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January 29, 2008

Via Hand Delivery

LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality
Office of Chief Clerk
12100 Park 35 Circle, Bldg. F-1
Austin, Texas 78711-3087

2008 JAN 29 PM 3:05
CHIEF CLERKS OFFICE
TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY

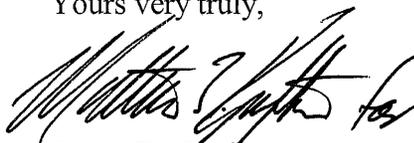
Re: Redi-Mix LLC; Appeal of Pollution Control Property Use Determination Nos. 07-11103, 07-11104, 07-11121; and 07-11122.

Dear Ms. Castanuela:

Enclosed please find the appeal for the executive director's above-referenced pollution control property use determinations filed on behalf of our client, Redi-Mix LLC. Please file the original and return a file-marked copy to me.

Thank you for your attention to this matter, and please keep us apprised of any developments.

Yours very truly,



James B. Harris

Enclosures

cc: Mr. Ryan Sewell, Environmental Compliance Manager, Redi-Mix Concrete
Mr. David Greer, Team Leader Pollution Prevention, TCEQ

TCEQ DOCKET NO. _____

IN THE MATTER OF:

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BEFORE THE

REDI-MIX LLC
APPEAL OF POLLUTION CONTROL
PROPERTY USE DETERMINATIONS

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

APPEAL REQUEST

REDI-MIX LLC (incorrectly named U.S. Concrete Inc. in 07-11121), through its attorney, James B. Harris of the law firm of Thompson & Knight LLP, 1700 Pacific Avenue, Suite 3300, Dallas, Texas 75201, 214-969-1102, within 20 days from receipt, as provided by statute and regulation, hereby appeals the following pollution control property use determinations:

1. 07-11103
2. 07-11104
3. 07-11121; and
4. 07-11122.

CHIEF CLERKS OFFICE

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BACKGROUND

In October of 2007, Redi-Mix LLC ("Redi-Mix") filed use determination applications for three Redi-Mix plants, one in Frisco, Texas, one in Roanoke, Texas, and one in Prosper, Texas. The applications sought exemptions for both real and personal property. By letters dated December 22, 2007, mailed on January 4, 2008, and received by Redi-Mix on January 10, 2008, the applications were granted at all three locations for all of the personal property and some of the real property described in the applications.

The exemptions were denied for all of the real property that contains paving to reduce air emissions at all three locations.

WHAT IS BEING APPEALED

Redi-Mix believes that the determination not to exempt the real property with paving was in error and asks that the Commission review the applications and conclude that the real property with paving described in those applications is entitled to an exemption.

EXPLANATION OF THE BASIS FOR THE APPEAL

The constitutional amendment, the provision of the tax code, and the Commission's regulations dealing with a property tax exemption for pollution control property provide that real property *used* for the control of air, water, or land pollution is entitled to an exemption. Additionally, the Commission's rules provide that land *containing* pollution control property designed to meet or exceed rules and regulations adopted by any environmental protection agency of the United States, this state, or a political sub-division of this state is being *used* for the control of air, water, or land pollution.

In its applications, Redi-Mix identified land that was paved in order to meet or exceed either Section 3(e) of the Standard Permit for Concrete Batch Plants issued under 30 T.A.C. § 116, Sub-Chapter F or the paving provision in the permit by rule for Concrete Batch Plants, 30 T.A.C. § 106.201(3). The land for which an exemption was sought because of the presence of paving was limited to those areas that contained paving to satisfy this regulatory provision. Because the paving was necessary to meet or exceed a rule of the Commission to prevent, control, or reduce air pollution, and the land for

which an exemption was sought contained such paving, that land was being used to meet or exceed that rule and was, therefore, entitled to an exemption. Redi-Mix understands that this conclusion has been consistently followed by the Commission's staff in the past.

The constitutional amendment authorizing an exemption for pollution control equipment, the statute implementing that constitutional amendment, and the Commission's rules for such exemptions do not require any specific degree of use. So long as the land is used in any way for pollution control purposes, regardless of the degree of such use, it is entitled to an exemption. Because it is undisputed that the paved land is used for pollution control purposes, the decision to not exempt that land was in error and must be reversed.

Respectfully submitted,

THOMPSON & KNIGHT L.L.P.

By:



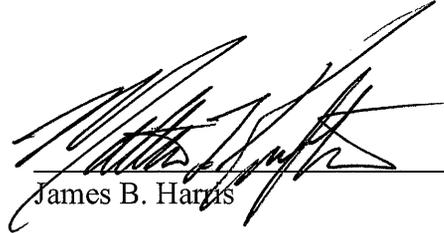
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ATTORNEYS FOR REDI-MIX LLC

CERTIFICATE OF SERVICE

This is to certify that on this 29 day of January, 2008, a true and correct copy of the foregoing Appeal Request was mailed by United States First Class Mail to David Greer, Team Leader Pollution Prevention, TCEQ-MC-110, Attention: Tax Relief Program, P.O. Box 13087, Austin, Texas 78711-3087.


James B. Harris