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Two for Tuesday: The Latest on Common Pesticide and Coal Ash

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Crossposted with [TheGreenGrok](#).

The Environmental Protection Agency decides fate of a toxic pollutant. Coal ash regs still up in the air.

Stand Up for Bastards by Suing Them?

If you have not already, you should check out John and Patricia Adams's [A Force for Nature: The Story of NRDC and the Fight to Save Our Planet](#), a memoir chronicling their years founding and leading the National Resources Defense Council (NRDC). Among its interesting history and insights there is a fascinating discussion of the uneasy, yet highly effective symbiosis that exists between the nation's agency charged with protecting our environment and the organizations that advocate for the environment. That relationship is grounded in the old, [unofficial motto associated with environmental advocacy groups](#): "Sue the bastards." In brief it goes (or at least is supposed to go) like this:

1. EPA ([most likely for political reasons](#)) is reticent to "do the right thing."
2. So an environmental advocacy group takes them to court.
3. When the group wins the case, EPA is forced to "do the right thing."

That general approach is now being put to the test in at least two instances of note.

EPA Says 'No' on Common Pesticide

Last week we posted in our [Chemical Marketplace series](#) on an [herbicide known as 2,4-D](#), one of the most widely used weed-killers in the country. A product used not just by farmers but also by lots of us common variety home gardeners and lawn groomers, the stuff [has been linked to a variety of unsavory health effects](#) from cancer (in people) to hormonal disruptions (in animals), although a clear, direct causative relationship has not been established.

Because of these potential health hazards, NRDC [petitioned the EPA to cancel all uses of the stuff](#) in 2008. A good three years later, there was no word from EPA but the concerns were piling up -- the latest from the [Agriculture Department's possible approval of trans-genetic forms of 2,4-D-resistant crops](#) (e.g., corn, soybeans, and cotton), which could mean even more 2,4-D being sprayed with even more exposure for us. And so in February 2012 NRDC took the next step. It [sued EPA to force action on its petition](#) to revoke the chemical's registration.

Less than two months later, [EPA finally responded](#) but not in the way that NRDC had hoped: it [denied NRDC's petition](#). (EPA issued its decision in a pre-publication response on Saturday and [announced it in a press release](#) on Monday, although technically the response is not [official until after it is entered into the Federal Register after which time a 60-day window opens for objections and hearing requests \[pdf\]](#).) Will NRDC's next step be another suit? We'll have to wait and see.

Coal Ash Next Up in Court

The story of [coal ash and EPA regulation](#) is a long and tortured one plagued with [inaction and procrastination that dates back to the Clinton administration](#). But it wasn't until December 2008 that the issue [hit the front pages](#) and caught the public eye when a [containment pond at the Kingston Fossil Plant, a power station, near Kingston, Tennessee, broke open](#), spilling more than one billion gallons of toxic sludge over approximately 300 acres in the surrounding area, including the Emory River.

A few months after the Kingston event and the inauguration of President Obama, Lisa Jackson, the newly sworn-in EPA administrator, [promised to promulgate new standards for coal ash](#) by December 2009. Alas, that [date came and went with no such regulations announced](#).

In May of 2010, EPA issued not one but [two sets of proposed coal ash regulations](#) (one regulating coal ash as a [hazardous waste, the other as a non-hazardous waste](#), with both exempting beneficial uses of the waste), and requested public comments. That public comment period ended in November of 2010. Last year EPA said it will make a [final decision after reviewing all the information on the proposal](#), including the 450,000 comments it received. Nothing yet, a year plus later.

Last Thursday, tired of waiting for EPA to act, a coalition of 11 health and environmental advocacy groups [filed a lawsuit](#) in the U.S. District Court for the District of Columbia (among the groups are Appalachian Voices, the Southern Alliance for Clean Energy, Sierra Club, and the Environmental Integrity Project). Specifically, the [lawsuit \[pdf\]](#) claims that

"although the EPA has acknowledged repeatedly over the past three decades that revisions to existing federal regulations [for coal ash] are needed, the Agency has failed to undertake these revisions. The EPA's longstanding failure to act in the face of well-documented risks associated with irresponsible disposal of coal ash violates the Resource Conservation and Recovery Act."

In support of their suit the [groups cite data EPA has gathered](#) since the Kingston spill that document groundwater contamination near coal ash dumpsites at an additional 29 power plants in 16 states.

Several efforts afoot in Congress and announced lawsuits show how the battle lines are taking shape. A [bill passed last year in the House aims to bypass EPA altogether](#) by preventing it from regulating coal ash as a hazardous material. (See also [here](#).) Rep. Fred Upton (R-MI), chair of the House Energy and Commerce Committee, and Rep. John Shimkus (R-IL), chair of the Environment and Economy Committee, [have urged EPA \[pdf\]](#) to stand firm against the suit, arguing that the agency does not have to issue a rule. And at least two companies that recycle coal ash for various uses (see [here \[pdf\]](#) and [here \[pdf\]](#)) have also announced their intentions to sue EPA to force a decision on the issue.

O inglorious league! What's an EPA to do?

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Just because an Anti-Pesticide Organization like NRDC says that 2,4-D must be PROHIBITED does NOT mean much.

Scientific research shows, as reported through EPA's and Health Canada's VAST TOXICOLOGY DATABASE, that NO harm will occur when pest control products like 2,4-D are used according to label directions.

Despite the opposite claims of activists, NO regulatory body in the world classifies 2,4-D as a human carcinogen.

2,4-D has been used for the control of broad-leaved weeds in the Urban Landscape SINCE 1946.

2,4-D has a 65-YEAR UNBLEMISHED SAFETY RECORD regarding long-term risk to health.

2,4-D is probably THE MOST studied and best understood of ANY chemical ... not just pesticide ... in existence.

Nonetheless, Anti-Pesticide Activists COULD NEVER BE BOTHERED to use the EXTENSIVE TOXICOLOGY DATABASE that is available from either Health Canada or U.S. Environmental Protection Agency.

Evidently, these activists prefer to attempt PROFITING from Anti-Pesticide PROHIBITION with their own organizations or businesses, at the expense of the Professional Lawn Care Industry.

For more information regarding 2,4-D HERBICIDE, go to the following link ...

<http://pesticidetruths.com/toc/24-d/>

WILLIAM H. GATHERCOLE AND NORAH G

NORAHG is the National Organization Responding Against HUJE that seek to harm the Green space industry.

<http://pesticidetruths.com/>