THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

April 28, 2017

The Honorable Brian Sandoval
Capitol Building
Carson City, Nevada 89701

Dear Governor Sandoval:

I am writing to inform you about steps the U.S. Environmental Protection Agency (EPA) is taking to implement new authority for authorizing state coal combustion residual (CCR) management permit programs provided by section 2301 of the Water Infrastructure Improvements for the Nation Act (WIIN Act), P.L. 114-322. The successful implementation of this authority will require cooperation between EPA and state technical experts, the regulated community, and other stakeholders. I know that some states have already discussed with EPA how they manage CCR, and I encourage you to continue those efforts and work with EPA to submit your program applications for approval in a timely manner. If you have not done so, I encourage you to evaluate developing a CCR permit program and submitting it to EPA for authorization.

As you may know, in 2014, the EPA issued national standards for the management of CCR under Subtitle D of the Resource Conservation and Recovery Act (RCRA). As EPA explained in the Preamble to the CCR rule, due to the limited authority under RCRA Subtitle D, these standards applied directly to the owners and operators of CCR landfills and surface impoundments and could not be tailored to the unique circumstances of individual facilities and states through EPA-authorized permit programs. In addition, these standards were enforceable only by citizen suits.

Based on the concept of cooperative federalism that is a hallmark of our environmental laws, section 2301 of the WIIN Act authorizes state permit programs to manage CCR. EPA has started developing guidance for states about how EPA expects to review and approve state applications to operate permit programs and allow flexibility in individual permits in lieu of the national standards. EPA discussed plans for this draft guidance with a number of state environmental directors at the Environmental Council of States on April 7, 2017. EPA also is discussing this in greater detail with technical experts at the Association of State and Territorial Solid Waste Management Officials.

I look forward to assisting your state with implementing section 2301 of the WIIN Act.

Respectfully yours,

E. Scott Pruitt

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