



**Wille Brothers Company**  
Building your future with quality and service

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September 24, 2009

Mr. Matthew Hale, Director  
Office of Resource Conservation & Recovery  
U.S. EPA (5301P)  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

Subject: Fly Ash as a "Hazardous Waste"

Dear Mr. Hale:

It has recently come to my attention that the EPA is considering classifying coal combustion products as "hazardous" wastes. I am writing to inform you of both the devastating effect this would have on my industry as well as my belief that doing so would actually have serious unintended consequences which are counter to the worthy mission of the EPA.

My company uses coal combustion products (CCPs), namely fly ash, as a supplemental cementing material replacing on average 24% of the Portland cement required in our ready mixed concrete. The vast majority of our state DOT mixes incorporate fly ash because using this material improves the durability, strength, constructability, and economy of the concrete used in the infrastructure work the DOT is tasked with overseeing. Almost every public building being constructed now is a "Green" project; the LEEDS movement is really beginning to take off. Incorporating fly ash into the concrete mix is critical in getting LEEDS points for most public buildings in my market. In summary, fly ash when incorporated into ready mixed concrete is in fact a "Green" product and not a hazardous waste.

I understand that EPA might consider language stating that CCPs being used in certain applications would not be deemed a hazardous waste. I do not think this will help, because the CCPs being utilized are the very same material as the coal combustion products you would label as hazardous wastes. I would have serious reservations about using what the EPA has declared a hazardous waste in the ready mix concrete we produce. Even though I know that once chemically bound in concrete, fly ash does not pose any environmental or health threat, explaining this to the end user of our product would be very difficult, and I believe the explanation would be met with skepticism.

I would also fear lawsuits. We would certainly have to seriously consider, after consulting with our lawyers, whether we could take the risk of dealing with a material that is the same thing as a material that EPA had officially labeled a hazardous waste. I

also presume any other company concerned about its liabilities would have to do the same.

In 2007, the concrete industry as a whole used approximately 14.5 million tons of fly ash in concrete. Classifying the material as a hazardous waste could potentially have the unintended consequence of diverting all of that material to landfills instead. It could also result in the unintended consequence of eliminating all of the environmental benefits, namely CO2 reduction, of incorporating fly ash as replacement of Portland cement in the production of ready mix concrete.

I urge you to seriously consider this impact on our business, as well as the impact on our industry as a whole, which I hope you will agree is critical to our nation's infrastructure. I hope that EPA can avoid the unfortunate results that the new regulations being considered would have, so we can continue to beneficially use CCPs. The CO2 reduction, green and LEED benefits of utilizing CCPs is a key strategic lever for my business.

Sincerely yours,

WILLE BROTHERS COMPANY

A handwritten signature in black ink, appearing to read 'K. Jarchow', written in a cursive style.

Kevin Jarchow  
President



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The Honorable Lisa P. Jackson  
EPA Administrator  
USEPA Headquarters  
Ariel Rios Building  
1200 Pennsylvania Avenue, N. W.  
Mail Code: 1101A  
Washington, DC 20460

Subject: Fly Ash as a "Hazardous Waste"

Dear Ms. Jackson:

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