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September 29, 2009

Ms. Judy Sheahan  
The United States Conference of Mayors.  
1620 Eye Street, Northwest  
Washington, DC 20006

SUBJECT: REGULATION OF CCBs BY THE EPA

Dear Ms. Sheahan:

The City of Wyandotte is writing to inform you of a pending proposal by the U.S. Environmental Protection Agency which may seek to regulate as a hazardous waste coal ash generated during the combustion of coal to produce electricity (referred to as coal combustion byproducts or CCBs). Listing CCBs as hazardous waste would have dramatic adverse consequences for the City of Wyandotte due to the increase in costs associated with managing and disposing of CCBs as well as the lack of availability of CCBs for construction projects. We wish to register our strong opposition to regulating CCBs as hazardous waste and request that you contact the National League of Cities and/or the Council of Mayors and urge these groups to send comments to EPA by October 1<sup>st</sup> (the Agency's deadline for comments from state/local officials and their trade associations) or as soon as possible thereafter opposing the designation of CCBs as hazardous waste.

We agree with the position expressed nearly universally by state environmental agencies, state transportation authorities, state public utility commissions, members of the U.S. Congress and virtually all industry groups that EPA should regulate CCBs as *non-hazardous* waste. Regulating CCBs pursuant to a federal non-hazardous waste program would allow for the imposition of management and disposal controls on CCBs that are fully protective of human health and the environment without unduly impacting the beneficial uses of CCBs and imposing substantial unwarranted costs on cities and municipalities across the nation.

In contrast, the regulation of CCBs as hazardous waste could require the City of Wyandotte, Department of Municipal Services to dispose of CCBs generated during the production of electricity at commercial hazardous waste disposal facilities. There are very few such facilities in the U.S. and these facilities have limited capacity and impose substantial costs for the disposal of hazardous wastes. The costs of disposing of CCBs will be substantially greater if CCBs are regulated as hazardous waste than if CCBs are regulated as non-hazardous. These costs will be borne directly by taxpayers and/or ratepayers in the City of Wyandotte, notwithstanding the fact that CCBs can be regulated as non-hazardous waste while ensuring the safety of the public and the protection of the environment. Furthermore, because the few commercial hazardous waste disposal facilities are often located great distances from the generation of electricity (and CCBs), the costs of transporting significant volumes of CCBs to

these facilities would substantially increase the already high costs of disposal of CCBs as hazardous waste.

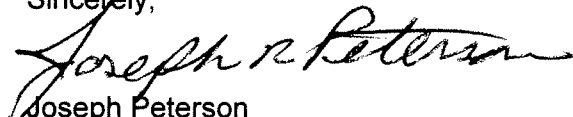
The listing of CCBs as hazardous waste will also significantly reduce the opportunities for beneficially using these materials, which could impact the cost and availability of materials for a variety of construction projects. As detailed in a letter to EPA, the American Concrete Institute maintains that due to potential liability concerns CCBs will not be used in concrete and other construction materials if regulated as hazardous waste. Unavailability of CCBs could increase the costs and/or seriously delay projects in the City of Wyandotte including road construction projects which often include substantial quantities of fly ash (a CCB).

It is necessary for EPA to understand that these unnecessary increases in costs for the disposal and transportation of CCBs as hazardous wastes as well as construction projects that use CCBs as construction materials are taking place in the context of drastic cuts in the services many cities and municipalities have had to impose during these challenging economic times. Many cities and states have had to cut essential services including fire and police departments, school teachers and emergency medical services. Diverting city and municipality resources to the management of CCBs as hazardous waste will interfere with the priorities of the City of Wyandotte and compound the difficulties of managing already tight budgets.

In light of the issues addressed above, we urge you to contact the National League of Cities and the U.S. Conference of Mayors representatives below and encourage them to send comments to EPA registering their opposition to the regulation of CCBs as hazardous waste. The deadline for the comments to the EPA is October 1<sup>st</sup> 2009.

Please contact Melanie McCoy, General Manager, City of Wyandotte Department of Municipal Service by phone at 734-324-7111, or by email at [mmccoy@wyan.org](mailto:mmccoy@wyan.org) with any questions. Thank you for your attention to this matter.

Sincerely,

  
Joseph Peterson  
Mayor, City of Wyandotte

cc: Melanie McCoy