

Fly Ash Meeting 2/19/08

County Executive Leopold:

Comments can be submitted as written testimony for the record which is still open until the close of business February 26.

Any statement that you make will be recorded and will become part of a submitted written sentence which will go into the official record. I am pleased that the department did agree to come down here so that citizens would have the opportunity to be heard. At an earlier meeting, as you may know, in Baltimore City, my health officer, Fran Phillips did appear on behalf of the County. I thought that this was important enough that I be here and read a statement which I would like to be part of this record.

My statement this evening is on the behalf of the AA County Residents and local govt. both entities have experienced serious adverse consequences arising from the complete lack of federal or state regulations of this harmful industrial by-product. It is a welcome development of the Maryland Department of the environment has show that unregulated disposal of fly ash must stop and by the way, I should interject that I submitted legislation to the county council for prohibition on the disposal, it was for an ending prohibition the council decided to amend it for a one year prohibition that one year expires in May I well again seek to have that extended fly ash has contaminated the groundwater of the state of Maryland and rendered many residents residential drinking wells unsafe I urge the department to obediently adopt the most protective regulations of the public health and environmental threat this is a matter of great urgency since it estimated 2,000,000 tons of fly ash are produced annually in Maryland and at least another 2,000,000 tons of flue gas to desulphurizationurization sludge will also enter the waste stream in the near future. While the decision to regulate this harmful substance is commendable, the proposed regulations have numerous deficiencies which must be corrected in order to assure public and environmental protection. These deficiencies include: there is no requirement for ongoing air quality testing, there are inadequate require acquirements for public and County notification, there is no regulations that all lab testing must be done by a state certified laboratory (not by constellation slab for example as was allowed in the past), the sand pack requirement to property lines should be 1000 not 200 feet, the operator should be required to test for possible radioactive contaminants as these have been found in fly ash elsewhere, post closure regulations should be filed for much longer than five years, I suggest 30-year monitoring as has been recommended by national experts The proposed regulations do not address oversight of so-called beneficial use of fly ash. I understand that we played around with regulations will pertain to beneficial use. It is the essential that MDE closely regulate activity which has the potential to oppose new hazards As the industry faces new cost of fly ash disposal due to a regulatory protection, it will have to seek alternative disposal and will attempt to name them beneficial use. It is imperative that this loophole be closed At least one aspect of Fly Ash disposal protection requires legislative action in the statutory limit of \$1250 per acre for mining performance bonds is entirely inadequate. I have had legislation introduced in the current General assembly session to remove this cap. I've also had legislation introduced this session to reimburse the County Health department for testing and monitoring of wells. The County has incurred approximately 100,000 in cost for testing and monitoring wells in the Waugh Chapel area as a result of the fly ash contamination at the B.B.S.S. site. The legislation will include provisions for retroactive reimbursement of this \$400,000. Finally, and most important it is imperative that the department

commit to assertively monitor and enforce new fly ash regulations. as all other existing regulations pertaining to mining fly ash generation fan support and disposal. . Without vigorous oversight human health and environmental threats will continue regardless of what rules are in place. I appreciate the inclusion of my statement in the official record.

Delegate McKonkey

We have the bill hearing, Bill 388. Which is a bill that proposes that we take the existing language that we use now that current protection are provided in the law for landfills. Which has been amended rigorously over the last several years. I know 3 years ago there was some changes which provides that any spot any place that would accept fly ash would have to meet those regulations and those regulations basically that would have to be a liner and saturated water that would leak out and have to be collected and also there would have to be regular ground water tested and this mirrors in many respects the proposed regulations for MDE it was my thought than reinvent the wheel, use the existing regime and existing protocol that we use elsewhere apply it to fly ash. That is now before the Environmental matters committee and I would encourage all of you to contact that committee and tell them that you want to see something done. Unfortunately, while this has impacted us greatly here it is not as big an issue across the state. Unless the committee hears from you I don't know if they will take any action. The committee is considering many amendments the Department has proposed amendments there are some amendments, so it is still being debated, so I'm not sure going to pass of if anything is going to happen with the bill The department is saying it might be better just to allow them take care of the problem through regulations. And so that is being debated. It is very important to contact the committee. It is very simple if you go to the Maryland General Assembly Website pull up the environmental matters committee, it is very easy to email each of the committee members. Tell them that you feel that this is an important issue and you' like to see them do something along this issue. I want to thank Donna, Torrey Jacobsen and several others that came to testify on the bill . The hearing was a week ago and Thank you all for your interest. Please contact if there is anything I can do or please come down and help us push this bill through.

Madonna Brennan

Tonight we were originally under the suspicion that this would be a public hearing. We are recording the testimony and you can see there is a camera in the room. We are going to submit it as formal testimony. So if you want to speak, please let us know I will bring the microphone to you because it is wireless. At the same time you can ask questions regarding the regulations. This is not a public information meeting for discussion of the consent decree, but you know any topic can go. We are going to try to run this like the other meetings. We have a limited time for each speaker. If you want to get up and give a testimony we are going to time you about 3 minutes a person. At the same time, if you want to give your written testimony we are willing to take it tonight or we have given you information where you can send it. We will make arrangements to post the information on the Environmental Matters Committee website so hopefully it will just be a little click and you can send emails. I think it is really important that you express your opinion to everybody making decisions on this, even if you are doing it repetitively to ten different people you can send the same message. We need to protect the community. Not just ours but any other community that might be affected in the future. We see what has happened here we see what can happen elsewhere, so unless there is strict regulations and possibly legislation to oversee that, then that is what we need to do. So I'm going to open up

to whoever would like to. First, let me introduce: Ed Dexter - Administrator Solid Waste Program;

Steve Pattison-Assistant Secretary of the Maryland Department of the Environment; Dave Krask-Air monitoring; Herb Jansen, Air Management; Ed Larrimore-Manager, Mining Program, Al Zamborski-Inspector

Percy Sussex: Who is the neutral moderator for this meeting. I was under the impression that there was to be three moderators, one neutral and moderators for the two other parties.

Percy Sussex: Where is the public side on this? I understand that Mr. Pattison has retired from Constellation after 21 years. Are you on the mediation group Mr. Pattison?

Pattison: I'm not familiar with the mediation group. I am part of *this* panel absolutely, I'm here representing The Maryland Department of the Environment. I've been with the department of the environment for 4 ½ years.

Percy Sussex: Do you sit on the mediation group?

Pattison I don't know what you mean by that

Percy Sussex: Do you get a pension out of Constellation? Served their proudly for 21 ½ years

Percy Sussex: That is all my questions.

Norman Arby: I am the president Greater Gambrills Association I think that is very imperative that those leaders here tonight would consider strongly as senator delegate McKonkey suggested with regard the bills 388 It gives a voice in the community for our public health and safety and what has already happened to this community given the history of MDE not following through with a lot things that have happened in the past. We need to have an active voice and any repertory process that is forth coming and I strongly encourage all community activists and leaders to take an active part in this process because unless you have a seat at the table there is no questions as to what you might not be involved in or what might happen in this community. We have seen time and time again where we have not gotten the consideration that we should have gotten and the safety for all of the citizens in cast their concerns in our community. It is time for us to raise up and do what we need to do.

Steve Pattison, Assistant Secretary of MDE:

I've got about a dozen slides here intended to go through what our proposal. It is this process here this evening to get your feedback and your comments. We have received some already, but we want to hear that tonight the formal process where we go through proposing regulations, there is a comment deadline period of close of business as of next Tuesday. Coal combustion by-products that includes coal ash, which could include fly ash or bottom ash. Because of very stringent air quality control that we are instituting in this state under the healthy air act which requires companies like Myriad and Constellation to install what are called scrubbers sludge to get rid of the sulfur dioxide coming out of the stacks. The various coal combustion facilities in Maryland produce about 2 million tons of coal ash annually. This rate of generation is expected to continue. Scrubber sludge to be generated by flue gas desulphurization (FGD) pollution control technology is expected to be produced at a rate of about 2.5 million tons annually. So what we are doing is that we make sure we have requirements in place. Other related ash products could be slag - gritty material that sometimes is beneficially used so that purpose is the definitions intended to be all inclusive of these residues or by-products that come from burning coal. We have citation here the rights are on our website they were formally proposed December 21 However I should point out that we actually publicly released them on November 19, they have been posted on our website since then we issued a press release/ There has been media

stories about it the word is out since Mid November that these regulations were available. I will point out typically for most regulatory proposal there is a 30 day comment period Rather than that on Dec 21 we allowed an additional 45 days and that is in addition to one month preceding that we published this. So we provided with a three-week extension from Feb 5 - a full 90 day review period to these regulation. The goal is when proposed is to have it affective April 1, It is very aggressive, we are still going to try to shoot for that but since we've extended the comment period that is going very challenging. What happens after the closing comment period so everybody knows These gentlemen here and their staff will sit down with me and our attorneys and we will go through all the comments that we receive we will look at all of them and we will prepare what called a response and comments documents and then we need to look at how do we need to change the proposal that we have issued to the public notice of comment and make the determination do we re-propose it or do we issue it is a final with some minor changes. O.K. The goal is to have it affective April 1. There is another potential regulation that we have in the works as County Executive Leopold mentioned on beneficial use, I will mention that at the end. The rights do three main things it establishes and this very consistent with the intent and concept behind Delegate McKonkey bill using the very strong standards that we have for landfills and applying them for CCB facilities that may be sighted in the future or built for the purpose of disposal.. This would not include a mine sight, it would not include what is called beneficial use of materials This would be a facility that somebody had decided be it Constellation or a Myriad they don't want a location where they are frankly going to dump stuff. It is not going to be used nothing is going to be built on it. Also, note here, what that what that does also is it includes that potential sighting of that facility in the county 10 year solid waste plan, it is a very lengthy very rigorous process open to public review and comment. And again as noted here at the bottom. In addition to those requirements and addition to what the permit may say, we can impose additional requirements.

Disposal: *disposal facilities must meet the same standards required for industrial solid waste landfills, e.g. leachate collection, groundwater monitoring, the use of liners, deed amendments, and routine analysis of CCBs. CCB disposal facilities must conform to local zoning and land-use requirements, and the County's 10 year solid waste management plan. MDE may impose additional requirements.*

The second major thing this proposal would do is address mine reclamation sites, which is obviously what we have here in Gambrells. In particular it would address non coal mines, such as a sand gravel mine it would also address coal mines. The proposal that we have issued would in essence for a non coal mine such what is a the BBSS landfill. That what should have been put in there years ago in hindsight liners leachate collection. That portion of the proposal would address the utilization full combustion byproducts in the future for a non coal mine. If it was a coal mine such as in western Maryland coal mines that are active or inactive. If the characters of the CCB's are high in the alkalinity as they say. It could be very beneficial use because one of our major problems is some streams in western Maryland is acid mine drains. It is acidic because of the leakage coming out of abandoned mines. So what this proposal would do is to help provide standards for how that would be applied. As before MDE may also impose other requirements.

Mine Reclamation Sites: *For use of CCBs in non-coal mines, CCB sites must meet standards similar to those required for industrial solid waste landfills, and leachate collection, etc. Standards for coal mine reclamation will ensure that only alkaline CCBs are used for both*

disposal and mine reclamation sites, dust control measures, post closure monitoring and maintenance, etc. must be performed. MDE, may also impose other requirements.

The third major area of this regulatory proposal is a whole new recording requirement this is the first time that we would require those who generate the CCB's to report to us on an annual basis how much they're generating, what type it is that they're generating, where they plan to use it or where they plan to dispose of it. The county will have a much better record-keeping of what is out there right now.

Generator requirements: *The proposed regulations also and impose new reporting requirements on generators of CCBs. This includes an annual report that covers how the material was recently used or disposed as well as plans for disposal or use for the next five years.*

Air and Radiation Management Administration is where these gentlemen are from. We have a very active inspection program.

Enforcement: *MDE is assessing the need to strengthen the authority in the Mining Program to address quality issues. ARMA has a very active inspection program. MDE responds to all complaints and enforces effective dust control practices. Enforcement is based on evaluation of the performance of dust controls at the site.*

This is actual verbiage that is self explanatory and you should have copies. However, I will go over all of these:

AQ controls in new regs #1 *Applicable to All Types of Sites:*

"COMAR 26.04.10.03A, General Restrictions. A person may not engage in the generation, storage, handling, processing, disposal, recycling, beneficial use, or other use of coal combustion byproducts in a manner that is likely to:

- (1) Create a nuisance;*
- (2) Create air pollution; ...*
- (5) Impair the quality of the environment; or*
- (6) Create other hazards to the public health, safety, welfare, or comfort as may be determined by the Department."*

AQ Control In New Regs #2: *Also Applicable to All Types of Sites:*

"COMAR 26.04.10.03 B(3):

(3) Air Pollution. A person may not engage in the disposal, storage, transportation, processing, handling, or use of coal combustion byproducts without taking reasonable precautions to prevent particulate matter from becoming airborne. These reasonable precautions shall include, when appropriate as determined by the Department, those precautions described in COMAR 26.11.06.03.C and D."

AQ Control In New Regs#3 *Applies to Storage of CCBs:*

"COMAR 26.04.10.05D: A person may not use a storage system for coal combustion byproducts unless the storage system is:

- (1) Designed, constructed, and installed to contain coal combustion byproducts and contaminants in the coal combustion byproducts and prevent them from being released to the environment; and*

(2) Constructed of impervious materials and provided with a roof or other protections to prevent nuisance, air pollution, and discharges of contaminated stormwater or leachate to waters of this State.”

AQ Control in New Regs #4 For Noncoal Mines:

“ COMAR 26.21.04.03B (10) Adequate measures shall be taken to minimize dust at a site as follows:

- (a) A person shall control dust by moisture-conditioning the coal combustion byproducts before they leave the coal combustion byproducts generating facility;
- (b) A person shall control dust by spreading and compacting the coal combustion byproducts upon arrival at a site;
- (c) A person may not store uncompacted coal combustion byproducts at a site;
- (d) A water truck shall be available to add water at a site as needed for fugitive dust control; and
- (e) The Department may require other measures it considers necessary to protect public health and the environment.

Effects on Existing Sites: Existing CCB facilities that MDE has authorized prior to April 1, 2008 would be allowed to continue to operate under the current approval.

MDE may modify an existing authorization to require additional controls to protect public health or to prevent nuisances.

Any existing CCB facility that proposes to expand beyond its current authorization or operations would be required to notify MDE in writing.

MDE may then impose additional requirements.

Comment on Proposed Regs: Send comments to MDE until the close of business on February 26, 2008 to spattison@mde.state.md.us. MDE expects the regs will take effect on April 1, 2008. This is dependent on the extent of comments received. A public meeting will be held on February 26, 2008 at 10:00 A.M. at MDE's Montgomery Park office to solicit input on the development of a CCB beneficial use regulatory program.

Beneficial Use Regulations: MDE recognizes possible beneficial uses for CCBs so long as public health and the environment are protected. MDE will propose beneficial use regs in 2008. Intend to work with stakeholders to develop usable rules for a variety of possible uses, e.g., cement additives; roadbase; perhaps others.

For More Info Regarding Solid Waste: Ed Dexter, Administrator, Solid Waste Program
(410) 537-3318 or edexter@mde.state.md.us

Regarding Coal & Non-Coal Mines: Ed Larrimore, Manager, Mining Program,
(410) 537-8055 or elarrimore@mde.state.md.us

Regarding Beneficial Use: Steve Pattison, Assistant Secretary of MDE,
(410) 537-3086 or spattison@mde.state.md.us

Air Quality Complaints:

(410) 537-3215 Workdays or After-hours toll free (866) 633-4686 = (866) MDE-GOTO

And see our website for developments in 2008: WWW.MDE.STATE.MD.US

Charles Macintosh: from this community in building 2605. My question is for Mr. Pattison, you talked about the existing sites and regulations associated with that and allowing them to continue under current permitting or under the consent decree. We are dealing with a failed site. We have a very serious problem. How can these regulations really apply to a failed site? We are dealing with a very serious problem, we are within 100 feet or so of the dump site where are they going to fill it next time?

Steve Pattison: I am not involved with the consent decree discussion, that is why I have asked Jay Sakai to be here.

Jay Sakai There is a remediation plan for the owner to clean up the site and prevent the material from leaching out to prevent water from coming in contact with the material, and to correct all the impact to the groundwater as a condition for the operation under the current permit.

Charles Macintosh: We currently have 3 ½ million tons already there that is improperly placed in terms of the regs certainly, and will continue to pollute that you will try and stem hopefully with your new approaches, it has already spread so far and is continually to spread.

Jay Sakai: Yes indeed there is quite a bit of material at the site that was put in under condition that were substantially different that is proposed in the new regs. The situation does exist across Maryland and the United States. What we know went wrong at this particular site and what we think went wrong at this particular site was that the material was exposed to surface water and that is what resulted in the material leaching out into the groundwater. Under normal conditions, and proper handling conditions that would have never happened. We feel the new regs are more protective. We don't have any reason to believe that the material that is sitting at the site that has been capped and covered should continue to leach into the groundwater because there has been no evidence that this has happened at other places. From our perspective, it certainly does not make any sense to dig up all that old material. We think the impact would be very significant to the water supply, It is a balance. We have to live with what has been put in place and certainly the new regulations address, it is and improvement moving forward it doesn't address what has happened in the past.

Charles Macintosh You put this in the middle of a very sizable population. We are within 100 ft. of the site. It has endangered the watershed - Patuxent river. It is continuing to spread from all reports. Although you are monitoring, supposedly, you have no standards for monitoring the air quality. You have not been sampling the air. You are just going to continue to dump under your regulations. It is not acceptable as far as a failed dump site is concerned.

Jay Sakai: We don't have any reason to believe, and there hasn't been any evidence, of environmental contamination. The material is a consequence of our generation. What we are faced with as regulators, is to develop an oversight scheme that makes sense with the understanding that you can't ship this material off into space.

Pat Millstead: I live in Waugh Chapel building #260. I don't drink the water or use the ice cubes. I'd recommend not drinking the water, it tastes horrible. Do you test the water?

Answered by someone in the audience: Your water is municipal water and is tested every month.

Dick Lawn: I live on Arwell Avenue. I have two questions. What happened to the clay liners that were supposed to contain the fly ash originally? EPA headquarters at Waterside Mall was known as a dead zone because it was built over a landfill. It became a dead building because of the seepage up into the building through the foundation.. Has this been studied at this site?

Steve Pattison: I am not aware of any construction (built on a landfill) where any kind of upward migration of contaminants (from fly ash) came up through a foundation of the building. Most of the constituents at this site are metals. We are looking into this concern.

Bob Brennan: I am the Vice President of the G.C.C. and the President of my homeowners association. What is going to be done at this site to monitor air pollution? Does the MDE have any kind of sensors you could post around the site to monitor what kind of dust is at the site. During the summer/drought season it is a dust cloud. It effects all the 55+ owners as well as the children playing outside at the daycare center. Airborne fly ash is as much of a concern to all here as much as the groundwater contamination.

Herb Jansen - Air Management, As of September 24 the site is inspected one a week. We are going to try to step it up when activity picks up. We plan to receive a written plan from the company. If you see anything call the number that was on the slide. We will be looking at this very closely.

Bob Brennan: What about the other days of the week? Can't you install sensors that could monitor all the time.

Herb Jansen: I can't tell you we will be out there 24 hr. a day 7 days a week. We are going to maximize our resources.

Question from the audience: What does an inspection entail?

Al Zamborski - I am a compliance inspector. I am the guy that comes out when there are complaints or concerns. I also do the regular monitoring. I do announced an unannounced visit. I checked for activity or movement of materials. I tour the site and check for any unborn particulars. I observe on site and off-site to keep out the with what might be going on. If I see brevity I have the on-site person take me for a two war. I asked questions, write my reports. My monitoring last month has been more like two times a week rather than one time a week as mentioned.

Question from the audience: are there any air samples taken or is it just visual?

Al Zamborski: I don't have any monitoring equipment it is all done visually.

Question from the audience: Is there such a piece of equipment?

Dave Krask-Air monitoring: there is lots of equipment you could deploy at this site and PE does not have the equipment that they could bring out to put sensors 360° around the site would be extremely expensive at this time the department has no such plans to conduct such monitoring you can't quantitative quantitatively measure fly ash. A permit program code required the source itself to provide such sensors as part of its permit process that is something that probably could be considered in the future.

Dick Clark: Waugh Chapel West, we had a meeting in September Re: fly ash. We were promised that the air would be monitored. Looking at it is not monitoring. There is equipment that could be utilized. How about the air pollution we are breathing every day? You tell me you don't have the equipment, that it's very expensive, are we going to put a dollar value on the health of our citizens?

Clapping

Renee: Four Seasons, fly ash is an issue because of clean air legislation. Why doesn't clean air legislation rule over the fly ash that is dumped at sites? Second question. If eventually you develop on this land you would have to dig through the fly ash. How would you protect public water, power, and sewage from contamination?

Dave Krask: Fly ash is regulated. It can be put in mining sites if it is done in the proper manner.

Renee: The clay liner failed. There should also be regulations for the liners that are used.

Steve Pattison: We are actively looking into this. Some of the things being considered such as deed restrictions are so that future owners will know the fly ash is there. We have to make sure we have the right standards to protect that risk.

Barry: Waugh Chapel resident. How does the material get to that dump site? Where are the plans that this material comes from why should this dumb thing be done in a populated area? Why not in the mountains or a rural area? So when we find out this killing people in 30 years, maybe it could have been some poor animal instead of this population of taxpayers in this county.

Clapping

Andrew Percy: Four Seasons homeowner. How many phone calls or e-mails does it take to have someone out? And when do these monitors come out? Has anyone in your group to research on other parts of the United States? Have you looked into (nationally or internationally) these types of sites to find out how or if they are developed?

Herb Jansen: It takes only one call to get someone to come out. We try to come out that same day if possible.

Ed Dexter: EPA recently put a document into their dockets called damage case assessment. EPA has looked at dozens of sites. They report on the findings in this assessment.

Steve Pattison: A bill was introduced in the General assembly that I am asking you to support it is House Bill 1466. It is a departmental bill. This bill would give us the authority to institute fees to cover the costs of the new regs. We need the money to support the departments efforts so that these regs can be implemented and enforced.

Norman Arby: Mr. Pattison would MDE consider having representatives from the communities as part of the regulatory process?

Steve Pattison: Yes, that is why we are here tonight to get input from the community members.

Carrie Toposky: County Health Department. What I'd like to bring to your attention is that the public does have the opportunity to participate in that process. You can participate directly through at the County local level which is separate from the state to specifically address matters like these.

Percy Sussex: On the visual inspection, when did you do that, when they were shut down? Or was it last summer when all the dust is going around?

Al Zamborski: I is in dealing the inspections once or twice a week since September up into the present.

Percy Sussex: If you see a dust blown at this site, what are you going to do about it? Shut it down?

Herb Jansen: No, we will take the appropriate enforcement action for each individual case that arises. In the past we issued a violation of air quality requirements to a sand and gravel company. Regardless if there is fly ash.

Percy Sussex: Arsenic, mercury, chromium, it is not fly ash. It is poison and you are poisoning everybody around here. Before the shut down was done there was no monitoring. During the down time is when you inspected, that's what I'm getting. Is that correct?

Herb Jansen: No that is not correct.

Percy Sussex: I talked with this gentlemen (Jay Sakai). Before the consent decree, we brought up the airborne fly ash. He (Jay Sakai) said it can't be put in there because there was never a compliant before then.

Ed Larrimore: Manager, Mining Program. The fly ash area is covered over, there is still is ongoing mining operations. When the air quality folks go out there, they look at dust from any source. Just because the ash is covered over, doesn't mean there isn't a dust issue.

Percy Sussex: Dust, in 1995 when they first came here, it was said that all the trucks (after dumping the fly ash) would be washed down before leaving. It was admitted at a meeting not too long ago, that they have stopped doing it. So, someone is not inspecting that site.

Brad Hevner: Environment Maryland. MDE is taking this seriously. However, we think there are significant short comings. We have submitted seven pages of comments on how we think the regulations could be improved. Two things I would like to add regarding the next round of regulations. (1) Fly ash mixed with dirt (2) More public involvement. Would you consider an amendment to that bill that would include a citizens advisory committee for the consent decree process as it moves forward?

Jay Sakai: Yes, that would be open for suggestion. Maybe we should try to meet quarterly, that would be a good start.

Russ Hargrove: Four Seasons. Give the recent events in this area, are there plans to increase the monitoring of the public drinking water?

Jay Sakai: The public water monitoring is very stringent. Anne Arundel County is not having any issues with contamination of the drinking water supply.

Dave Williamsen: Where is the fly ash that normally gets dumped in Gambrills going now?

Person from the audience: Virginia

Tim Berkoff: Crofton resident. There is a tremendous expense for monitoring the fly ash site. Is it possible to have the applicant pay for sensors? We need quantitative techniques for monitoring air quality. Also, I didn't see any mention in the regulations for public notification.

Dave Krask: The department is not opposed to putting the burden of the monitors onto the operator as a permit condition. I am sure that could be a consideration. PM2.5 fly ash is everywhere. It is hard to determine how much. It is a very difficult monitoring task to do. It can not be done quantitatively.

John Brishom: I am an attorney and I have been working when Environment Maryland and Crofton First. First bare in mind, this arises out of an action that the EPA took many years ago. There was not a statute that was an action to deregulate fly ash from hazardous waste controls. They did so however with the assumption that the states would responsibly regulate the use and placement of fly ash. In Maryland this was done through their industrial waste and solid waste regime. This is called the poison act. It is very broad and allows quite a large latitude of activity which is why the Gambrills is the site for the fly ash disposal. This was done in a very unregulated manner, because there was no statutory mandate regulating the placement of the fly ash. So I think it is very important to get new legislation passed that sets a framework for the federal regulation of the placement of fly ash. The regs can come and go and if regs are passed they can only go out of existence if modified. In any time in the future with the action of the agency and the industry. We all know now because of what has happened, so the public eyes of the public scrutiny are on the proposed regs. But years hence, if they want to cut back on some of those regs it could be a very simple administrative process. Not so, if you have a statutory mandate that set the framework for pretty strict controls. I think that's an important point to

remember when we are thinking about whether to pass a statute or support an act or to just go with the regs. The regs will remain with the regs will exist under a very strict statutory mandate that's very hard to change now. Fly ash contains the same hazardous metals as coal only a more concentrated form. We like to consider a placement of fly ash; (1) would be beneficial use on our terms, (2) would be disposal, that's where you put it in the landfill (3) would be placement on any land. As mentioned earlier if you put fly ash on the land you will have problems with water seepage and air emissions. You have to regulate it no matter what you call it when you have a strict regulatory regime for the placement of fly ash anywhere on land. You should have the site specific analysis for example. If we looked more carefully here we would realize the pH level of the ground actually facilitates the movement and the breakdown of the metals in the fly ash. The early projections from MDE and from constellation that these metals would not leave the sites until we are all long gone, was wrong. There was a site-specific analysis other things would include where the residences are topography and including pictures of wells. All of this should be looked at but particularly two main things water quality including linings, leachate collection systems. All of those appear rather adequately in the proposed regs, however, we do have comments on this. The air quality should be an important focus. Rather than just reasonable measures to control dust, there should be a strict permitting regime for a hairy emissions. A permitting regime would possibly model the activities from the site and therefore determine the potential for air emissions. Looking at the number of trucks, the wheels on the trucks, the types of road and the placement of the fly ash in landfill. It's a lot easier to monitor if you have strict permit conditions rather than operating under certain visual inspections or general visual inspections or just responding to complaints. There should be a particular manner of monitors. The community should know the level of the fugitive dust escaping from the dump site. You can measure the fly ash and have a lab analysis done with the settled dust off of the site. Public participation was talked about. If you have public scrutiny, and permit processes and approvals through the consent decree process, that is when construction will be allowed on the site again. If you have public scrutiny in that process they need to get more information. Keep in mind, MDE determines that there is a construction plan that is acceptable to the site. They will allow a process to go on over here that will redistribute the site. You are then churning up the fly ash that you put down causing re-exposure from the element. More water contamination can get through an area that is not lined. You have to be careful. We would urge that the state process also include public scrutiny public participation in all of the steps with any permitting. Someone mentioned earlier this sight and Brandon Woods was an early example of what could go wrong, It was the Board of appeals process that stopped that situation. The timing of the Board of appeals decision to stop that and the timing of the beginning of this process were very close. My guess is that the fly ash was transferred here because of that. I think that's all the points that I wanted to go over except to say again with the existing fly ash on the site and a level of remediation that may be required, We are not sure that remediation is going apart. I don't know that the entire plume that has left the site has been identified. Then there's the possibility of re-exposure that is still pending.

Audience member question: I have some questions regarding the monitoring of the different facilities that we have right now. You talk about monitoring wells leachate collection water. How far in the future is this going to take place? And at whose expense are we going to dispose of that water?

Ed Dexter: The leachate water is collected from the top of the liner would be handled the same way that the leachate water is handled from municipal waters and waste landfills. They are collected at the expense of the operator and taken to any of a number of wastewater treatment sites. So the industrial landfills and even some of the municipals go up to the various permitted treatment facilities. There is one in Baltimore and there are some Northeast in New Jersey. This is already in the waste landfill regulations. What this says is that, if you're going to run a fly ash landfill go see the industrial waste landfill regulations which have been in place for more than 20 years. For the mines there is a new requirement that you have a liner with a leachate collection system just like in industrial waste landfill,

Madonna Brennan: We have run out of time as we said earlier we are recording this so we are going to provide a digital or written copy to MDE I want to thank everybody for coming