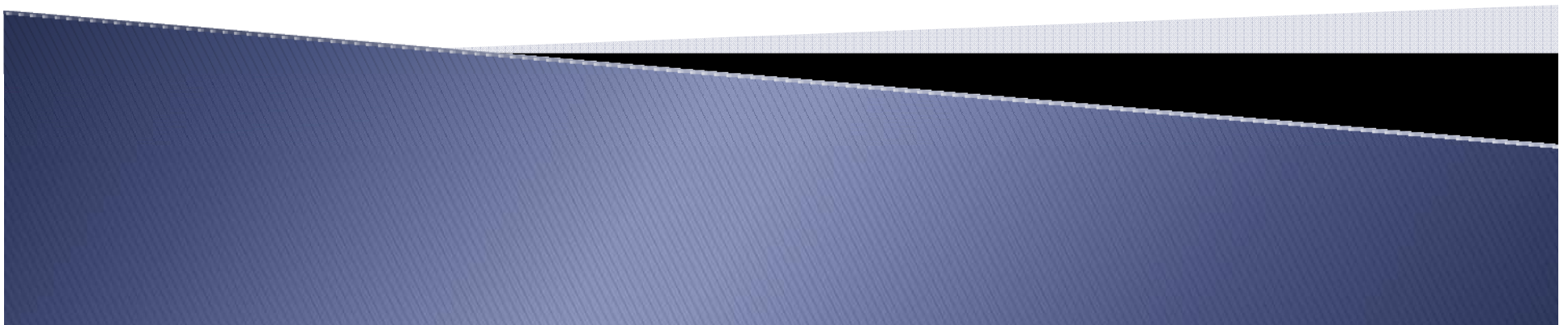


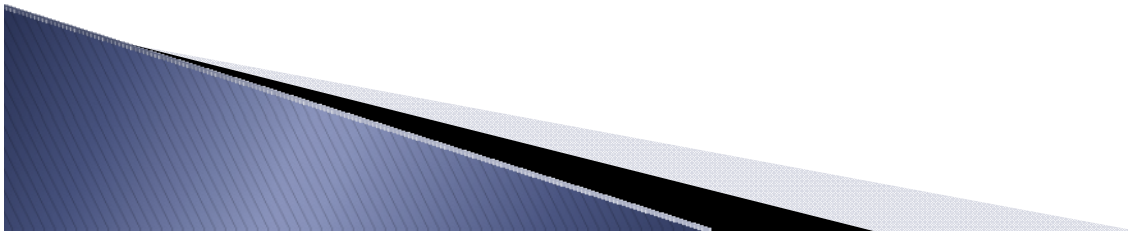
COAL ASH REGULATORY STATUS Update

CIBO
ENVIRONMENTAL/ENERGY MEETING
March 5 and 6, 2013



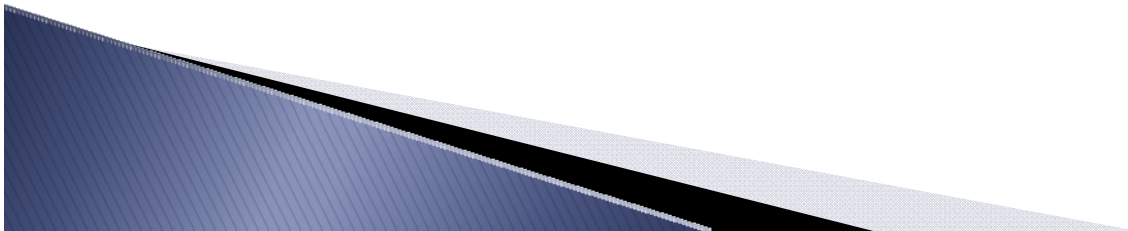
Status Update – Where are we?

- ▶ Regulatory Efforts
- ▶ Legislation
- ▶ Litigation



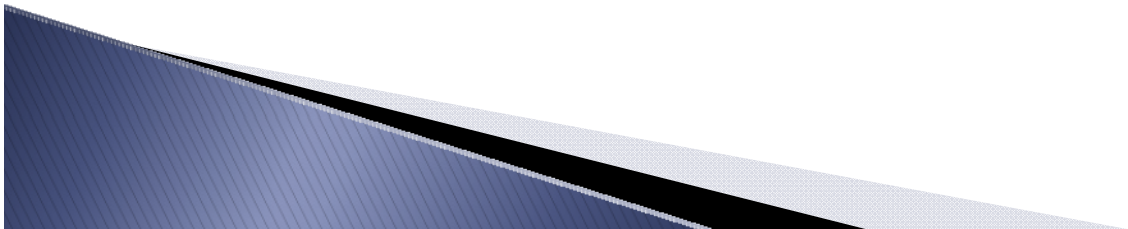
Regulatory Efforts

- ▶ EPA Proposed Rule Making
- ▶ OSM Proposed Rule Making



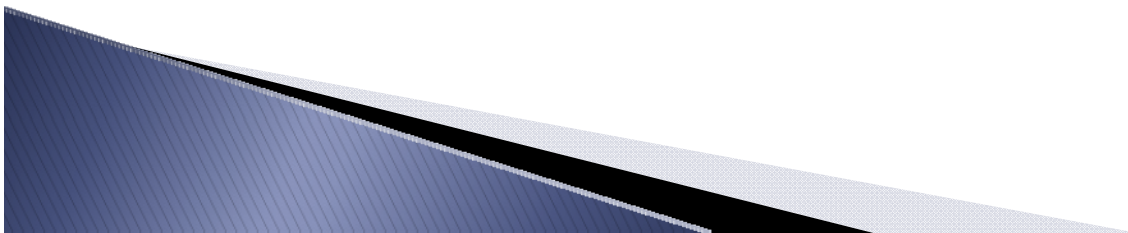
EPA Regulatory Efforts

- ▶ EPA has indicated it will delay the issuance of its final rules for later in 2013 or early 2014
- ▶ The Agency will be issuing an additional notice of data availability.
- ▶ EPA will attempt to align the coal ash regulations with the Effluent Guidelines Proposed Rule package to be issued by the Court Order date of April 19, 2013 for power plants (especially coal fired plants).
- ▶ EPA indicates that the final regulations will aim to prevent groundwater pollution contamination from mismanagement of coal ash products and catastrophic structural failure.



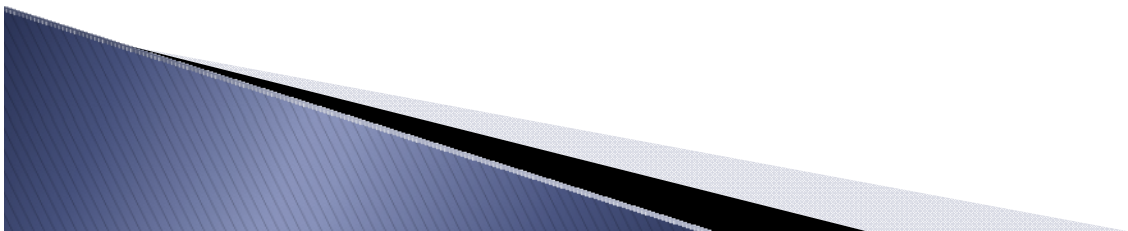
OSM REGULATORY EFFORT

- ▶ OSM is moving forward with its regulatory package regarding the use of coal ash in mine land reclamation.
- ▶ This process has been slowed down slightly.



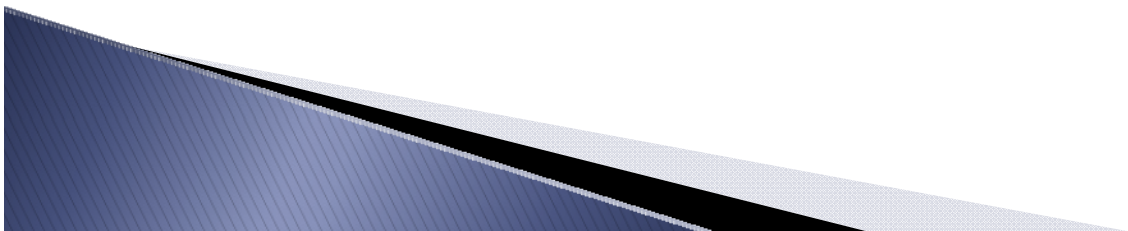
Legislation

- ▶ *No legislation has been introduced at this time.*
- ▶ There are ongoing discussions with the Congressional Research Service over their report.
- ▶ Efforts are continuing to have legislation introduced similar to HR2273 and S. 3512 that were introduced last Congress.



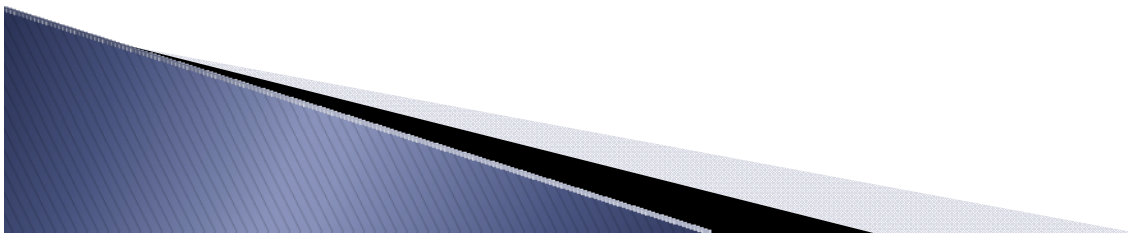
Suggested Legislative Framework

- ▶ With the strong bipartisan support for federal coal ash legislation, the legislative framework established in :The Coal Residual Reuse and Management Act (H.R. 2273) and The Coal Ash Oversight and Recycling Act of 2012 (S.3512) should be used



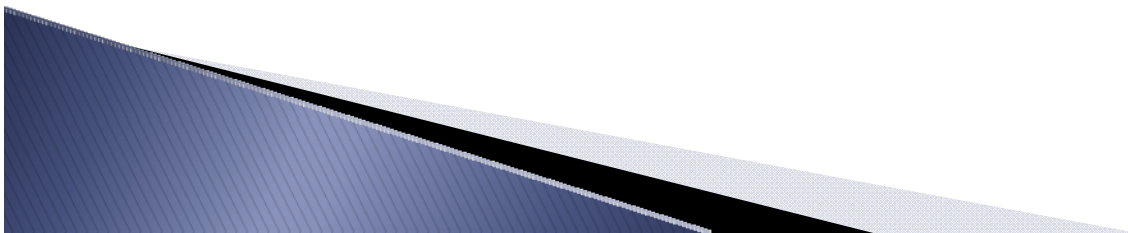
Key Element of Legislation to Regulate Coal Ash Effectively

- ▶ Include Non-Hazardous Regulation and Enforceable Permits
- ▶ Protect the Beneficial Use of CCRs
- ▶ Allow for Cost-Effective Industry Compliance



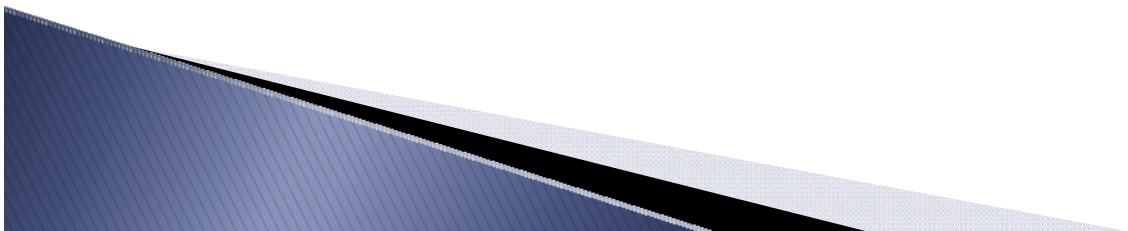
Benefits of a Legislative Solution

- ▶ Protecting the Environment, Jobs, and Electricity Customers
- ▶ Strengthening State Regulatory Programs
- ▶ Accelerating the Movement Away from Surface Impoundment Disposal



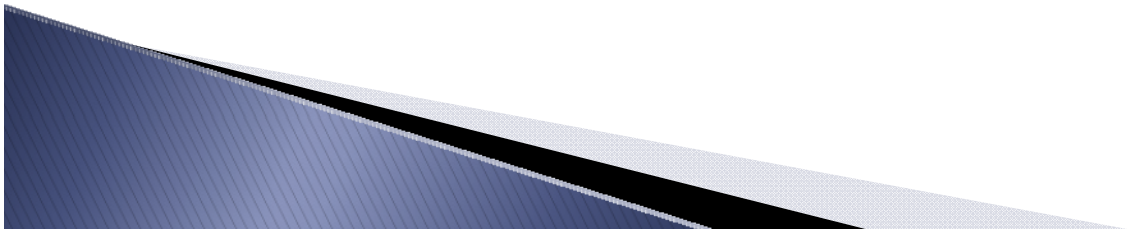
Litigation

- ▶ Law Suits file by the Federal Level by Environmental Groups and Groups Utilizing and Recycling Coal Ash
- ▶ The Case has been briefed with briefs files by the Environmental Groups, Industry Recycling Groups, USWAG, and EPA
- ▶ No Court ruling issued



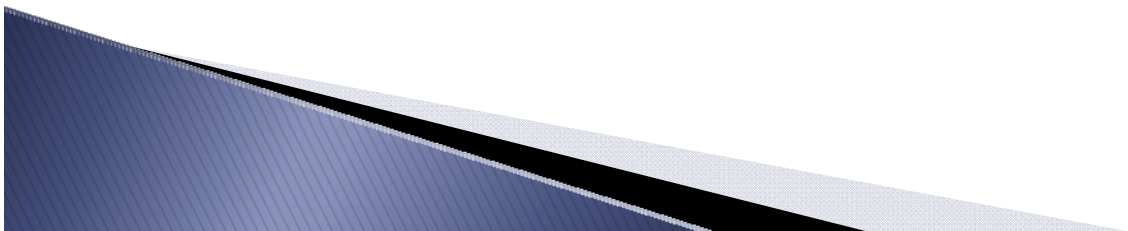
Litigation issues

- review its nonhazardous waste rules regarding coal ash on a 3-year cycle
- review the toxicity characteristic of coal ash; and
- review the TCLP testing protocols



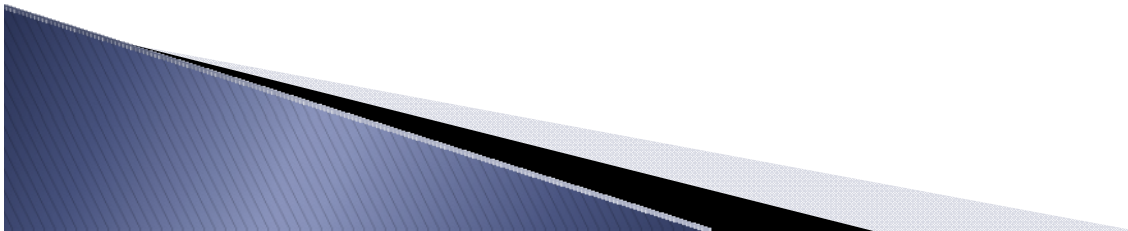
EPA Report

- ▶ USEPA has released a report on the leaching behavior of cements and concrete made with and without coal ash from European Sources. The report is entitled: “*The Impact of Coal Combustion Fly Ash Used as a Supplemental Cementitious Material on the Leaching of Constituents from Cements and Concretes*” H.A. van der Sloot, D.S. Kosson, A.C. Garrabrants and J. Arnold, EPA/600/R-12/704, U.S. Environmental Protection Agency, Air Pollution and Control Division, October 2012.
- ▶ It is anticipated that this work continue pending funding. There maybe are plans to continue this work by testing American cements and concrete made with and without coal ash using the LEAF methods (Leaching Environmental Assessment Framework). (For more information see: <http://www.vanderbilt.edu/leaching/>)



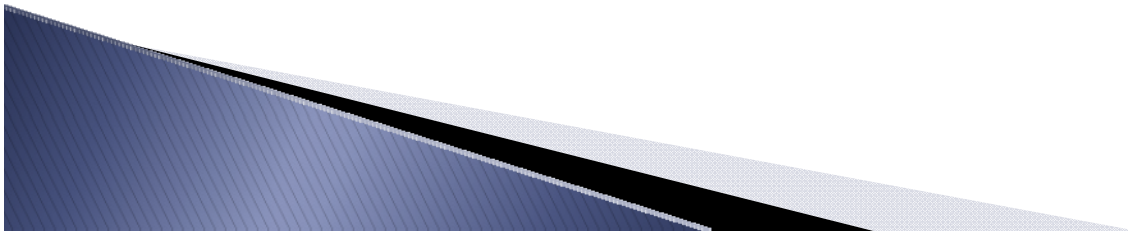
New Wave of Litigation

- ▶ The Environmental Groups have initiated another tactic to address its concerns by filing or noticing to file legal actions in various states



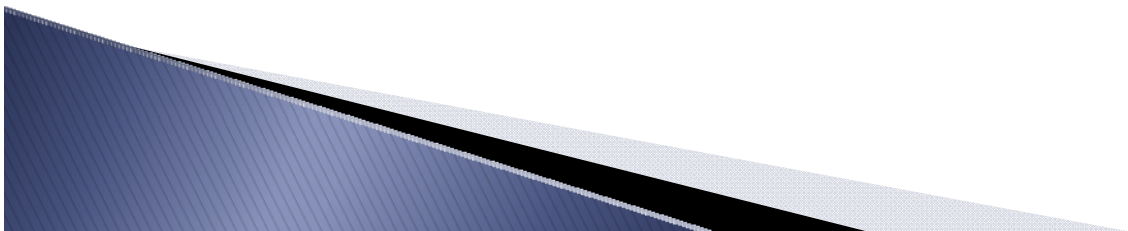
Actions Filed

- ▶ North Carolina – Alleging groundwater pollution from coal-ash ponds at 14 power plants throughout North Carolina.
 - The issue deals with a “Compliance Boundary” or a zone that allows for mixing and upon leaving the compliance zone.



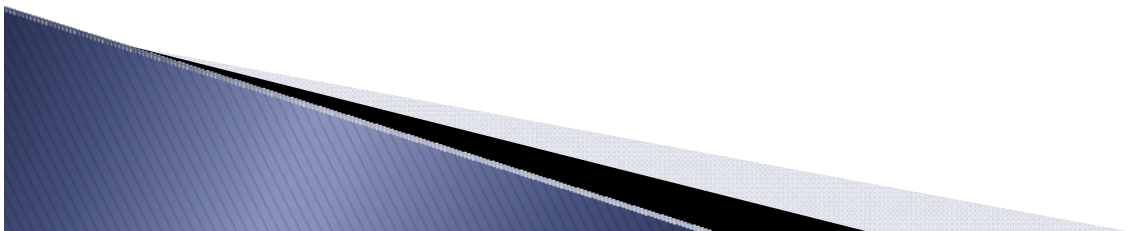
Pennsylvania

- ▶ Action to notice PADEP that they would be filing against the Little Blue Run Dam where the coal ash and scrubber sludge from the Bruce Mansfield Plant was placed.
- ▶ PADEP issued an order to First Energy
- ▶ The case has been settle and First Energy will be shutting the Little Blue Run Disposal Site in the future.



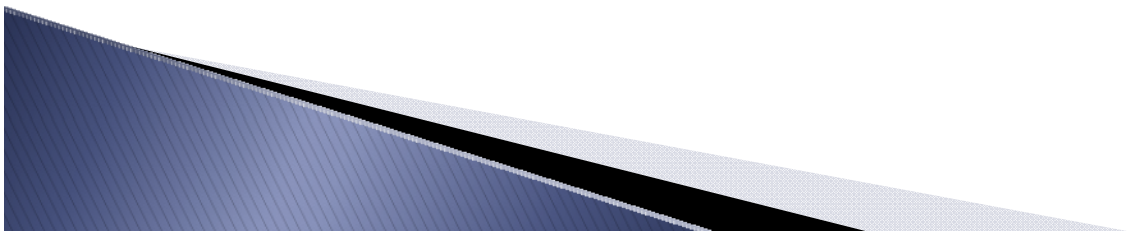
Others

- ▶ Indiana – Pines Landfill Cases involving coal ash disposal (again)
- ▶ Illinois– Mid Generation to clean up ground water from leaking coal ash impoundments
- ▶ Nevada – Reid Gardner Coal Ash Disposal Site on Public Lands – Water Pollution from coal ash wastewater settling ponds
- ▶ Montana – Colstrip – Issues dealing with Ponds



NOTE

- ▶ This round of litigation has been directed at coal ash dewatering impoundments.
- ▶ Effluents and water discharge related issues will most likely be raised in EPA's Proposed Effluent Guidelines Proposed Rule Making Package related to coal fired power plants.
- ▶ This is probably an issue that will need to be addressed and coordinated in the solid waste coal ash rule.



Questions???

