs and how EPA is using its CCR permitting approval authority.

Unfortunately, the Biden-Harris administration pressed necessary coal ash regulations into its wider attempts to force a transition to renewable energy by imposing unreasonable and onerous regulations on disfavored traditional energy resources, like coal.

This attack on coal included a 2024 rule regulating inactive coal combustion residual storage sites, or legacy impoundments, as well as sites where coal ash had previously been placed, known as coal combustion residuals management units. Utilities warned that this unworkable rule would impose needless and unplanned costs on ratepayers, who are already facing excessive increases in their rates.

Today, we will learn more about the problems with the current regulatory landscape and the cost it imposes on power generation and, in turn, ratepayers.

Thankfully, in March of this year, the EPA announced that it is reviewing this rule and plans to propose amendments within the next year. Additionally, EPA has announced it plans to prioritize working with States on their permit programs to hopefully facilitate more State management of coal ash disposal.

I am encouraged by the Trump administration's apparent willingness to listen to the States and their utilities, and hope that the EPA can work with them, and not against them, as partners in protecting our environment.

I also hope to learn more today about opportunities to improve the reuse of coal byproducts. In addition to this primary use, coal byproducts can be reused for many purposes, such as cement manufacturing, drywall manufacturing, road paving and producing concrete. And yesterday, I read an article about using it in wastewater treatment facilities to get out dyes and certain heavy metals. This recycling, known as beneficial use, can not only save cost, but also result in lower emissions.

Many may be surprised to hear that there is a thriving coal ash reuse industry in the United States. According to the American Coal Ash Association, 69 percent of all coal ash produced in 2023 was recycled.

In addition to these established uses in construction, agriculture, waste management and mining, new uses are emerging. For example, research from the

University of Texas found that as much as 11 million tons of rare earth elements -- rare earth elements -- can be found and be accessible in coal ash in the United States.

In fact, researchers from Virginia Tech, located in my home district, and where one of my children graduated, one is attending and one hopes to attend, they are leading projects to analyze the presence of critical minerals and rare earth elements in coal byproducts.

According to the U.S. Geological Survey, the United States currently relies on imports for 80 percent of its supply of rare earth elements, with 70 percent of those imports coming from China. Our regulatory policies for coal combustion residuals management must facilitate continued beneficial use.

I look forward to today's discussion of how we can address shortcomings of our current approach to coal combustion residuals management and innovation in how our country deals with waste.

And, with that, I yield back and now recognize the ranking member, Mr. Tonko of New York, for his 5-minute opening statement.

Mr. Tonko. Thank you, Mr. Chair.

Yesterday, the committee marked up more than a dozen energy bills, several of which had the goal of continuing the operation of uncompetitive coal-fired power plants.

But one issue that was seriously overlooked in yesterday's debate was the public health and environmental threats posed by these generators. We should not lose sight of the serious downsides to burning coal. Air pollution is often the first thing discussed, including emissions of particulate matter, mercury, and other hazardous air pollutants, as well as tremendous amounts of climate pollution.

But we cannot forget that these power plants also create waste, known as coal combustion residuals, or coal ash. And for far too long this waste has not been disposed

of safely, leading to groundwater contamination and other environmental damage. These contaminations are not only dangerous, but they also are costly and difficult to remediate.

In 2008, a major Tennessee Valley Authority coal ash impoundment failed, resulting in over a billion gallons of slurry polluting the environment, which took years and more than $1 billion to clean up. And while high-profile incidents like TBAs grab headlines, lower levels of contamination near these sites are, unfortunately, extremely common.

Analysis from the Environmental Integrity Project and Earthjustice found that 91 percent of U.S. coal plants are causing unsafe levels of groundwater contamination. EPA acknowledged these risks and finalized a rule in 2015 to support the safe disposal of coal combustion residuals.

This rule sought to prevent the disposal of coal ash in unlined ponds and require monitoring of groundwater and cleanup of contamination. But, unfortunately, the 2015 rule did not apply to landfills that had ceased receiving coal ash or generating facilities that had ceased operating prior to the rule's finalization. In 2024, EPA finalized another rule to cover these so-called legacy sites excluded from the 2015 rule.

And I am very concerned that several industry groups have already begun a lobbying campaign to roll back this rule. Like so many of EPA's previously announced deregulatory efforts, a weakening of either the 2015 or 2024 rule would represent an effort to shield polluters from costs associated with reasonable steps to protect public health and the environment, in this case, ensuring the safe disposal and management of coal ash waste.

At yesterday's markup, we heard a lot of talk about subsidizing electricity producers, about whether renewables should receive subsidies and whether or not fossil

fuel generators currently receive subsidies at all. And I want to make it clear, they absolutely do.

When we socialize the cost of the environmental and public health harms caused by coal-fired power plants onto everyday Americans, especially those living near these sites, we are providing coal plant operators with a massive subsidy.

When coal ash leaches into people's water supplies, they pay a price, including the healthcare costs and health outcomes associated with failing to address the safe disposal of this waste. But I understand that there may be different approaches as to how to effectively manage this waste.

So in addition to EPA's regulatory actions in 2015, Congress passed the Water Infrastructure Improvements for the Nation Act, or the WIIN Act. The WIIN Act allows States, with EPA's approval, to manage disposal of coal ash through a permitting program provided the State standards are as protective as Federal standards.

Cooperative Federalism is a hallmark of our Nation's successful environmental laws, and I do believe States can play an important role in addressing coal ash waste.

However, I am incredibly concerned by the President's fiscal year 2026 budget request, which included a $1 billion proposed cut to EPA's categorical grants that States rely upon to implement and enforce environmental laws. This is part of a troubling trend from the administration, which is also apparent in the majority's budget bill, that pushes more costs onto States, which will make the successful implementation of State-led environmental programs that more difficult. If we want States to be effective partners in environmental protection, we must ensure they have the resources and capacity necessary to do the job.

Finally, I understand that much of today's hearing will focus on the beneficial uses of coal ash. I want to be clear that I am, by no means, opposed to beneficial uses,

provided that these uses are proven to not harm public health and the environment. Finding effective methods to use coal ash is worth continuing to pursue. However, careful consideration of these potential uses must be a priority.

Unfortunately, the Trump administration's efforts to undermine EPA's scientific capacity by significantly shrinking the Office of Research and Development and attacking the Agency's scientific integrity policy is a serious cause for concern.

I worry that this could undermine EPA's ability to conduct independent scientific assessments of the risks of potential beneficial uses. I want to encourage members on both sides of the aisle who want to see more safe, beneficial uses of coal ash to oppose the mass layoffs and organization of EPA.

With that, Mr. Chair, I look forward to today's discussion and, with that, yield back.

Mr. Griffith. The gentleman yields back.

I now recognize the chairman of the full committee, the gentleman from Kentucky, for 5 minutes for an opening statement.

The Chair. Thank you, Mr. Chairman.

And thank you to all of our witnesses for being here. We appreciate you being here today.

Coal ash is produced by coal-fired electric power plants. In 2014, EPA issued its first rule regulating coal ash as a nonhazardous waste under the Resource Conservation and Recovery Act. This is one of the rules issued as part of the Obama administration's war on coal.

There were immediate concerns about how the rule would be implemented, about how it did not take into account regional differences, and how it would affect the electric power supply.

Congress amended RCRA in 2016 to make it easier for States to regulate coal ash through permit programs, based on their local conditions. But it has been difficult for States to get the necessary approval from EPA. This is the committee's first hearing on coal ash in about 10 years.

The Biden administration continued the attack on fossil fuels, issuing a rule in April 2024 that expanded the scope of the Obama-era rule to facilities that were already closed. I cosponsored Subcommittee Chairman Griffith's resolution last Congress to overturn that rule.

And I welcome the steps EPA Administrator Zeldin has announced to prioritize the approval of State programs, and to review the deadlines and requirements imposed on electric utilities by the Biden administration's 2024 rule.

Today, we will hear from a top environmental regulator of North Dakota, and from Rural Electric Co-Op in Arizona about their experiences with EPA and how the coal ash program can be improved.

We will also hear about the environmental and other benefits of using coal ash in road and other infrastructure projects, and how this unassuming material may be an important domestic source of rare earth elements needed to power our artificial intelligence economy and our national security.

I look forward to the hearing from our witnesses. I absolutely appreciate each and every one of you for being here today. Look forward to your opening statements and our discussion, and I will I yield back the balance of my time.

Mr. Griffith. The gentleman yields back.

The chair now recognizes the ranking member of the full committee, the gentleman from New Jersey, for 5 minutes for an opening statement.

Mr. Pallone. Thank you, Mr. Chairman.

Today the subcommittee is examining coal ash regulations at the EPA. Coal ash is a waste product generated from burning coal for energy. It is radioactive and contains toxic contaminants like arsenic, lead, mercury and chromium.

Some power plants dispose of coal ash in surface impoundments, storing the waste in ponds at operating or inactive facilities, and this poses a serious risk to the surrounding communities, threatening human health and the environment.

Contaminants can leach into groundwater and drinking water supplies or become airborne as toxic dust. Aging or deficient impoundments can fail structurally, resulting in catastrophic floods of toxic sludge entering neighboring communities.

The EPA first determined that national disposal criteria were needed for coal ash 25 years ago, and this led to regulations starting in 2015. And then Congress acted 9 years ago with passage of the Water Infrastructure Improvements for the Nation, I guess the WIIN Act.

This law gave States the ability to create their own coal ash management programs as long as they provide equal or greater protection to Federal standards. And last year, EPA finally updated their rule to include all the legacy coal ash waste sites under their purview.

Now, the passage of this law now provides us many data points to measure the success of State and Federal regulations to manage coal ash waste and protect surrounding communities. Unfortunately, the data doesn't paint a good picture. There have been countless examples of weak State enforcement, large-scale releases of toxic sludge, and public health harms.

According to the industry's own data, over 90 percent of coal plants have reported groundwater contamination from their coal ash storage sites. And we still see coal ash stored in unlined pits that leach into groundwater or that gets blown into neighboring

communities.

To protect the health and safety of those living near coal ash sites, we need strong Federal standards for the disposal and management of this toxic waste and strong enforcement of those standards at the State and Federal level.

But EPA's budget proposal and staffing cuts make it clear that Federal enforcement is not a priority. The Trump administration is hurting EPA's ability to ensure coal ash disposal and pollution do not put Americans' health at risk.

At a time when the administration should be ensuring States are following the law, EPA Administrator Zeldin is, instead, turning over responsibility of coal ash management to States, and this is an abdication of responsibility, considering the well-documented pattern of States allowing this toxic pollution to continue unabated.

The Republican majority is also likely to discuss the beneficial uses of coal ash and explore additional opportunities to divert more of this waste from ponds or landfills. And I agree that coal ash recycling helps decrease Americans' exposure to this toxic substance, but it is critical that we follow the science to ensure the uses don't cause further harm and contamination.

While using encapsulated coal ash in construction materials can be a good recycling method for this waste, using unencapsulated coal ash as ground fill is not. And while pilot projects extracting critical minerals from coal ash are promising, they should not be touted as a reason to prop up uneconomic, outdated, and high-polluting coal ash plants.

Now, I heard the chairman of the full committee talk about Biden and the war on coal. Look, I don't think there is anyone who wants a war on coal. I think the problem is that we have -- if there is anything, the war has been against, you know, the impact of coal harming people.

You know, there is nothing wrong with using a fossil fuel, in this case, coal or any, for energy purposes, but we can't have it cause harm to our health and safety, not only to the people who live there, downwind, whatever, but in this case, you know, clear contamination from coal ash.

So as we discuss this issue, let's not forget the broader legacy of coal and what any possible resurgence would mean for communities across the country. We are not saying there shouldn't be a resurgence, but there can't be a resurgence of the harm. We would see an increase in black lung disease in young people, more air pollution-related deaths, and increased cancer rates from exposure to coal ash fill.

And, you know, we can't afford to repeat the mistakes of the past. That is all we are saying. If you find beneficial uses, fine, but not things that are going to harm people in hopes of a different outcome. You are not going to have a different outcome. We know what the results are from some of this damage.

So I look forward to hearing from our witnesses, and I yield back the balance of my time, Mr. Chairman.

Mr. Griffith. The gentleman yields back.

We now conclude with member opening statements.

The chair would like to remind members that pursuant to committee rules, all members' opening statements will be made a part of the record.

I want to thank our witnesses for being here today and taking the time to testify before the subcommittee.

Although it is not the practice of this subcommittee to swear in witnesses, I would remind our witnesses that knowingly and willfully making materially false statements to the legislative branch is against the law under Title 18, Section 1001 of the United States Code.

You will have an opportunity to give an opening statement, followed by questions from members.

Today, our witnesses are Mrs. Michelle Freeark, executive director of regulatory affairs and corporate services at Arizona G&T Cooperative; Mr. Dave Glatt, director at the North Dakota Department of Environmental Quality; Ms. Lisa Evans, senior attorney at Earthjustice, welcome; and Mr. Tom Adams, executive director at the American Coal Ash Association.

We appreciate all of you being here today.

And I now recognize Mrs. Freeark for 5 minutes to give an opening statement.

STATEMENTS OF MICHELLE FREEARK, EXECUTIVE DIRECTOR OF REGULATORY AFFAIRS AND CORPORATE SERVICES, ARIZONA G&T COOPERATIVES; DAVE GLATT, DIRECTOR, NORTH DAKOTA DEPARTMENT OF ENVIRONMENTAL QUALITY; LISA EVANS, SENIOR ATTORNEY, EARTHJUSTICE; AND TOM ADAMS, EXECUTIVE DIRECTOR, AMERICAN COAL ASH ASSOCIATION.

STATEMENT OF MICHELLE FREEARK

Ms. Freeark. Chairman Griffith, Ranking Member Tonko, and members of the subcommittee, thank you for the opportunity to testify before you today.

My name is Michelle Freeark, and I serve as the executive director of regulatory affairs and corporate services at Arizona Electric Power Cooperative. AEPCO is a member-owned, not-for-profit generation and transmission cooperative based in Benson, Arizona.

AEPCO's purpose is to generate electricity and transmit it to distribution

cooperatives that deliver power to end-use consumers in Arizona, Nevada, New Mexico and California. AEPCO's service area includes cost-sensitive rural and disadvantaged communities, and we are committed to balancing our environmental stewardship with the Cooperative's mission to provide safe, reliable, and competitively priced power to its members.

Reliable and affordable electricity is essential to America's economic growth. And as our Nation increasingly relies on electricity to power our economy, keeping the lights on has never been more important or more challenging.

Over the next 5 years, the North American Electric Reliability Corporation forecasts that all parts of several States are at high risk of rolling blackouts during normal peak conditions. This problem is compounded by the rapid growth of data centers in rural areas. Some forecasts project data centers will consume 9 percent of all U.S. electric generation by 2030. In AEPCO's service territory alone, there are currently over 3 gigawatts of capacity demand for development.

AEPCO is presently constructing new natural gas units and solar plus battery energy storage systems to expand and diversify our generation portfolio. Renewable energy sources, like solar and batteries, can play a strategic role in the Western energy grid, but reliable and dispatchable generation sources, including coal and natural gas, are necessary to carry out our mission of providing safe, reliable, competitively priced power to electric co-ops in the Southwest. Because electric co-ops are owned and governed by the consumer members we serve, we have a vested interest in protecting and maintaining the environment within our communities.

Just as all generation sources have some form of waste, coal ash, also referred to as coal combustion residuals, or CCR, is a byproduct of coal-fired electric generation. AEPCO has a robust CCR compliance program to comply with all operational monitoring,

reporting, and recordkeeping requirements of Federal CCR regulation, and has worked closely with the EPA to comply with such regulations.

AEPCO's current and past CCR disposal activities are also robustly regulated under Arizona's Aquifer Protection Program, administered by the Arizona Department of Environmental Quality, which requires frequent groundwater monitoring and CCR unit maintenance and inspections to reduce the potential discharge of pollutants to the greatest degree achievable.

Additionally, AEPCO currently exceeds Federal CCR regulation beneficial use provisions by selling 90 percent plus of our fly ash to a third party owned by the Salt River Pima-Maricopa Indian Community for alternative uses, reducing the amount of CCR that is disposed in our impoundments.

Federal action and inaction regulating coal combustion residuals has resulted in unworkable and unreasonable regulatory requirements for the power sector, making it more difficult for electric co-ops to serve their consumer members and your constituents.

The EPA's legacy rule finalized last year established regulatory requirements for two new classes of CCR units, but fails to consider the diverse characteristics, sizes, and relative risks of sites. Instead, its one-size-fits-all approach will result in massive costs to the utility industry that will ultimately be borne by rural end consumers and which will exacerbate challenges to the reliable delivery of electricity.

Furthermore, Federal CCR regulations are currently self-implementing, which means that utilities are unable to work with State or Federal regulators to tailor regulatory requirements to site-specific conditions through permit programs, unlike with other Federal environmental programs. This is despite the fact that our State has effectively regulated CCR for decades.

Without a Federal permitting in place, enforcement is presently serving as an

ill-fitting substitute and exposing power companies to a great deal of uncertainty.

We commend the EPA's decision to reconsider the harmful legacy rule, but urge EPA to delay upcoming deadlines while they determine what to do with the requirements.

We also urge the administration and Congress to support site-specific, risk-based Federal and State CCR programs, as mandated by the WIIN Act of 2016 to support our country's rapidly growing energy demands while maintaining important environmental protections.

Thank you for the opportunity to testify on this important issue. I look forward to answering any questions.

[The prepared statement of Ms. Freeark follows:]

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Mr. Griffith. Thank you.

Mr. Glatt, you are now recognized.

STATEMENT OF DAVID GLATT

Mr. Glatt. Good morning, Chairman Griffith and members of the Subcommittee on Environment.

My name is Dave Glatt. I am director of the North Dakota Department of Environmental Quality and have been with the Department for just over 42 years. Thank you for the opportunity to testify today on this important issue.

What I would like to do today is my testimony will highlight North Dakota's experience with the regulation of beneficial use of coal ash, and the Federal coal combustion residuals program review process. In addition, I will touch on the more recent interest in rare earth mineral extraction from coal deposits and coal ash.

North Dakota is known for its agriculture and energy dominance. It is home to abundant natural resources of lignite coal deposits and significant oil and gas reserves.

Since the 1980s, North Dakota has regulated coal ash at several mine mouth electric generation facilities, ensuring the protection of public and environmental health through comprehensive rules, which identify appropriate landfill locations through a multi-interstate agency review process, require groundwater monitoring and routine reporting, restrict permit lengths to a maximum of 10 years, require 30-year postclosure monitoring and financial assurance, require landfill cells to be engineered to ensure slope stability, liner suitability, and cap integrity, require public review and participation in the permit process. The State rules have, for over four decades, proven to be effective in

the protection of the environment and public health.

With the proven success of North Dakota's CCR program, there was the belief that seeking Federal program approval would have its challenges, but overall, would be a straightforward process. Unfortunately, our assessment could not have been more wrong, as the State has spent over 5 years seeking Federal primacy approval with the process ongoing.

Since the State initiated its quest for CCR Federal program approval pre-2020, there have been over three different draft submittals, a change in North Dakota law in reference to a groundwater definition, and several rounds of last final comments with no defined outcome.

The Federal review and approval process can be characterized as frustrating, unnecessarily long, time-consuming, and at times, not rooted in sound science and the law.

Federal comments relating to program implementation were provided without visiting the North Dakota facilities, resulting in some comments being seen as inappropriate, based on existing site conditions, such as recommending placing monitoring wells that would have been in the middle of a haul road, on severe side slopes, or that would have pierced the landfill liner. We believe site-specific knowledge of local climate, geology, facility design and operations is critical in the proper regulation of facilities.

To improve the review and approval process and incentivize States to seek Federal program approval, we suggest the following: Visit the State seeking Federal program approval to get an understanding of the regulatory and physical State-specific conditions, respect and acknowledge State expertise, comply with law and rigid timelines, avoid agenda-driven processes by following applicable science and the law, have clearly defined

outcomes and goals, acknowledge State sovereignty, pursue a doctrine of cooperative Federalism.

In addition to the North Dakota history of the regulation of handling storage and disposal of coal ash, we regulate the beneficial use of certain coal ash materials. We believe coal ash can exhibit certain beneficial use characteristics and is not appropriate to regulate as a hazardous waste.

State law outlines the legislative intent that coal combustion residuals can be beneficially used in concrete, construction applications, and other innovative uses.

To ensure coal ash is beneficially used and does not impart undue public or environmental risk, we require periodic laboratory testing of all coal ashes relating to leachability of trace metals and other physical characteristics, including radioactive characteristics.

Product testing and approval are required before beneficial use application and required not less than every 5 years or sooner if feed source, or EDU environmental controls change.

Fly ash can be used for a lot of beneficial uses, which you described today, such as concrete admixture. We use it for abandoned mines. And some of the ash has actually been used for sand traps at golf courses.

In the United States, there is a growing concern regarding our dependence on imported rare earth minerals, especially those from our foreign adversaries. These rare earth minerals are critical to modern technology. They are needed for technological advancements, manufacturing, and, most importantly, national defense and security.

North Dakota is ready to step up to meet this growing demand. We are exploring the potential of coal and coal ash products. In our most recent legislative session, we passed a bill that would allow coal companies to further explore mining these

rare earth minerals in the United States.

In our State, we have a fantastic team of researchers from State agencies to our universities, and the Energy and Environmental Research Center at the University of North Dakota in Grand Forks, looking at the potential of North Dakota lignite to supply marketable quantities of 14 rare earth and other critical minerals.

We know rare earth elements are found in CCR and coal --

Mr. Griffith. Mr. Glatt, if you could conclude your comments.

Mr. Glatt. Yes. One sentence.

Mr. Griffith. Thank you.

Mr. Glatt. We have potential to redefine traditional uses of coal towards meeting the U.S. demand for these elements, and we are in the process of researching and improving our recovery potential. Thank you.

[The prepared statement of Mr. Glatt follows:]

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Mr. Griffith. Ms. Evans, you are now recognized for your 5-minute opening statement.

STATEMENT OF LISA EVANS

Ms. Evans. Thank you. Chairman and members of the subcommittee, thank you for this opportunity to --

Mr. Griffith. Mike. We are going to restart your time too.

Ms. Evans. Chairman and members of the subcommittee, thank you for this opportunity to address the threats from coal ash to health, environment, and the economy.

I am Lisa Evans, senior counsel for Earthjustice, the Nation's largest nonprofit environmental law firm. I worked previously as an assistant regional counsel for U.S. EPA enforcing hazardous waste laws.

My fellow panelists would have you ignore the hazardous constituents in coal ash. They don't want to talk about the hundreds of leaking toxic dumps created by the coal power industry, but ignoring this is to allow the utility industry to continue to pollute our water.

As Ranking Members Tonko and Pallone mentioned, but it bears repeating, 91 percent of U.S. coal plants are today contaminating groundwater with hazardous pollutants above Federal safe standards. This is based on industry data from nearly 300 coal plants in 43 States.

Coal ash contains hazardous substances, including arsenic, chromium, cobalt, lead, lithium, radium and more. These cause a long list of serious health problems, many

types of cancer, heart and thyroid disease, respiratory problems, damage to the brain and reproductive organs.

Coal ash can harm every major organ in the human body. Coal ash is also one of the largest sources of industrial toxic waste. U.S. coal plants produce nearly 70 million tons each year, enough to fill train cars stretching round trip from Washington D.C., to Los Angeles.

We can't recycle our way out of the toxic mess created by the coal industry. While we support the reuse of ash into products like concrete and wallboard, where the waste is encapsulated and unable to leach toxic chemicals, these products use less than 40 percent of the coal ash generated each year. Reuse can't solve the problems posed by the millions of tons of toxic waste sitting currently in leaking ash dumps.

The American Coal Ash Association claims that coal ash is just like dirt, but I don't want this arsenic-laden, radioactive dirt anywhere near my children or grandchildren, and I don't think you do either.

The utility and coal ash recycling industries don't want EPA rules to address practices given the misleading label of, quote, "beneficial use," but what is beneficial use? It is not what is happening in Michigan City, Indiana, where NIPSCO dumped 2 million tons of coal ash directly into Lake Michigan to make more land for its power plant. The people of Michigan City do not benefit from the toxic mess held back by aging steel pilings.

The structural fill is leaking toxic chemicals into their drinking water source and following a stream where locals fish.

Beneficial use also did not occur in Morrisville, North Carolina, where a million tons of arsenic-laden, radioactive coal ash from Duke Energy was used as a substitute for soil at the high school, homes, a public park, a daycare center and roads. Ask some

Morrisville teenager whose friends have died of thyroid cancer.

The only people who benefit from so-called beneficial use of coal ash when it is used as a replacement for dirt is the industry, who profits on the backs of the communities left with the toxic mess that has been moved from power plants into people's backyards.

Americans near the almost a thousand regulated coal ash dumps, and countless more places where toxic ash was used as soil need your help to ensure that there are strong laws to stop coal plants from polluting our water.

But the utility industry is pushing back to weaken current laws. They told EPA to back off enforcement. In response, the Trump administration promptly abandoned EPA's national enforcement initiative, which made coal ash a priority. Trump's reckless U-turn gives industry a free pass to continue to violate essential safeguards.

The coal industry is demanding the Federal Government outsource its oversight to State coal ash permit programs. In response, the Trump administration is speeding the approval process in coal-friendly States where coal ash programs are less protective than the Federal rule. Once these programs are approved and lax permits are issued, residents will suffer.

The coal industry is calling on EPA also to delay for an indefinite time the cleanup of hundreds of coal ash dumps newly regulated in 2024. Lastly, the coal industry wants EPA to ignore science, because they don't like what it says about coal ash. Recently, EPA found that coal ash was much more dangerous than previously thought, because of elevated arsenic and radioactivity.

Coal ash pollution is a problem that recycling cannot solve. The solution requires Federal and State regulators and Members of Congress to place public health above polluters' pocketbooks. Thank you.

[The prepared statement of Ms. Evans follows:]

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Mr. Griffith. The gentlelady yields back.

I now recognize Mr. Adams for his 5-minute opening statement.

STATEMENT OF TOM ADAMS

Mr. Adams. Chairman Griffith, Ranking Member Tonko, and members of the subcommittee, we would like to thank you for organizing a hearing to focus on beneficial use of coal ash. This is a topic that is often overlooked in the heated debates over coal-fueled electricity and coal ash disposal regulations.

My name is Thomas Adams. I am the executive director of the American Coal Ash Association. Our mission is to encourage the beneficial use of coal ash in ways that are environmentally responsible, technically appropriate, and promoting more sustainable activities in construction and other uses.

Coal ash beneficial use already constitutes one of America's greatest recycling success stories. Over the past several decades, hundreds of millions of tons of coal ash have been used to construct resilient infrastructure and manufacture more sustainable building materials. In doing so, our Nation has conserved natural resources, reduced energy and water consumption, and significantly reduced greenhouse gas emissions from production of materials coal ash replaces when used in concrete.

My written testimony contains details about coal ash beneficial use trends and steps that can be taken to become even more effective in utilizing this important resource, but please permit me to highlight a few key points.

First of all, utilizing materials that otherwise go to waste is not a new concept. Solid waste regulation is under the Resource Conservation and Recovery Act. Let me

repeat that, Resource Conservation and Recovery Act. Beneficial use of materials like coal ash is not an afterthought. It was one of the central goals established when it enacted our Nation's guide for environmental regulations when Congress acted on this in the mid-seventies.

Second, the reasons for using coal ash go beyond the apparent environmental benefits of building fewer landfills, conserving natural resources and reducing greenhouse gas emissions by millions of tons per year.

Improved product performance was the driving factor behind the development of an industry that today beneficial uses nearly 70 percent of the Nation's new ash production, and has begun harvesting millions of tons of previously disposed ash for the same purposes.

It is a fact that concrete made with coal ash is stronger and more durable than concrete made with cement alone, all while significantly reducing concrete's carbon footprint.

Harvesting previously disposed coal ash is a rapidly growing activity, accounting for approximately 4 million tons of utilization in 2023, with numerous additional harvesting projects coming online since that time and more coming in the next 2 years.

With more than 2 billion tons of previously disposed ash in the United States, this represents an abundant and secure domestic resource. Those who would argue against harvesting coal ash are for continuing to rely on imported cementitious materials and exporting the environmental impacts of manufacturing those materials when imported.

This is probably a good place to emphasize an important point. Coal ash is not toxic. Coal ash contains only trace amounts of metals of potential concern. A 2012 study by the U.S. Geological Survey data concluded that metals are found in coal ash at levels similar to levels in ordinary soils and rock throughout the United States. Coal ash

is no more toxic than the materials it replaces when used in manufacturing products.

Furthermore, EPA itself has validated the safety of coal ash beneficial use in risk evaluations of major uses, including fly ash used in concrete and synthetic gypsum used in wallboard, as well as synthetic gypsum used in agriculture. ACAA has utilized EPA's risk evaluation methodology to validate the safety of ash used in controlled low-strength materials, also known as flowable fill.

Finally, the potential opportunity to simultaneously extract rare earth elements from coal ash resource provides additional incentive for regulators and other policymakers to return to the resource conservation and recovery mindset that was present at the outset of the Nation's solid waste regulatory structure.

Careful development of these extraction technologies could reduce America's dependence on foreign supply of critical materials while maintaining the ability to use the bulk of the resource for traditional beneficial uses like cement and concrete.

ACAA encourages policymakers at all levels to identify and remove regulatory barriers and to take a more active role in encouraging coal ash beneficial use.

For those who are concerned about issues related to coal ash disposal, may I offer one suggestion: The best solution to coal ash disposal problems is to quit throwing it away. Thank you.

[The prepared statement of Mr. Adams follows:]

******** COMMITTEE INSERT ********

Mr. Griffith. The gentleman yields back.

I thank you all for your testimony. We will now move into the question & answer portion of the hearing. And I will begin the questioning and recognize myself for 5 minutes.

Mr. Adams, we heard the comments both from the dais and from other witnesses that coal ash has radioactive elements in it.

Is that predominantly radon?

Mr. Adams. Radon is present as are a number of other things. And radon testing is required across this country. In some places, you cannot get a residential mortgage without doing radon testing prior to executing the mortgage. So this is a material that is known and it is being addressed.

Mr. Griffith. I was going to say it apparently is in a significant portion of my district in the clays and other rock material. And so when I bought my house, the testing was done, and we had to have a radon mitigation unit put into the house. It is fairly simple, but we had to have it put in. It wasn't very expensive, but still. And we are not anywhere near a coal ash pond or a coal-generating facility, but there was the radon.

All right. Let me get to the questions I originally had.

As you know, Mr. Adams, Congress reinforced the coal ash solid waste determination in 2016 by amending the Resource Conservation and Recovery Act, or RCRA, to have States and utilities look at contamination risk and make sure coal ash ponds are structurally safe. I do agree we need to make sure that coal ash ponds don't fail.

Could you explain how the EPA's coal combustion residual rule under the Biden administration didn't take into account the advantages of beneficial use and restricted

what types of CCR or coal combustion residual sites are considered harvestable.

Mr. Adams. Yes. When the rules were put together, we raised the issue of harvesting as an opportunity to take the materials out of disposal units, landfills and ponds, and put them into beneficial use.

At that point in time, the rule was at review at Office of Management and Budget. And they basically listened to us and said, we don't have time to really investigate this in this rulemaking for this particular rule. So we raised the issue of harvesting way back when when the rule was being put together, and it was ignored.

Today, we are getting that industry off the ground, and it is proving to be very successful and increasing and it is removing ash from storage units in several places around the country already, this coming year about five million tons, which will grow in the next coming years as well.

Mr. Griffith. I appreciate that.

MS. Freeark, last year, the Biden EPA issued the legacy coal combustion residual rule that was not based site-specific risk.

If some of those coal ash sites don't pose a significant risk, shouldn't they be evaluated on a risk-based standard under the Resource Conservation and Recovery Act, or RCRA, to understand if the costs are being spent to actually address contamination or potential contamination?

Ms. Freeark. Thank you for the question. Yes, we agree that without having the risk-based site-specific conditions, it was a one-size-fits-all approach.

So the sweeping part of the legacy rule was all the new classes of existing impoundments at inactive or active sites just kind of got swept into one class and not evaluated on a site-specific basis, whereas AEPCO has closed-in-place impoundments that were closed under a State-permitted program with postclosure monitoring that would be

considered a CCR management unit today under the legacy rule.

So why would you want to reopen something that has already been closed when it met standards for the States?

Mr. Griffith. I appreciate that.

Mr. Glatt, can you explain to me why was coal ash restricted for some other uses in the 2024 rule when in the 2015 regulation, EPA specifically mentions how coal ash has beneficial uses and is not -- let me repeat, not classified as hazardous waste?

Mr. Glatt. Mr. Chairman, I struggle with that a lot. Sometimes I wonder where the science is in all of this as we move forward. And at times I felt those decisions were arbitrary, not really looking at the science behind really what the risks were associated with coal ash.

And so I can't tell you why they went that direction other than I do think they ignored some of the science and actual work that was being done in the States on this issue.

Mr. Griffith. Now, can you explain how each site is different and how you would expect to evaluate a coal ash site? And I assume you do that in your State.

Mr. Glatt. Mr. Chairman, yes, we do. You have to look at everything site-specific. North Dakota geology is different from the east part of the State to the west part of the State. North Dakota geology is different than West Virginia geology.

And so you have to look at site-specific conditions and really what the risk is. And then based on that, then you come up with a plan that is protective of the environment and public health. The States need that flexibility.

Mr. Griffith. I appreciate it.

I now yield back, my time being up.

And I recognize the ranking member, Mr. Tonko, for his 5 minutes of questions.

Mr. Tonko. Thank you, Mr. Chair.

Ms. Evans, let's start with a few basic questions about why coal ash was regulated in the first place. Can you explain how coal ash may pose a threat to our health and our environment if it contaminates groundwater?

Ms. Evans. [Mic turned off.]

Mr. Griffith. And the reason we need the mic on is the folks watching on C-SPAN later tonight or tomorrow or next week can't hear you if you don't talk into the mic.

Ms. Evans. Okay. My button does not seem to work very well. So I believe the question was --

Mr. Griffith. We reset your time. If you would please go forward.

Ms. Evans. Could we have the question again, please?

Mr. Tonko. Sure. Can you explain how coal ash may pose a threat to our health and our environment if it contaminates groundwater?

Ms. Evans. The threat to groundwater and to surface water and to air and soil through mismanagement of the disposal of coal ash is rampant throughout the United States.

One of the biggest problems is that the States have not regulated coal ash during the start of the burning of coal. So we have been burning coal in the United States at coal-fired power plants since the early 1900s.

For the entirety of the time until 2015, when the Federal Government stepped in, there was just a patchwork of mostly very poor State regulations. And in fact, in some States there were no regulations at all.

So what you had was the dumping of this toxic material into unlined pits, whether wet or dry, throughout the U.S., creating this huge legacy of pollution.

And the reason why coal ash is so dangerous is that coal naturally contains

hazardous pollutants, and when you burn it, those pollutants are concentrated in the coal ash. And not only are they concentrated, but they are in a form that when water hits it, it weaponizes those constituents.

So those hazardous constituents flow into water. And when you have an unlined dump, you have rain coming in, you have groundwater coming in from the bottom of the sites, you have the hazardous contamination coming out.

Mr. Tonko. Thank you. Well, it seems that lining ponds where coal ash is stored and requiring monitoring of nearby groundwater is a pretty commonsense approach to protect water quality.

If there was already a 2015 coal ash rule that did this, can you give us a sense of why the Biden administration felt it was necessary to finalize another coal ash rule in 2024?

Ms. Evans. Sure. Well, this answer has two parts. First, the 2015 rule entirely left out what we call legacy ponds, which are the older coal ash ponds at facilities that no longer generated electricity after October of 2015, the effective date of the 2015 rule.

Those ponds, which are about 200 throughout the United States, fell out of that regulation. We sued EPA, because that made no sense and left a huge universe of potentially polluting dump sites. The D.C. Court of Appeals agreed with us and required EPA to regulate those legacy ponds. So that is part of the 2024 rule. Those 200-some ponds will now be regulated -- or are now regulated.

The second part of the 2024 rule is all of the old dry disposal areas at the power plant sites. Those were also not covered under the 2015 rule if they didn't receive waste after the effective date. But industry data showed that those units are polluting as well. So we sued to get those included so that corrective action, cleanup could be site-wide, not at individual units.

You know, the way the 2015 rule worked is it would be as if the L.A. firemen addressed one house, that was that, and left the other ones burning. You have to address the entire site to make sure that the groundwater is remediated.

Mr. Tonko. Thank you. I mentioned earlier that I am very concerned by the President's budget request, which includes major cuts to grant programs that States rely upon. If enacted, it would fundamentally change cooperative federalism as we know it, all while we see a much more lax approach to enforcement at the Federal level.

I would like to insert, Mr. Chair, into the record, testimony from the Environmental Council of States to the House Committee on Appropriations from earlier this year.

Mr. Carter of Georgia. [Presiding.] Without objection.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Tonko. Thank you. ECOS testified, and I quote, "States carry out more than 90 percent of the Nation's Federal environmental laws. Dramatic cuts to EPA that are passed along to States will incapacitate State environmental programs while creating massive uncertainty for State legislatures and businesses."

So I would also like to insert into the record, Mr. Chair, an article from the InsideEPA titled.

"North Dakota DEQ Chief Eager to Work With EPA Amid Budget Cut Worry."

Mr. Carter of Georgia. Without objection.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Tonko. Thank you.

Mr. Glatt, is it safe to say you agree with the previous quote from ECOS that if the proposed EPA budget cuts go into effect, it will impact your State's ability to properly administer environmental programs like the CCR permit program?

Mr. Glatt. Mr. Vice Chair, it has the potential to do that. I guess we are going to have to see what the cuts are, the magnitude and where they are at. But I will tell you that the State will step up and take care of the problem if EPA does not fund us.

Mr. Tonko. I noted in that article that you were quoted as saying the budget cuts, quote, "will have a very negative impact on the States."

And with that, I yield back.

Mr. Carter of Georgia. The gentleman yields.

The chair now recognizes the chair of the full committee, Representative Guthrie, for 5 minutes of questioning.

The Chair. Thank you very much. I appreciate it.

Ms. Freeark, based on your experience, does the 2024 legacy coal ash rule require the closure of coal ash sites even if they are not causing harm to human health and the environment? And can you share your views on how much it will cost to comply with this rule and what it would mean for your co-op members?

Ms. Freeark. Congressman, thank you for the question.

I can speak from my perspective at Arizona Electric Power Cooperative. The 2024 legacy rule would require us to identify, through a facility evaluation procedure, if we have any of those new classes of legacy facilities at our site or, like I mentioned before, our closed-in-place facilities that were closed historically under a State program.

We would not have to reclose them as long as they met the current EPA

standards, but we would have to include those as our existing facilities' CCR compliance for groundwater monitoring, which we do under the State program. So it would have to be rolled up into our existing CCR compliance program and not under the State program.

As far as cost, I can tell you, just working through over the last several months on, you know, the legacy rule requires the steps of analysis to get through. And we are spending a substantial amount of resources to complete those deadlines because those deadlines still exist today without the repeal going through.

And so, as we work through expending our funds to complete those mechanisms of requirements, we are unable to put those dollars towards other infrastructure that would be more necessary.

So we are reviewing ponds that do not have an impact to the environment, have been monitored since they have been closed since 2005 under a State program for just essentially checking a box under the Federal CCR rule that is duplicative of what we have been doing.

The Chair. So you are required to do something that is going to cost you money that is not going to have any benefit --

Ms. Freeark. Right.

The Chair. -- to the health and --

So EPA is reviewing the 2024 legacy standard. What recommendations do you have for EPA in considering the cost and benefits of any amendments they may propose? What do you think they should look at as they consider?

Ms. Freeark. Given I have been on the practitioner side doing boots-on-the-ground work at our coal combustion residual surface impoundments for nearly 21 years, I think going back to those site-specific risk-based programs, identify those, identify the uniqueness of all these sites -- they are very different, as Mr. Glatt has

identified -- continue to be able to approve the funds for the development of those programs for EPA.

Remind EPA that they need to implement the WIIN Act of 2016. And delaying these compliance deadlines for the legacy rule need to be considered just so that we are not doing unnecessary work right now, that if it goes away, we have expended all these resources for no reason.

The Chair. All right. Thank you.

So Mr. Glatt, you mentioned EPA has never visited the State throughout the approval process.

Did EPA adequately consider State experience regulating coal ash when reviewing your application?

Mr. Glatt. Representative, not in our experience. It was pretty much a top-down, do as we say. It became very clear they were book smart, practical dumb, in my terminology, is that you really need to get out to the site and take a look at what the totality of the site is geology-wise, monitoring, and to really get a feel before you can start commenting. But they had no lack of comments without coming out to the site.

The Chair. Thank you.

And so, Mr. Adams, my great friend sitting to my immediate left, my good friend from Alabama talks about critical rare earth minerals, critical minerals all the time, and appropriately so, because it is a dire national security issue we have to focus on.

Can you share your views on if coal ash is a source of rare earth elements, and what are the barriers, regulatory barriers for recovering those in 30 seconds.

Mr. Adams. Well, right now the biggest challenge is to develop extraction technology that is going to be appropriate for the material that is left behind, if you will.

If we extract the rare earth elements and we create a waste product that is truly

hazardous, then we haven't done ourselves much good, really. We have solved one problem partially and created another one that is much bigger.

So the technology research is really what is being focused on right now, is finding a way to extract these materials without causing harm to the residual material. So that is where the market is right now. And there is a lot of work going on, I can say that, a lot of ideas out there, but nobody has really pinned it down as yet.

The Chair. Thank you. My time is expired, and I yield back.

Mr. Carter of Georgia. The gentleman yields back.

The chair now recognizes the ranking member of the full committee, Representative Pallone, for 5 minutes of questioning.

Mr. Pallone. Thank you, Mr. Chairman.

I wanted to focus on the track record of coal ash management over the past few years and how we should approach this waste product, given its toxic nature and risk it poses for public health and safety.

When Congress passed the WIIN Act, we gave States the ability to create their own coal ash permit programs, subject to EPA approval. And the law was structured this way to address one of the primary concerns, that States could not or would not maintain the same level of protection that would otherwise be required by the Federal Government.

So I just have a series of questions of Mrs. Evans. Since the law's enactment, your organization has expressed concerns with some of the State petitions.

So first, why do you think some States are not prepared to manage coal ash on their own, if you will?

Ms. Evans. I think it is a matter of inadequate rules, perhaps inadequate approach, and inadequate resources. So first, in order for EPA to approve a State under

the WIIN Act, the regulations have to be at least as protective as the Federal rule, and the implementation of those regulations in the State must indicate that the State is applying these rules to ensure that every coal ash dump in the State is following those rules.

In multiple States, not just North Dakota -- and we are preparing comments on that proposed approval -- but in Alabama is a good example of a State that had exactly the same rules as the Federal rules, but the way in which they applied them left dumps violating the CCR rule in very important ways, whether it was by closing coal ash ponds in groundwater so that they would leak perpetually, perhaps approving inadequate groundwater monitoring systems. And that cannot stand.

Approving a State that does not ensure that each coal ash unit complies with Federal rules is approving a plan, a State program that is not as protective. And once EPA approves a State program, it is very difficult to roll that back.

The WIIN Act says that EPA must evaluate the programs, but only once every 12 years. And so you are going to have generations of folks that are going to be dealing with permits and with oversight that simply is not adequate.

We are seeing that in Georgia. So Georgia has a partial approval. They have had it for many years now. And what we are seeing in Georgia is that the State is approving permits for inadequate groundwater monitoring systems so we won't know how much hazardous contaminants are leaving the dumps, and also the disposal of ash in groundwater at at least two facilities.

So that is totally unacceptable, and Earthjustice doesn't want to see that happen in the States that are currently interested, which are coal-friendly, coal-burning, they have many coal-burning units. And we fear for the protection of the residents in those States.

RPTR KRAMER

EDTR HUMKE

[11:15 a.m.]

Mr. Pallone. What do you think -- I think you answered it, my second question, with what you said as well. But let me go to my last question.

I mentioned in my opening statement that Mr. Zeldin has decided to turn over coal ash enforcement responsibilities to the States. He also committed to quickly consider North Dakota's application for a State coal ash permit program. And EPA granted North Dakota conditional approval in May, and has signaled it is posed or poised to take similar actions in other State applications.

So my question, Ms. Evans: In your opinion, how could public health and safety be impacted by a shift to State enforcement of coal ash, especially for communities in the States seeking program approval from EPA, if you will?

Ms. Evans. You know, one thing that can occur is that enforcements simply won't happen. The States, as you mentioned earlier, are really stretched for funding. The funds for solid waste versus funds for hazardous wastes in States is miniscule. So they have got programs that may not be able to get the inspectors out to determine whether there is compliance at the facility. And if there is not compliance, you are going to have environmental damage. You are going to have contaminants leaving those coal ash dumps, entering groundwater, entering the air, following rivers. It is going to happen. It has happened at almost every site that we have seen in the United States. So there is no mystery here.

What is needed are Federal or State programs that follow the requirements of the coal -- the 2015 and 2024 rules because those rules were meant to detect the pollution,

stop the pollution, and require cleanup.

Mr. Pallone. Thank you so much. Thank you, Mr. Chairman.

Mr. Griffith. [Presiding.] The gentleman yields back.

I now recognize the vice chairman of the subcommittee, the gentleman from Texas, Mr. Crenshaw.

Mr. Crenshaw. Thank you, Mr. Chairman, and thank you to our witnesses for being here. It is an important hearing.

I think we all agree that we don't want our environment destroyed by coal ash or these byproducts. There is obviously some disagreement as to whether that is happening at the scale some claim.

We also have to, of course, think about grid reliability. That is a common theme on this committee. Grid reliability, people's power turning on is incredibly important. And baseload power just disappearing is a pretty exceptional matter, to say the least. And it shouldn't happen without some careful thought, and I think -- I believe many of these regulations are perhaps unnecessary.

And also not taking into account another theme which has been talked about, which is the -- you know, the overlooked aspect of this, which is that these CCP byproducts are indeed strategic resources that need to be utilized. They can be utilized to reduce greenhouse gas emissions, strengthen our critical infrastructure, help keep reliable power plants online. It contains rare earth elements and critical minerals essential for defense, semiconductor production, clean energy tech.

Tapping into that potential could reduce our dangerous dependence on China and strengthen America's industrial base and national security base all while still keeping the environment clean.

Mr. Adams, could you speak to that for just a minute about these byproducts and

why the EPA even labels them as a product for good reason?

Mr. Adams. Well, certainly, when you talk about a product, you are talking about something that has market value. If you talk about them merely as residual materials, it doesn't indicate anything to the marketplace that there is any economic value to them.

EPA itself said that -- this was a number of years ago -- that this industry had a value of about $23 billion in direct and indirect expense, and that was over 10 years ago. That has only grown a great deal as the value of these materials has started to increase and approach the pricing that we see for commodities like Portland cement.

So it has really developed into a much bigger economic factor all by itself than just a waste material that you would have if you regard the material as just something we need to get rid of and get out of the way and get it out of our mind. It is a resource --

Mr. Crenshaw. Let me respond. I mean, Ms. Evans' witness testimony claims the opposite; says that uses of coal ash, such as mining projects, structural fills, agriculture applications, says they are -- sham, sham recycling. And when coal ash is placed on the ground, dangerous pollutants such as arsenic, boron, cobalt, lithium, mercury, radium will leak into the groundwater. You said in a number of studies about the safety of the reuse of coal ash in your written testimony, so wanted to give you an opportunity to talk to us about that.

Mr. Adams. Well, as I referenced and I will reference again, the USGS study that is in our written testimony indicated that you will find arsenic and all these other things that you just talked about is common background material in soil and rock around the country. It was referenced earlier, I believe by Chairman Griffith, that radon, that is in soils in his area, and there is no coal-fired power plant anywhere around.

So you run into these situations where background is automatically assigned to

coal ash if there happens to be a plant somewhere, and it is not the case in many, many cases.

So when we are looking at these kinds of claims, you have to look at what the background is in the area to make a legitimate, honest evaluation of whether there is any kind of problem there.

Mr. Crenshaw. Okay. I appreciate that.

Mr. Glatt, quickly give you a chance to just -- tell us some of the safe and beneficial uses that we could be looking to across industry.

Mr. Glatt. We currently -- Vice Chair, we currently use it for -- add mixture to concrete. We use it for flowable fill for abandoning mines. We use it in soil stabilization. I will say that before it gets to that point, first the coal ash has to show a beneficial characteristic. It can't be just waste disposal. It has to be of beneficial use. Then we go through testing to make sure it will not leach these products into the environment. Once it goes through all that testing and it has shown to be of beneficial use, then we approve it to move ahead with concrete and all the things I mentioned.

Mr. Crenshaw. Okay. I appreciate it. I yield back.

Mr. Griffith. The gentleman yields back. I now recognize Mr. Ruiz for his 5 minutes of questioning.

Mr. Ruiz. Thank you, Mr. Chairman.

It is interesting that we are having this discussion about protecting the environment, protecting health from coal ash, and yet we are also saying that there is actually no harm to the public's health because the materials exist in the surrounding environment, and then -- you know, it is sort of speaking from two sides of the mouth.

But, Ms. Evans, what is the public health effect of coal ash?

Ms. Evans. Well, I would first like to say that I vehemently disagree -- and I said

this in my testimony -- that coal ash is similar to dirt. I think the statistics that Mr. Adams has provided are extremely misleading, and I would like to provide some supplementing information to indicate -- to illustrate this.

I have worked at numerous coal ash waste sites, some of which are Superfund sites, where the data shows that coal ash contains magnitudes more hazardous contaminants than is found in the surrounding soil.

So you take the Town of Pines Superfund site where you have -- on playgrounds, I believe the arsenic approached, let's say, 600 parts per million. I know they had 888 parts per million in other areas. On the playground, at 600 parts per million. That is nowhere near the average arsenic content of soil, which should be around between 6 and 10.

So we don't have a substance that is like dirt. All coal ashes are different, and not all coal ashes are going to be extremely high in arsenic and radioactivity. But EPA has found -- let's take radioactivity. EPA has found that the average coal ash has radioactivity of over 6 picocuries per gram. And --

Mr. Ruiz. How much radioactivity do you find in dirt?

Ms. Evans. One to three. So you have -- and then you can get much more. I have seen 14 in Mooresville sitting on top of the dirt. I think we had over 8 -- 8 to 9 picocuries per gram. So this is not average dirt. This is -- you know, that is already almost 3 times the radioactivity that you find in dirt.

So I think we have -- the real problem here with the understanding of what is the threat from coal ash --

Mr. Ruiz. And so what are the health -- what are the health impacts?

Ms. Evans. So the health impacts, I mean, they are myriad. And one problem with coal ash is that it has so many toxic elements. And these toxic elements can work

together. The cumulative effect can be more than a single contaminant. So, for instance, arsenic causes cancer. Radium causes cancer. And about seven other coal ash contaminants cause cancer. You have them all together. That is a cancer-causing material.

Mr. Ruiz. What are the effects on pregnant women and children?

Ms. Evans. So, I mean, if you mention children and pregnant women, the ingestion of toxic chemicals is much more harmful to a fetus than it would be to an adult. A child playing in contaminated dirt is going to be more sensitive to the radioactivity or the arsenic or other contaminants. So surely you have got more vulnerable populations --

Mr. Ruiz. More risk for stillbirths, spontaneous abortions, malformations in children with chronic consumption of lead and arsenic, could lead to cerebral damage, developmental delays, not doing well in school, not really growing at the pace that they can.

So I am not sure who here would want to have coal ash. Show me -- anybody raise your hands -- if you would like to live next to a coal ash dump. I don't think anybody would like to live next to a coal ash dump. And the ash -- the fine particle, too, are so small that if the wind blows it, right, you breathe it, it goes straight into your lungs.

What do you propose that we do with this coal ash, Ms. Evans?

Ms. Evans. Well, the answer is -- the part that can be recycled into encapsulated products should be put into encapsulated products that do not leach. But there is a big difference between putting coal ash in a product, encapsulating it, than using it as a unencapsulated material, such as a structural fill, mine fill. I would posit that using it in the sand trap would cause potential harm to inhalation of particulates, whether it is just simply particulate matter 2.5 or the other hazardous contaminants of coal ash.

Mr. Ruiz. Thank you. I yield back.

Mr. Griffith. I would point out to the gentleman that lithium is one of the contaminants listed in Ms. Evans' chart, and we certainly wouldn't want to encapsulate the salt and sea.

I now recognize --

Mr. Ruiz. You made a point. Can I -- can I --

Mr. Griffith. Yes, sir. It is only fair.

Mr. Ruiz. This is what is very important to understand is that the lithium extraction from brine, from geothermal, is in a closed-loop circuit. So lithium doesn't get exposed to the air nor does dust --

Mr. Griffith. So it is encapsulated.

Mr. Ruiz. It is a filtration system, that you pull out the filter, and then it -- you know, you keep it. So it is not exposed to the -- to the air.

Mr. Griffith. I appreciate that. It is encapsulated.

And I now recognize Mr. Latta of Ohio for his 5 minutes of questions.

Mr. Latta. Well, thank you very much, Mr. Chairman, and thanks so much for our witnesses for being with us today.

If I could start, Ms. Freeark, with you for some questions, you had mentioned about, you know, the power needs that you are looking at, and they increased because of -- especially with the data centers coming online. And we had hearings in our Energy Subcommittee not too long ago where we had all the RTOs and the ISOs here in the country before us. But they said the same thing. We have to be producing more power in this country because of, really, the influx of all of the data centers coming online.

But at the same time, we can't be taking generation offline. And it is -- the

estimations out there that are talking about maybe in the future, it will probably be all coal, they are looking at about 115 gigawatts going offline. But at the same time, we need 150 gigawatts on top of what we are already producing. So really, if that would happen, we are really, really short.

So quick question. Do you know what your energy mix is for the co-op?

Ms. Freeark. Congressman, we have had -- so Arizona Electric Power Cooperative owns and operates only one generating facility where we have -- traditionally, we had coal, natural gas. We have implemented very large-scale solar and battery energy projects. We have converted one of the coal units to natural gas for back in 2017. And so we have one remaining coal unit at our facility.

So we are -- you know, we have been expanding and diversifying our portfolio over time. But that dispatchable resource of baseload generation coal is critical so that we can continue to serve our members with affordable, reliable power. And it ensures that we can have, you know, fuel on the ground. That is a critical component of the coal unit, is that we can have coal on the ground without intermittent pipeline issues, intermittent renewable resources. So coal is critical. Although we have backed down, as I have mentioned, the conversion of one unit, that one remaining coal unit is critical for --

Mr. Latta. Well, let me ask this, then: With the new coal combustion residuals requirements, how is that going to affect your decisions in the future with that one remaining facility?

Ms. Freeark. So under the coal combustion residual rule, we will continue to monitor post-closure -- so if we had to close our remaining coal unit, we would still have 30 years of post-closure monitoring, closure of those facilities. So it would be beneficial to AEPCO and its members to continue to be able to operate that coal unit, responsibly

disposing of coal ash in our lined impoundments that have 30 years of operation with, you know, groundwater monitoring. And so to prematurely close those would cost in the tens of millions of dollars that would be borne by rural end-use consumers.

Mr. Latta. Thank you very much.

Mr. Glatt, do you believe the 2024 amendments strike the right balance between environmental protection and operational feasibility?

Mr. Glatt. One more time on that question?

Mr. Latta. Yeah. Do you believe that the 2024 amendments strike the right balance between environmental protection and operational feasibility?

Mr. Glatt. I don't believe it does like it should. I think there should be a little more acknowledgment of the work that is done beforehand so the risk is pretty minor. I don't think EPA has acknowledged that.

Mr. Latta. And let me follow up. I think the chairman of the full committee was getting into this. You had stated that, you know, that the Federal review approval is frustrating; it is not rooted in sound science and law. Could you, in my last 50 seconds, maybe touch on that?

Mr. Glatt. Sure. Going through this whole process, we had indications that our program was approvable. It went beyond what EPA had required. But they said they would not approve it because they had concerns regarding implementation.

We answered their questions through several different rounds regarding implementation, and yet they wouldn't approve -- the frustrating part was they would not give any rationale why they felt that the implementation wasn't there.

We felt that we went way beyond what EPA required and showed the documentation, had the science, and yet there was no approval. That is where the frustration came.

Mr. Latta. Mr. Chairman, my time has expired, and I yield back.

Mr. Griffith. The gentleman yields back.

I now recognize the other gentleman from California, Mr. Peters, for 5 minutes of questioning.

Mr. Peters. Thank you very much, Mr. Chairman.

A century of burning coal ash -- or coal across the United States has generated roughly 5 billion tons of coal ash, and there is merit in examining how we can safely manage and even repurpose coal ash. Reusing coal combustion residuals or coal ash in concrete, drywall, or other applications can reduce landfill use and even lower emissions relative to conventional production methods so long as manufacturers take the proper precautions. In San Diego, we have long incentivized the use of low carbon construction materials.

But as we explore the beneficial uses of coal ash, we can't use them to justify extending the life of outdated and expensive coal power generation.

Coal generation has declined by over 60 percent since 2008 not as a result of government regulation but because it has been out-competed. Natural gas, wind, and solar are now the cheapest sources of new electricity in most regions of the country. Coal plants are aging, expensive to maintain, and increasingly reliant on subsidies or taxpayer support to stay online.

All of this evidence has made it clear, coal has not declined based on some conspiracy or clean energy bias but because of well-documented market factors.

Additionally, arguments for using coal ash as a domestic supply of rare earth minerals are unconvincing to me. The concentration of rare earth materials in coal ash is far lower than in commercially mined deposits. Despite years of research, no commercial-scale rare earth recovery operation of coal ash has proven technically or

financially viable.

We are nowhere near being able to use coal ash as a reliable domestic source of critical minerals, and there are better options to shore up our supply chain. Investing in coal ash as a rare earth source is a distraction from cleaner, more financially viable solutions and an attempt to artificially bolster the industry.

While recycling and reuse is an important solution for existing waste stockpiles, we should not reverse engineer the need to burn more coal. The goal should be to manage legacy waste responsibly, not to prop up an unviable energy source.

We need to build our energy policy around an "all of the above" approach, an "all of the above" approach that deals in reality, one that provides the security and reliability we so desperately need to meet rising energy demand.

Ms. Evans, to be clear, do any of the beneficial uses of coal ash require that we continue burning coal, or can they be supplied entirely from existing waste stockpiles?

Ms. Evans. They can be supplied from existing waste deposits. There is so much waste -- Mr. Adams said 2 billion. I have heard the estimate 3 billion. There is an abundance of coal ash that could be used, and it would never be necessary to burn coal for those --

Mr. Peters. And you agree that coal generation has declined primarily due to market competition from cheaper and cleaner energy like wind, solar, natural gas rather than because of regulations?

Ms. Evans. Absolutely. And that is what the experts say.

Mr. Peters. Is there any long-term scenario in which coal becomes a competitive critical energy source again?

Ms. Evans. I don't see it. I mean, I see that the price of wind and solar is dropping. It has shown itself to be more reliable. The battery storage will be a faster

solution than the building of new power plants. And I don't see where coal fits into that scenario.

Mr. Peters. Okay. I appreciate it very much. Mr. Chairman, I yield back.

Mr. Griffith. The gentleman yields back. I now recognize the gentleman from Pennsylvania, Mister -- not here. No. There he is. I missed him. I thought you would be on the top row, Mr. Joyce. Mr. Joyce of Pennsylvania.

Mr. Joyce. Thank you, Chairman Griffith and Ranking Member Tonko. Thank you to our witnesses for appearing here today.

For years, from Pennsylvania, I recognized that coal-fired power generation facilities have worked in Pennsylvania and throughout the entire United States, and they have worked to properly manage coal combustion residuals, or coal ash. This has long been done either through disposal and monitoring or through beneficial uses, such as the making of concrete or construction applications, as in drywall production.

With the EPA's finalized 2024 legacy CCR rule, electric utilities will be faced with burdensome costs for sites where coal ash has already been safely disposed of and environmental concerns mitigated, and beneficial uses with programs that will be subjected to harsh regulations despite the evidence that they pose little or absolutely no environmental or health or safety risks. To start, I want to be clear on both the effectiveness of current methods of coal ash disposal and the beneficial use.

Mr. Adams, in your written testimony, you discuss how the regulatory treatment of beneficial use has been impacted by environmental organizations raising false alarms about the supposed toxicity of coal ash. Can you clarify how coal ash is safely used in other commercial applications?

Mr. Adams. Certainly. We know, from decades of use in concrete, that this material performs, and it performs just as expected. EPA itself ran a risk evaluation of

this material and found that there is no difference in performance of concrete with fly ash and without fly ash. That was EPA's own work.

In addition, if you look at what EPA has done over the years in terms of regulating coal ash, back in 1993, the EPA made a determination that coal ash did not warrant treatment as a subtitle C hazardous waste under RCRA based on toxicity. They repeated that ruling again in the year 2000, both under President Clinton and Administrator Carol Browner, that coal ash did not warrant management under subtitle C as a hazardous waste. And it was repeated one more time in 2015.

So if we hear all these claims of coal ash being hazardous and toxic, EPA hasn't made that claim yet. And they have looked at it, really, since 1980 when the Bevill Amendment was passed declaring coal ash to be exempt from hazardous waste management. So as we look at all these applications and we hear all these claims, EPA has not found that to be the case.

Mr. Joyce. The 2024 legacy rule created a new definition: CCR management units, or CCRMU. Mr. Adams, has the expansion of Federal regulation to CCRMU potentially undermined opportunities for beneficial uses? Beneficial uses that we talk about, you just mentioned, with the use in concrete, I talked about in drywall production -- are we stifling innovation?

Mr. Adams. It is an interesting attempt -- the 2024 rule has a risk assessment, which is terribly flawed, to supplement its claims in that rule. Beneficial use will be impacted by it, but EPA has done a nice job of trying to draw fences around things and create back doors, if you will, to restrict beneficial use, and based on that flawed risk assessment.

Mr. Joyce. You also noted, Mr. Adams, in your remarks, that the EPA used flawed risk adjustment in justifying that role. I think that is what you were just

mentioning. Can you further explain some of your major concerns with that risk management? That risk assessment?

Mr. Adams. For example, it claims that arsenic is many, many more times more dangerous than it ever has been before. What changed? Nobody has been able to explain to us what changed to make arsenic more concentrated, more of a danger than it has been for decades and centuries, actually.

We run into things like that in the report that actually give people rise for concern when there is really no change at all that has happened there.

Mr. Joyce. From your testimony, both written and stated orally, a Federal regulation which fails to consider State or facility-specific characteristics and that imposes strict regulations not based on any real finding of risk is not the way to handle CCR. The EPA announced earlier this year that they are reviewing this rule to determine what regulatory relief is appropriate.

I look forward to that determination and to working with my colleagues on this committee to ensure that electric utilities, especially in rural areas that need that increased electrification in America, are not burdened by this unnecessary cost.

Thank you all for appearing today. My time has expired. Thank you, Mr. Chairman. And I yield back.

Mr. Griffith. The gentleman yields back.

I now recognize Mr. Auchincloss from Massachusetts for his 5 minutes.

Mr. Auchincloss. Thank you, Chairman.

I represent Brayton Point in Somerset, Massachusetts, which formerly was the site of a coal-fired power plant, was going to become the site and a clean energy hub for offshore wind interconnection until the manufactured chaos from this administration issued a moratorium on offshore wind and has cancelled that manufacturing opportunity.

Before it ceased operations in 2017 as a coal-fired power plant, Brayton Point used lined landfills for coal ash. The last of them are due for final closure this year.

Ms. Evans, first of all, thank you for joining us. Can you describe how these proposed changes might affect Brayton Point and surrounding areas?

Ms. Evans. Sure. Excuse me with the mic.

Brayton Point -- and I know a little bit about this because I have some history on the original Massachusetts DEP actions at the site. Brayton Point had operated unlined coal ash ponds and also oil combustion ponds. And so there is quite a bit of contamination on the site, most of which was removed. However, Brayton Point power plant continued to operate, continued to do more waste disposal.

And now there is still remaining groundwater contamination. That groundwater flows into Mount Hope Bay, which is a bay shared by Rhode Island as well as Massachusetts. And it is a valuable estuary for fish spawning and growth.

The new requirements will be very important to cleaning up Brayton Point. So Brayton Point is an excellent example of a very large power plant that, over decades, has produced waste, some of which was placed in unlined ponds, now lined landfills, and other waste disposal areas at the site.

Mr. Auchincloss. And am I correct, ma'am, that we are still showing excess arsenic and lithium and other chemicals in the groundwater?

Ms. Evans. Yes. I believe so. That is what the groundwater monitoring reports say. So what you have is it is obvious that whatever cleanup that they did, pursuant to a Massachusetts order, has not cleaned up the site in a way that makes it a safe site for the citizens in your district, for the people of Rhode Island, you know, for the fish in the estuary.

And the legacy rule is really meant to address that. The legacy rule requires a

power plant order to look at the site as a whole and do a facility evaluation report where it will find where are all those old disposal areas that are likely contributing to the problem.

Mr. Auchincloss. And I believe that for Brayton Point there could be as many as twelve of those --

Ms. Evans. Yes.

Mr. Auchincloss. -- coal ash dump sites that would be newly regulated under the 2024 rule --

Ms. Evans. Right, which is not unusual because, you know, a lot of these plants have been operating for almost 100 years.

Mr. Auchincloss. So in some ways, Brayton Point encapsulates the benefit of this legacy rule in that it is not just a go forward, it is also a look back, and, as you said, treat the site holistically to ensure that there is not continuing groundwater contamination or discharge into Mount Hope Bay.

Ms. Evans. Right.

Mr. Auchincloss. So do you believe the 2024 rule and its faithful execution is critical to the complete and long-term cleanup of the site?

Ms. Evans. It is absolutely critical. And it is critical that we don't delay its execution. EPA was very late to the game regulating coal ash in the first place. RCRA was passed in 1976, but it took them decades to get a Federal coal ash rule. So we are way behind in stopping coal ash contamination. And coal ash contamination groundwater keeps moving. How much has it gotten into Mount Hope Bay? How much is in the sediment? How much more will get in if industry is successful in delaying the legacy rule?

Mr. Auchincloss. And can you just describe for my constituents in Somerset and

surrounding environs, what does that groundwater contamination mean for them? What does it affect for their quality of life?

Ms. Evans. Yeah. I mean, it will be different at each site. From the little I know about Brayton Point, I know that the groundwater flows to the bay. So if that bay is a area where young fish are, one will be the young fish not survive -- will be -- less fish to eat and to enjoy. The fish that survive -- a lot of the coal ash contaminants like arsenic and selenium are biocumulative, so those fish may be tainted and be unable to be consumed.

In environmental justice areas or poor areas, you have people who are subsistence fishermen, and they may not -- there might be public advisories, but they may eat the fish anyway.

Mr. Auchincloss. I am going to have to yield my time. Thank you, Ms. Evans, for --

Ms. Evans. Thank you.

Mr. Auchincloss. -- your input on this.

Mr. Griffith. The gentleman yields. I now recognize the gentleman from Texas, Mr. Weber, for his 5 minutes of questioning.

Mr. Weber. Thank you, Mr. Chairman.

I am going to come to you, Mr. Glatt. Only 3 States currently -- Oklahoma, Georgia, and my home State of Texas -- have EPA-approved coal combustion residuals, CCR, permit programs, meaning that these States -- we have talked about this -- rather than the Federal government oversee these programs. It is my understanding that North Dakota is in line to become the fourth State, should its approval be granted. Has that happened?

Mr. Glatt. They are in the process now, with a public hearing scheduled for July

8th.

Mr. Weber. July 8th. Okay.

Can you elaborate on exactly how this process has gone with the EPA? How much time do you need? Yeah.

Mr. Glatt. It has been very frustrating. We were led to believe that we complied with all of the elements required, and then there was always one more thing and one more thing. And we got the feeling that they never had any intent to approve the program.

Mr. Weber. Was that in the previous administration or the current one?

Mr. Glatt. Previous.

Mr. Weber. Has it changed?

Mr. Glatt. It has now. They have looked at the program. They said it is approvable. The previous administration said it was approvable as well, but they always had one more thing to deal with. Now we are going through the process, and we fully expect that we will get approval.

Mr. Weber. So are you familiar with the phrase "It is morning in America again"?

Mr. Glatt. Yes, I have heard that.

Mr. Weber. Okay. I think a lot of people are.

Has North Dakota engaged with other CCR-authorized States to learn best practices regarding that application process and program -- I guess, are you hiring out to them?

Mr. Glatt. Yeah. We are in contact and conversation, but understanding that every State is a little bit different and they approach it differently. Where we can find commonalities and benefit from those other States, we adopt that. But we understand that North Dakota is not Oklahoma, is not Texas, and they do things for their own

reasons, but we keep an eye on what other States do.

Mr. Weber. So you can learn from, you know, each other, basically.

Mr. Glatt. Correct.

Mr. Weber. Okay.

Is it Freeark? Is that how you say that? Okay. I am coming to you next. Are you ready? Okay.

According to Arizona Electric Power Cooperative's website, the Apache generation station has a steam-generating unit powered by coal. You are aware of that.

Ms. Freeark. Yes, sir.

Mr. Weber. In your testimony, you emphasized the importance of affordable electricity, particularly given that one-third of -- how do you all say that? AEPCO?

Ms. Freeark. AEPCO.

Mr. Weber. AEPCO was my next guess. One-third of AEPCO's customers live below the Federal poverty line.

Can you share in further detail how this coal-fired unit, as well as coal units nationwide, contribute to keeping electricity rates affordable?

Ms. Freeark. As I mentioned before, our mission is to provide safe, reliable, affordable electricity. As you pointed out, a third of our member residential customers live below Federal poverty line. It is hot in Arizona. So the summer heat demands cause, you know, demand for reliability events, partnered with potential wildfires. So it is critical that we continue to be able to have that baseload generation to be able to afford to -- to be able to provide affordable electricity that isn't, you know, subject to the market so that our members can afford to keep the lights on.

Mr. Weber. As I said to Mr. Glatt, so do you reach out with some of your other colleagues in other different States? Is there an organization of the co-ops, I guess?

Ms. Freeark. There is.

Mr. Weber. What is the name of it?

Ms. Freeark. We have on a -- on the high level, basically, we have the National Rural Electric Cooperative Association. And then within that, we have different organizations, and one of them is the National Rural Electric Environmental Association. So we coordinate, collaborate on what is happening in all the States.

Mr. Weber. Sure.

Ms. Freeark. What is working, what is not. And we also do that within our own home State. We have all the Arizona utilities, whether it is co-ops, public power, IOUs, we work together to ensure that, you know, that we have sensible regulation, that we can -- you know, we may not always see eye to eye, but we can come together in those times where it makes sense to work with our regulators, work with, you know, work with others that are -- as they develop rulemaking.

Mr. Weber. In most of those meetings, I guess, you said you coordinate and cooperate with them when you talk about meeting with the regulators in other States. You are finding that pretty much everybody wants to do the right thing for their customers and the environment? Would you agree?

Ms. Freeark. I would agree with that.

Mr. Weber. And so I guess -- I have got 19 seconds. So did you find the same thing in the previous administration? Has it lightened up a bit in this administration?

Ms. Freeark. The last administration, absolutely not. It was block walls put up, zero communication. This new administration, we have already been able to coordinate with them and have those conversations.

Mr. Weber. Are you familiar with the phrase "There is morning in America"?

Ms. Freeark. Yes.

Mr. Weber. I yield back.

Mr. Griffith. The gentleman yields back. I now recognize the gentleman from New Jersey, Mr. Menendez, for his 5 minutes of questioning.

Mr. Menendez. Thank you, Chairman.

We have to legislate for the realities of a changing climate. We are here today in the midst of a historic heat wave that has stressed our energy infrastructure, endangering the health of millions of Americas. And it is caused in large part by the greenhouse gases accumulating in our planet's atmosphere. Greenhouse gas is disproportionately released by the combustion of coal.

And today we are focusing on another harmful aspect of burning coal, its residuals, coal ash. EPA has made important strides over the last decade to regulate coal ash, but 91 percent of coal-fired power plants continue to leak toxic radioactive pollutants into water that eventually comes out of our kitchen tap. Meanwhile, climate change is accelerating and intensifying natural disasters, sea level and groundwater rise and flooding, all of which worsen the risk of a spill and increase the threat that these sites pose to our communities.

In my coastal district, we have low-lined, coal ash landfills in Jersey City that will become even more susceptible to flooding and sea level rise over the coming decades. If these sites, which previously showed evidence of contamination, already pollute our community under normal circumstances, another major weather event or a 6-foot increase in sea level would cause catastrophic damage.

Ms. Evans, can you briefly describe how climate change impacts coal ash management?

Ms. Evans. Thank you. And this is an important question because coal ash dump sites are uniquely vulnerable to climate change. Coal plants have to be built near

water source, so they are near the shorelines of lakes, rivers, and the oceans. We know that these waters are rising. And in some instances, groundwater is rising as well.

A couple of statistics. We have -- 74 percent of coal plants have a landfill or a pond within a quarter-mile of the surface water, and 57, almost 60 percent have a landfill or pond within 50 -- I am sorry -- 500 feet of surface water. So these units are very, very close to water, and many, especially ponds, have been built in the floodplains.

The risk is not hypothetical. We have had hurricanes, Hurricane Florence in the Carolinas, that flooded coal ash ponds. You know? So we know that the more intense storms can do extensive damage to coal ash ponds and landfills and cause significant releases.

Mr. Menendez. Right.

Ms. Evans. So the sooner we can get this ash out of the floodplain to protect it from the sea rise and the intense storms, the better.

Mr. Menendez. Right. And you see these once-in-a-lifetime weather events, but they are changing, sort of, where they are -- what communities they are impacting, what States they are impacting, right? So it impacts, sort of, how we think about the management of these sites. And, perhaps, areas that have not previously been impacted could be, and you could see really harmful outcomes for those surrounding communities.

How does robust enforcement of coal ash pollution regulations help mitigate these climate-related risk?

Ms. Evans. Well, the coal ash ponds that are poorly sided, that are in floodplains, that have their ash in contact with groundwater, need to be closed. And in many cases, they need to have their ash removed and redeposited in a safe area in a lined landfill or, you know, the ash may be used to create encapsulated products, such as concrete.

But in no event should the ash be left at the shoreline. And the CCR rule, the original 2015, requires the safe closure of those sites.

Mr. Menendez. Right. And should Federal standards and enforcement be strengthened to address the impacts we anticipate from a changing climate?

Ms. Evans. I am sorry. Can you repeat that?

Mr. Menendez. Sure. Just yes or no. Should Federal standards and enforcement be strengthened to address the impacts we anticipate from a changing climate?

Ms. Evans. Yes.

Mr. Menendez. I agree. Yet, instead of taking commonsense, data-driven action, the Trump administration is cutting staff and funds at the EPA. It rolled back Federal requirements on coal ash regulation enforcement, delegating authority to States that have proven records of failing to meet Federal standards as required by law.

In your view, will weakening EPA's ability to enforce existing coal ash pollution standards intensify climate-related risk at these sites, and ultimately endanger the clean drinking water that so many of our families rely on on? Just yes or no.

Ms. Evans. Yes.

Mr. Menendez. And to close out, I want to make sure that the folks at home in New Jersey get a sense of what this means for them. Can you touch on what increased groundwater contamination would mean for families and communities that live in proximity to coal ash waste?

Ms. Evans. If those communities use the groundwater for drinking water, that can absolutely impact their health. That can harm their health. For communities that don't yet use the groundwater, the groundwater's an incredibly important resource. And so if the groundwater is not currently being used for drinking water, irrigation, that

doesn't mean that it should be poisoned and polluted by contaminants.

Mr. Menendez. I agree with you. Thanks so much. I yield back.

Mr. Griffith. The gentleman yields back. I now recognize the other gentleman -- or another gentleman from Texas, Mr. Pfluger, for his 5 minutes of questioning.

Mr. Pfluger. Thank you, Mr. Chairman.

Let's just follow up with that line of questioning, and I will go to Mr. Glatt and Ms. Freeark. Are there communities that are drinking contaminated groundwater because they are not regulated appropriately, Mr. Glatt?

Mr. Glatt. No.

Mr. Pfluger. Yeah. Ms. Freeark?

Ms. Freeark. No.

Mr. Pfluger. I mean, this is just insane that we are sitting here talking about, you know, unregulated groundwater. I mean, no. That is not the case. So that was not my line of questioning, but I just -- I couldn't help but correct the record here that -- is there a threat because of our regulatory posture, Mr. Glatt?

Mr. Glatt. No. Based on the State program, there is not a threat.

Mr. Pfluger. Talk to us about the expense. You have touched on this today. But I want to get back to what will this rule do in terms of cost and then in terms of effectiveness?

Mr. Glatt. As far as the baseline CCR rule and the State adopting that, I don't see that as being a whole lot. I think the concern is with the legacy rule of having to go back and look at landfills that were appropriately closed that do not pose a risk now. We have the concern that if we had to go back in and somebody saw the need to dig that back up, that would create a greater environmental hazard than what they have today.

Mr. Pfluger. Yeah. Just can't get around ourselves for making smart decisions on that.

Ms. Freeark, you know, let's go on the line of questioning on cost. And we know that they are going to be significant. They estimated the cost would be at a minimum $214 million per year with only 53 million in benefits. That is the Biden administration. And this ultimately impacts the ability to provide energy to our communities.

So you noted in your written testimony that Arizona Electric Power Cooperative is incurring significant expenses to comply with the legacy rule and its deadlines. And again, you have touched on this already today, but I want to make this point. Can you describe some of the major expenses that this rule has imposed? And do you think that these costs will produce commensurate benefits on the other side of it?

Ms. Freeark. So far, as others have mentioned, there is a laundry list of things that we have to do under the legacy rule. So every single one of the steps incurs costs with outside professionals, qualified professional engineers, consultants that help. We are a rural co-op. We have a very small staff, so we can't -- we don't have the bandwidth to perform it all ourselves, so we rely on those outside resources. So you are talking about contracting with ongoing support to do facility evaluation.

And when we talk about the facility evaluation, it is of the entire site. We own 4,000 acres. So evaluation of the entire site where -- you know, we have the proper area, but you are looking at in the entire site, going back to historical records, any project, anywhere where you could have found that CCR materials may have been used.

So that has taken us months and hundreds of thousands of dollars to get through. That report is not yet done. We are in the final completions of it.

But then, moving from there, then once you identify those new classes of units that they identified in the rule, then you will have to institute groundwater monitoring,

public websites. There is just a laundry list, again, of items that would have to be included just to regulate something that -- for instance, again, like our facility, we have closed-in-place ponds that we would have to, you know, look back, which is insane that you are going to look back -- those were closed in 2005 -- have not had a impact to groundwater, human health.

And, you know, we are not near any surface waters. So we have a really different geologic site condition. The risk, if you measure the risk based on that, it is very different.

Mr. Pfluger. Thank you.

Mr. Adams, some of my questions for you were already asked. I will give you the last minute to tell the committee anything. Any follow-up statements that you --

Mr. Adams. Yeah. I think it is kind of interesting that we have spent a great deal of time today talking about disposal and disposal regulations and disposal impacts and all that kind of thing and a lot less time talking about beneficial use and the things that are really benefitting not only the construction industry but society in general, in terms of greenhouse gas reduction. We are taking materials out of landfills and ponds, returning those facilities to more palatable uses, for parks and green spaces and things like that. We are doing a lot of good things through beneficial use, but we spent a heck of a lot more time today talking about things that have more to do with disposal and less about beneficial use than we hoped. But we would like to come back and reengage and talk more about beneficial use.

Mr. Pfluger. Thank you. I thank the witnesses, and I yield back.

Mr. Griffith. The gentleman yields back. I now recognize the gentleman from Ohio, Mr. Landsman, for his 5 minutes of questioning.

Mr. Landsman. Thank you, Mr. Chairman.

I agree. The beneficial use conversation is super important. I suspect we can get closer to having a meaningful conversation about that when we resolve some of the legitimate questions about the leftover coal ash and how we manage that so that it does not undermine public health. So I think I -- I think those are the concerns, obviously, that, you know, this committee is in a position to resolve.

We know that this leads to some toxins that can get into the air, into the drinking water, et cetera. And I do think it is important to acknowledge that the unsafe disposal of coal ash is something we have to take on. And the worry with the administration at the moment is that the attempt to gut the EPA and indiscriminately fire all kinds of people -- I mean, part of what government does is mitigate risk, right? That is why we invest collectively, so that we can do all kinds of things, knowing the government is going to help mitigate risk. And that is what my line of questions are as it relates to this conversation.

Ms. Evans, the regulatory standards -- which ones should be strengthened or introduced to ensure that the coal ash is managed safely?

Ms. Evans. It is essential that the coal ash rule complies with the statute. And the statute, under subtitle D, nonhazardous waste, requires that there be no reasonable probability of harm. So the CCR rule in 2015 and 2024 generally followed those constraints. I think the problem is not, right now, do we need additional rules. Certainly, we can still close some gaps. The problem is the administration and enforcement --

Mr. Landsman. Yeah.

Ms. Evans. -- of the current CCR rule.

Mr. Landsman. So to that end, what are the most responsible strategies to ensure -- or prevent the contamination of air and water? I mean, what would be the top

two or three that matter most?

Ms. Evans. Yeah. And, you know, that is easy. That is a question that could have been answered 50 years ago, 70 years ago. When you have a waste that releases its toxins when it is in contact with water, you put it in a safe, dry place above groundwater, lined. Since all landfills eventually leak, you want a leak detection system, and you want to be monitoring that for all of the contaminants that are in the waste. And when you find any leaks, you want it to be -- to immediately address them.

So, you know, this is not rocket science. We don't need new technology to keep communities safe from coal ash. We just need the utilities to follow the rules that we have already got on the books. And we are not seeing that happen.

Mr. Landsman. Super helpful. That, to me, is also a conversation we should have, which is, you know, where are we doing that? Because it is very straightforward in terms of, you know, the dry space, the lined -- you know, lining that contaminant and then having basic technology, and making sure that the disposal is done in this way.

So as we move forward, I hope that is also part of the conversation. Maybe we separate them out so we can talk about the benefits separately from just making sure that we are protecting people because it does -- it is very difficult to get to a conversation just about the benefits if there are remaining questions around making sure people aren't dealing with contaminated air, water. And obviously we would make -- we would be making this a lot easier if there wasn't this attack at the EPA.

Yeah. Did you have -- I have 38 seconds, so they are yours.

Ms. Evans. Yes. Let me make an important correction to my answer, is that you asked what else does EPA need to do. They absolutely need to prohibit the use of structural fill or fill or use of coal ash as dirt. And I apologize that I forgot to say that.

Mr. Landsman. That is okay. Thank you.

Ms. Evans. Thank you.

Mr. Landsman. I yield back.

Mr. Griffith. The gentleman yields back. I now recognize the gentleman from Colorado, Mr. Evans, for his 5 minutes of questioning.

Mr. Evans. Thank you, of course, to the chair, to the ranking member, and to our witnesses for coming today.

First question to you, Mr. Adams. How much concrete does the United States use versus some of our global competitors, specifically China, on an annual basis?

Mr. Adams. How much concrete in terms of cubic yards?

Mr. Evans. Yeah, in cubic yards, or however you want --

Mr. Adams. We are about, I believe, about one-tenth of what China uses.

Mr. Evans. Yeah. So I have heard about the same, anywhere from one-tenth to one-20th of what China uses.

And can you just speak very briefly to the environmental standards that are in place around how we produce and use concrete versus how China is producing and using concrete at ten to twenty times the scale we are?

Mr. Adams. I have no knowledge of the Chinese market. I can only speak to the U.S. market. The U.S. market is very much committed these days to carbon reduction, to sustainable business practices that include use of these kinds of materials like coal ash and things like that, to reducing the amount of Portland cement, which is very intensive in terms of CO2 emissions.

So the cement industry and the concrete industry both have roadmaps which are very, very similar to accomplish this carbon reduction objective that they have. And in order to do that, an important part of those roadmaps is the increased use of materials like coal ash and reducing the amount of Portland cement, which is very CO2 intensive,

and causing the carbon footprint of concrete construction to come down. We are very committed to that. I don't see there is any indication that I read anywhere that the Chinese market is interested in that at all.

Mr. Evans. Yeah. And thank you for that. And I would tend to agree with that, you know. So I represent Colorado's 8th congressional district, north Denver suburbs up to Greeley, Colorado, one of the fastest growing areas in the country. And so we have a massive footprint in our area dedicated to producing the raw materials that build Colorado, to include a lot of concrete and cement production in the area. And I know that our producers are working as hard as they can because we all want clean air, clean land, and clean water.

And we also have the technology these days to see where a lot of the pollution is coming from in my area. Double digit percentages of pollution along the Colorado front range are coming from China. And the fact is if we don't produce things in the United States, it is not like we get suddenly clean air, clean land, clean water. That production is going to go other places, and we are still going to inherit the pollution of that.

So thank you for all of the work that the concrete association has done to make sure that we are being good environmental stewards here in the United States, recognizing that we are not in a vacuum, that there are other competitors around the world who do not have the same commitment to environmental or social responsibility that we have in the United States.

And so I would like to hear you talk a little bit more about specifically the topic before us today, using things like coal ash or fly ash in the production of cement and then ultimately concrete. Particularly for my area, that is a major concern because of the housing shortage that we have. We know that houses need foundations. Foundations are typically built out of cement and concrete. So can you talk about the process to

bring that ash to the market and how cement and concrete producers are in a position to environmentally and socially responsibly use some of these byproducts of energy production in the United States with, you know, keeping in the back of our mind that our global competitors don't have the same commitment to environmental and social responsibility that we have?

Mr. Adams. Great question. I will try to answer it very quickly here.

The industry is working hard on carbon reduction by using one of the most important things, using supplementary cementitious materials, of which coal ash is one. These are raw materials which enhance the performance of cement that is added to concrete. Currently, in terms of fly ash and coal ash, the usage rate around the U.S. is about 15 percent of the total cementitious material put into concrete. In order to meet the goals of these roadmaps that I have referred to, experts in this area estimate that we are going to have to get the supplementary cementitious material content from 15 percent to at least 35 percent. So that means we are going to have to come up with new sources of materials to add to concrete, to reduce carbon -- the carbon footprint of our construction. And that is going to mean we are going to need things like more harvesting, a lot more harvesting, to feed the market with these materials that are going to allow them to make that goal a reality.

Mr. Evans. 20 seconds. Anything else you would like to add?

Mr. Adams. I would say that in terms of helping the industry, finding ways to support beneficial use by harvesting the material, adjusting deadlines for closure of facilities and that kind of thing that are already operating, harvesting operations, would be greatly helpful instead of causing these facilities to close prematurely, leaving material in those landfills and ponds that could be removed and put into concrete and real beneficial use.

Mr. Evans. Thank you. Yield back.

Mr. Griffith. The gentleman yields back. I now recognize the gentleman from Louisiana, Mr. Carter, for his 5 minutes of questioning.

Mr. Carter of Louisiana. Thank you, Mr. Chairman. And thank you to all of our witnesses for being here today.

I represent a district in Louisiana where families live in the shadow of aging industrial facilities. And I know when we talk about coal ash, we are talking about more than just byproducts. We are talking about public health. Coal ash is a radioactive waste product, and exposure has been shown to raise the risk of cancer and other health problems. And yet, what is strikingly absent from most of today's testimony is any serious discussion about the health and safety of the communities living near coal power plants and facilities that use coal ash. We cannot ignore the human cost of these so-called beneficial uses.

We should focus on reducing pollution at the source by accelerating the transition to cleaner, cheaper, and more sustainable energy, but instead the Trump administration is pushing policies that force aging, inefficient coal plants to continue operating regardless of the cost or the public health issues.

If you want to talk about beneficial use, let's talk about the benefit of clean air, safe water, and lower utility bills. We owe it to our constituents to pursue an energy policy that protects both their health, their wallets, and their families' growth.

Ms. Evans, would you agree that low-income communities of color are often disproportionately impacted by coal ash ponds?

RPTR BRYANT

EDTR ROSEN

[12:13 p.m.]

Ms. Evans. Absolutely.

Mr. Carter of Louisiana. Why should the Federal Government have strong rules if States have their own coal ash management programs?

Ms. Evans. Well, States' coal ash management programs have been shown to be ineffective and inadequate.

Mr. Carter of Louisiana. How does the Trump administration's recent push to eliminate State and Tribal Assistance Grants impact the ability of States to maintain or take delegated programs like coal ash management?

Ms. Evans. I think that Mr. Glatt would agree that a good State coal ash program needs resources. So starving States of resources needed to conduct inspections, launch enforcement actions, do the technical evaluations needed in any oversight of disposal, you know, requires trained professionals and lots of resources.

Mr. Carter of Louisiana. Thank you.

Mr. Adams, in your testimony, you state that coal ash is basically similar to regular soil.

Quick question: Would you move your family near a coal ash detention pond? Would you drink groundwater that was impacted by these ponds?

Mr. Adams. No, just as people would not move their family near a municipal solid waste facility. You know, it is not where you would move your family. In fact, in many cases --

Mr. Carter of Louisiana. Why not? It is not safe? Is it not safe?

Mr. Adams. It is just unattractive.

Mr. Carter of Louisiana. It is unattractive. But many people are forced to be in that situation, because they are forced to because of their economies, because of their situations, because of their economic, or the colors of their skin.

So let's be real and let's be honest about where we are. How would you feel -- would you feel comfortable with coal ash being used to fill, to use fill in your backyard?

Mr. Adams. It depends on what the application was and what --

Mr. Carter of Louisiana. Let's say you were planting vegetables.

Mr. Adams. No, no, you can't say all --

Mr. Carter of Louisiana. Yes, I can.

Mr. Adams. No, you cannot.

Mr. Carter of Louisiana. It is my time. Sir, reclaiming my time. I am reclaiming my time.

Mr. Griffith. The gentleman has reclaimed his time. You have to stop answering.

Mr. Carter of Louisiana. I am asking you a question, sir, and you can answer it or you can choose not to.

Would you use coal ash to plant vegetables in your backyard, yes or no?

Mr. Adams. No.

Mr. Carter of Louisiana. Okay, thank you.

I find it hard to believe that we know what we know about the impacts of our health, our home values, living near these facilities.

Burning coal releases harmful pollutants in the air, including particulate matter, nitrogen oxide, sulfide dioxide, and heavy materials like mercury. These pollutants can

lead to respiratory illness, heart disease, neurological damage and even premature death.

Unlined ponds allow contaminants to leach into groundwater and drinking water, with the ash sometimes becoming airborne as toxic dust. Aging or deficient coal ash impoundments can fail structurally, resulting in catastrophic floods of toxic sludge entering neighboring communities.

America needs to move forward with clean power for the sake of our communities and future generations instead of looking for excuses to cling to the 19th century technologies.

Mr. Adams, surely you are aware that EPA has updated its 2024 study, yet, your testimony, you cite findings from a 2000 and a 2012 report. The 2024 report assesses and amplifies the harms of coal ash.

My time is expired, and I yield back.

Mr. Griffith. The gentleman yields back.

I now recognize the gentlelady from Iowa, Mrs. Miller-Meeks, for 5 minutes of questioning.

Mrs. Miller-Meeks. Thank you so much, Mr. Chairman.

And I want to thank all of our witnesses for being here today.

As a Representative from Iowa, I understand the critical importance of striking the right balance between protecting our natural resources and promoting practical science-based solutions to manage industrial byproducts, coal ash being a prime example.

So today I am looking forward to a productive discussion on how we can continue regulating coal ash safely and effectively while supporting innovation and economic growth.

Mr. Adams, the 2024 legacy rule defines CCR management units broadly enough to potentially regulate foundational materials under buildings, roads, and even rail spurs.

Has ACAA documented examples of beneficial use projects in which this overbroad definition created legal or financial uncertainty, perhaps delaying or canceling investment?

Mr. Adams. We have not done specific detailing of the kind of information that you are looking for. We are working on some things to that effect, but we do know that basically what we are looking at is some beneficial uses are okay inside the fence line of the power plant, but now they want to make them not okay outside the fence line of the power plant. What is the difference?

These are the kinds of flaws that are in the 2024 rule in addition to that risk assessment that need to be fixed and need to be looked at more closely to make the rule effective and do the thing it is supposed to do.

Mrs. Miller-Meeks. Rather than arbitrary and capricious, I am insinuating from your comment.

Mr. Glatt, you testified that Federal reviewers submitted recommendations, such as well placements, without visiting North Dakota sites. In your view, what are the practical consequences of remote one-size-fits-all Federal assessments that ignore site-specific geology, design, or hydrology?

Mr. Glatt. Well, without looking at the full site and having a good appreciation of all those things you just indicated, you can come up with erroneous conclusion or bad design.

Mrs. Miller-Meeks. Thank you.

Ms. Freeark, AEPCO sells over 90 percent of its fly ash for beneficial reuse, reducing the amount of coal ash needing disposal. However, the EPA's new definition of CCR management units appears to threaten the viability of such practices by expanding what qualifies as a regulated unit.

Could you elaborate on how this undermines the incentive to beneficially reuse coal ash and whether the EPA provided any justification in its risk analysis for this change?

Ms. Freeark. Congresswoman, for our facility, even under the legacy rule, we would still be able to sell the fly ash. As I mentioned, we only have one remaining coal unit that burns coal. So our coal ash obviously over time has decreased, but we do everything that we can to get as much of the fly ash into spec for the beneficial reuse, which is adjacent to our facility.

So nothing is handled on the ground. It is all sluiced over there or the access is sluiced to our ponds. The material that they take is sent over via pipe to their facility. So nothing is ever touching the ground. It goes straight to silos, and then shipped off site.

Mrs. Miller-Meeks. Mr. Glatt, how does your State's periodic product testing regime ensure that beneficial use of coal ash doesn't pose a risk to soil, water, or public health, particularly in rural areas where ash might be used for haul roads or land reclamation.

Mr. Glatt. We take a look at all the different ash characteristics, make sure it doesn't leach the chemicals, the compounds that were of concern.

We also look at the radioactivity of the material to make sure it doesn't impart a negative impact that way. Once it passes all those tests being within standards, then the product is deemed safe for beneficial use.

Mrs. Miller-Meeks. And Mr. Adams, you mentioned that the EPA's coal ash risk assessment used to justify the 2024 rule is significantly flawed.

Could you describe the primary errors or assumptions that concern your association?

Mr. Adams. I think we can just start with the arsenic claim that the arsenic is

much more intense than we previously thought. I didn't see any science there to support that. It is just a claim.

And we can go through the rule and come up with others in there that are just as questionable. However, when you start right there, you really have to wonder about if science has been applied to all the others.

Mrs. Miller-Meeks. Thank you very much.

I yield back.

Mr. Griffith. The gentlelady yields back.

I now recognize the gentlelady from California, Ms. Barragan.

Ms. Barragan. Thank you, Mr. Chairman.

When I saw the title of the hearing, I thought it was a mistake. I looked at it and it said, "Beneficial use opportunities for coal ash," as if this toxic waste is a gift to the hundreds of communities with polluted groundwater from coal ash landfills.

The Energy and Commerce Committee, here in the Environmental Subcommittee, is tasked with protecting clean air and water. Instead, Republicans want to highlight how we can promote the use of coal ash.

Here is what I have believed and seen the reality to be is over 90 percent of monitored coal ash sites contaminate groundwater, and enforcement has been weak. And communities that live near these sites often are low-income, or they are communities of color, and they bear the brunt of increased health impacts.

Ms. Evans, I want to follow up on a conversation my colleague started but ran out of time on. And that is, you know, one of the witnesses next to you has cited the outdated EPA assessment that coal ash is not hazardous.

Yet, a 2024 EPA assessment studied coal ash that is mixed with clean surface soil in residential areas, and found that even a small amount of coal ash can result in elevated

cancer risk.

Can you speak to the health risk found in this assessment?

Ms. Evans. Yes. And I think that perhaps the objections are both to the findings regarding radioactivity and arsenic. Regarding arsenic, the EPA did a full new toxicogical assessment of arsenic, which involves, you know, through peer review, and through many years, the assessment of new scientific studies.

So it is not that arsenic has changed. It is that the medical evidence of development of cancer, development of heart disease has been recognized, and it has been recognized to occur at much lower levels of exposure.

So, in fact, the conclusions of the EPA new IRA study was that the cancer potency of arsenic is 21 times higher than previously acknowledged; and that heart disease, which was not acknowledged to be an impact of arsenic exposure, is evident by the medical evidence. So these are science-based conclusions.

As for radioactivity, which was extremely troubling in the EPA final risk assessment, you are right that EPA looked at the average level of radioactivity in coal ash. They looked at what does that mean when that radioactivity is used to fill at differing concentrations.

So they weren't even looking at what I see routinely happening in the field is that you use coal ash as a substitute for dirt, not that you are mixing dirt with the coal ash. You know, I think the point of these companies is to use as much coal ash as possible.

But in any case, the risk of -- and one in 10,000 cancers is sort of the hallmark limit whereby EPA gets very concerned and starts to regulate. That has been exceeded by coal ash mixed with soil at 11 percent when you have a certain amount of radioactivity in the ash, and then it goes down from there.

But 11 percent of coal ash in the structural fill, you know, is very unusual. It is

usually much more. So it was a very concerning conclusions on the part of the EPA as to the safety of coal ash used as fill.

Ms. Barragan. And is it fair for the EPA to update their science and understanding of this risk over 10 years?

Ms. Evans. I am sorry?

Ms. Barragan. Would it be fair for the EPA to update their science and their understanding of the risk over 10 years?

Ms. Evans. Absolutely. And EPA has been doing that routinely. I don't know what the -- well, I know what the impact of Trump's decimating the Office of Research and Development. We won't have these updates.

But it is absolutely critical to keep looking at this as the medical evidence indicates things are either less or more dangerous.

Ms. Barragan. Thank you. You know, when constituents watch these hearings and they hear a witness say something like, Well, coal ash is not toxic, that can translate to them as, oh, this isn't harmful for me. Oh, this is actually okay for me.

Yet, the EPA's own website, why does EPA regulate coal ash? It says: "Coal ash contains contaminants like mercury, cadmium, and arsenic. Without proper management, these contaminants can pollute waterways, groundwater, drinking water and the air."

So I think if a constituent would read that would say, Hold on a second. Actually, this is something that is going to cause me harm. So it is concerning when we have statements like that made and then they are misinterpreted from constituents.

There is clear evidence that there is harm in this, and that is why there is a need to regulate. And it is unfortunate we are not talking about more of the harms as opposed to how there is beneficial use, as if to suggest we should burn more to get more coal ash.

Thank you, and I yield back.

Ms. Evans. Absolutely.

Mr. Griffith. The gentlelady yields back.

I now recognize the gentleman from Florida, Mr. Soto, for his 5 minutes of questioning.

Mr. Soto. Thank you, Mr. Chairman.

You know, yesterday we saw legislation to keep unnecessary dirty coal plants online. So the committee got to have a wonderful, comprehensive update on the massive expansions we have seen on solar, wind, hydro, and finally seeing some improvements on nuclear as well. Of course, the natural gas, a key bridge fuel that we will see for the foreseeable future. And that is most of the makeup in central Florida.

So there is no need to keep open aging coal plants when cleaner fuels are available. And it is not just about the air pollution. We heard about it today. And it is not just about climate change, which are two compelling reasons.

It is about the coal ash, 6.1 million tons of it in Florida, and then 800 tons of it produced every day in my family's native island of Puerto Rico. These are things that we pay close attention to.

You look at the kilowatt hours. Solar, six to ten cents a kilowatt hour; nuclear, three to ten cents a kilowatt hour; natural gas, 6.5 cents per kilowatt hour; coal, 14 cents, because of the carbon capture, the storage, all these costs associated with it.

And that is why a lot of us are compelled to help stop the bleeding, to make sure we keep the Inflation Reduction Act, which some of these things are done away with in the one big ugly bill.

And so it would be great to hear from Ms. Evans. You know, we see some of these systems, leachate collection systems that aren't there, the landfills that are unlined.

What are the true costs of coal ash that isn't contained for a community?

Ms. Evans. The cost can be extremely high. You look at the town of Pines, which had a partially unlined landfill. Their entire groundwater was contaminated. The town became a Superfund site.

I am sure no one can sell or can't get the right price for their house in Pines. And they had a double whammy in that coal ash was used as fill throughout the town, in their backyards and public playgrounds. And so, they have contamination throughout the town. The town was declared a Superfund site in 2001, and 24 years later they still have not finished the cleanup.

So if you are talking about cost to a small community, you know, that tears at the very fabric, you know, of their health, their economy, and their well-being.

Mr. Soto. And we see in central Florida, we are working with the Orlando Utility Commission to retire their last coal plant. They have natural gas plants. They are boosting solar. They are looking to also buy nuclear generation that is being invested in. And so we see how we could get beyond this, but then we are talking about literally millions of tons of coal ash that is still there.

Now, Mr. Adams, I certainly agree with you that we need to do something with a lot of these millions of tons of coal ash left. Some of it will be that we have to store it, but I see in my own district fly ash being used by Cemex to help with road building. It is not the base material, but it does help, and they sure use a lot of it.

And then it has been mentioned a little bit already, rare earth metals, lanthanide, yttrium, scandium, and I am sure a few other very complicated metals that are hard to pronounce. And electronics, superconductors, lasers, aluminum alloys for aerospace and sporting goods.

So if we were to use some of this coal ash -- and I know it is already starting to

happen -- for rare earth metals, what do you think should be the best practices as we do that?

Mr. Adams. I am not familiar with what the extraction technologies are and then the processing. You have got three levels here. You have got the mining of the material, where you are going to find the resource, and when you find it, how do you extract it to the condition?

Mr. Soto. I mean through coal ash --

Mr. Adams. Through coal ash --

Mr. Soto. -- metals in coal ash.

Mr. Adams. It is finding the materials that are rich in these particular elements. And on a periodic table, it is easy to find them, 57 through 71. That is all you got to remember. You don't have to pronounce them.

But in terms of coal ash, it is still being studied closely. As I mentioned earlier in the hearing, no one has found a good extraction technology yet that doesn't give us the rare earth elements we are looking for without creating another problem, another big problem.

So the research continues, and there are people out there who think they may have an answer. I haven't seen it yet.

Mr. Soto. Well, you may have bipartisan support for efforts like this, so I suggest you all keep working on it. And with the example, fly ash, that is an example of one that is being used right now in the district.

Thank you, and I yield back.

Mr. Griffith. The gentleman yields back.

Seeing no further members to ask questions, I would like to thank our witnesses for being here today.

Members may have additional questions for you. I remind the members that they have 10 business days to submit additional questions for the record.

And I would ask our witnesses to do their best to submit responses within 10 days of receipt of the questions from the members. And I appreciate that.

I ask unanimous consent to insert in the record the documents included on the staff hearing documents list, including some documents from Mr. Palmer that were added during the hearing.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Griffith. Without objection, that will be the order.

And, without objection, the subcommittee is adjourned.

[Whereupon, at 12:33 p.m., the subcommittee was adjourned.]