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Opening Statement
Of
Congressman Doug Lamborn
Ranking Member on the Subcommittee on Energy and Mineral Resources

Legislative Hearing on H.R. 463 the "Coal Ash Reclamation, Environment, and Safety Act of 2009."

House Natural Resources Committee
Subcommittee on Energy & Mineral Resources
February 12, 2009

Thank you Mr. Chairman for holding this important legislative hearing on H.R. 463 the "Coal Ash Reclamation, Environment, and Safety Act of 2009."

This is my first hearing as Ranking Member of this Committee, and as such, I want to ask your indulgence to say that I look forward to working with you to address the pressing energy and mineral needs facing our nation. This Committee has jurisdiction over the rich resources of our federal lands.

Today's hearing focuses on coal, which could be America's largest energy source, but we also will focus on oil, natural gas both which America has in abundance. In addition, we have an obligation to ensure that we advance America's carbon free energy sources.

Ensuring that the lands under our jurisdiction can be used to promote wind, solar, tidal, geothermal and hydropower and that we are working to promote a sound supply of uranium for America's nuclear future. I look forward to working with you over the next two year's Mr. Chairman to address what I believe is our shared goal, energy independence for America.

That said, today's hearing is focusing on developments from a disaster last December where the Tennessee Valley Authority's (TVA) Kingston, Tennessee coal-fired power plant suffered a dam failure that released 5.4 million cubic yards of coal ash covering 300 acres of land and spilling into the Emory River adjacent to the plant. This accident has brought renewed attention to the reuse, storage and disposal of coal ash, a byproduct of burning coal for electrical power generation.

A second spill of gypsum slurry at another TVA coal fired power plant just three weeks later raised additional questions about the safety and accountability of maintenance at power plants. While the gypsum spill was mainly contained in an adjacent pond some material did flow into Widow Creek and the Tennessee River.

While most of the land area covered by the Kingston failure is owned by TVA the ash impacted 40 private homes, destroying three. Fortunately water analysis of private wells, river water and treated water conducted by the Tennessee Department of Environment and Conservation did not show any values above drinking water standards.

TVA is a government entity created in 1933 as part of President Roosevelt's New Deal effort to bring the country out of the Great Depression. Historically, jurisdiction of TVA does not come under this Committee but rather is under the jurisdiction of the Transportation and Infrastructure Committee.

The fly ash impoundments and landfills at coal-fired power plants are regulated by state agencies that have delegated authority from EPA for Clean Water Act permits and state agencies with responsibility for dams and waste disposal. Currently there is not a national criterion for dam safety.

Regulation of impoundments at coal mines comes under the Surface Mine Control and Reclamation Act of 1977 (SMCRA) which is overseen by the Office of Surface Mining in the Department of the Interior. Coal is mined in 27 states, 24 of which have delegated authority under SMCRA. However, 37 states rely on power generated from coal fired power plants. Remember 50% of the nation's electricity is generated from coal-fired power plants.

In my own state of Colorado 70% of our power is generated from coal, but I digress – my main point here is that under this legislation the Office of Surface Mining will have to expand into 10 additional states. And it seems that such an expansion will further complicate an already complicated jurisdictional and regulatory picture. More over there does not seem to be a funding mechanism in the legislation to accomplish such an expansion and enforce the requirements of the proposed legislation.

I applaud the overall concept of the legislation which is to ensure the integrity and safety of impoundments at the Nation's coal-fired power plants. I firmly believe that without an inventory and assessment of the existing facilities it will be more difficult to expand or build new coal fired power plants in the future.

I might suggest a more surgical approach to work with the states that have coal fired power plants and the federal agencies with regulatory authority over these facilities to identify any gaps in the regulatory framework to develop a national standard or best practices for these facilities.

I look forward to hearing from our witnesses today and also look forward to working with the Chairman to address this problem.