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August 21, 2009

The Honorable Lisa Jackson  
Administrator, Environmental Protection Agency  
Room 3000, Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington DC 20460

Dear Ms. Jackson:

We are writing to express our concern about a potential Environmental Protection Agency ruling pertaining to the regulation of fly-ash (a coal combustion product) as a hazardous waste material.

It is our understanding that your agency is considering revisiting previous EPA determinations that these materials do not warrant regulation as hazardous waste materials (1993 and 2000). It is clear to the concrete pavement industry that the result of these earlier determinations is that the beneficial use of fly-ash has grown significantly over the last few decades.

We believe beneficial use of fly-ash would be severely crippled under the proposed rulemaking. For example, some state regulations prohibit the use of a "hazardous waste" for any beneficial use. We are aware that many DOTs around the country allow and encourage the use of fly ash for various reasons. Among the numerous benefits derived from using fly ash in concrete are improved longevity, increased strength, enhanced durability and improved cost effectiveness. Increasing the longevity of our concrete infrastructure alone has huge positive implications for natural resource conservation and energy savings. There are also greenhouse gas savings realized with the use of flyash in concrete mixtures.

We believe that regulating flyash as a hazardous waste would have significant unintended negative consequences that could potentially undo several decades of advancement in concrete durability and infrastructure longevity, as well as reduced disposal needs.

Thank you for your attention and consideration. We anticipate contacting your staff in the near future to discuss the numerous environmental and economic benefits of fly ash that are now at stake with this possible ruling.

Sincerely,

A handwritten signature in blue ink, appearing to read "Leif G. Wathne", is written over a white background.

Leif G. Wathne, P.E.  
VP - Highways and Federal Affairs

C: G. Voigt, President & CEO