



Minnesota Department of Transportation

Transportation Building

395 John Ireland Boulevard
Saint Paul, Minnesota 55155-1899

November 3, 2009

The Honorable Victor Mendez
Administrator, Federal Highway Administration
1200 New Jersey AVE SE
Washington DC 20590

Dear Mr. Mendez:

We are writing you on behalf of the Minnesota Department of Transportation to express our concerns with an anticipated proposed rule being prepared by the Environmental Protection Agency (EPA) pertaining to the regulation of coal combustion residue (fly ash) as a hazardous waste material. It is our understanding that your agency, per request by the Office of Management and Budget, is reviewing potential EPA determinations that these materials warrant regulation as hazardous waste.

The Minnesota Department of Transportation relies on fly ash to enhance the performance and durability of concrete, and is therefore interested in the proposed rule. Fly ash has been a crucial element in infrastructure construction projects across the U.S. for decades as it improves longevity, increases strength, enhances durability and improves cost effectiveness. The types of infrastructure projects where fly ash has tremendous benefits include highway pavements, highway and railroad bridges and tunnels, transit structures, airport runways, and pipelines. 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 fly ash in concrete mixtures. A more complete discussion of the beneficial use of fly ash can be found in the joint FHWA-EPA publication titled *Using Coal Ash in Highway Construction: A Guide to Benefits and Impacts* EPA-530-K-05-002 April 2005.

The Minnesota Department of Transportation is concerned about our continued ability to beneficially reuse this material in the construction and rehabilitation of our nation's critical infrastructure, and believe that regulating fly ash as a hazardous waste would have significant unintended negative consequences on its beneficial reuse. Even if EPA plans only to regulate disposal of fly ash as a hazardous waste, the stigma associated with such an approach will have a chilling effect on the use of the material for our infrastructure.

We hope that your agency takes our concerns into consideration during your ongoing review of the proposed rule. Please do not hesitate to contact us at your convenience if we can be of any help to you or your staff in this matter. We may be reached at 651-366-4807.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Khani Sahebjam', written over a horizontal line.

Khani Sahebjam, P.E.
Deputy Commissioner and Chief Engineer
CC: John Horsley, Executive Director, AASHTO