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June 16, 2010

LaDonna Castañuela, Chief Clerk
Texas Commission on Environmental Quality
Office of the Chief Clerk (MC-105)
P.O. Box 13087
Austin, Texas 78711-3087

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2010 JUN 18 PM 2:55
CHIEF CLERKS OFFICE

Re: Negative Use Determination for Revised Application 8262
Mizuho Corporate Bank MHCBS (USA)
Sunrise Chemical Bayport Facility
10500 Bay Area Boulevard
Pasadena, Texas 77507

Dear Ms. Castañuela:

Pursuant to 30 Texas Administrative Code § 17.25, please allow this letter to serve as the formal appeal by MHCBS (USA) Leasing & Finance Corporation ("Mizuho Corporate Bank MHCBS (USA)" or "MHCBS") of the negative use determination issued in connection with revised application 8262. MHCBS requests that the Commission reconsider the negative use determination for revised application 8262. For your convenience, attached is a copy of the negative use determination.

The basis for the appeal is that, contrary to the assertions in the negative use determination, MHCBS is not: (1) providing a service that prevents, monitors, controls, or reduces air, water, or land pollution; or (2) participating in the commercial trade of pollution control equipment. In addition, during the April 28, 2010 hearing before the Commission related to application 8262 (TCEQ DOCKET No. 2010-0252-MIS-U), two of the Commissioners specifically questioned the potential economic consequences of issuing negative use determinations to applicants in similar situations to MHCBS. Nothing in the negative use determination for revised application 8262 indicates that the Executive Director considered the economic impact of issuing the negative use determination as contemplated by the Commission during the hearing.

For the forgoing reasons, MHCBS respectfully requests that the Commission remand the negative use determination issued in connection with revised application 8262 to the

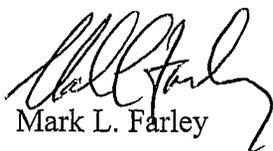
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Executive Director for issuance of a positive use determination. Alternatively, MHCB requests that the Commission remand the negative use determination to the Executive Director for consideration of the economic impact of such a determination.

If you have any questions, please contact me.

Very truly yours,



Mark L. Farley

cc. Ryan T. Miller
Assistant General Counsel
Office of General Counsel
Harris County Appraisal District
P.O. Box 920975
Houston, Texas 77292-0975

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 25, 2010

Mr. Joseph Charney
Senior Manager – Administration and Procurement
Nisseki Chemical Texas Inc.
10500 Bay Area Boulevard
Pasadena, Texas 77507

Re: Negative Use Determination for Revised Application 8262:
Mizuho Corporate Bank MHCB (USA)
Sunrise Chemical Bayport Facility
10500 Bay Area Boulevard
Pasadena (Harris County)

Dear Mr. Charney:

The Texas Commission on Environmental Quality (TCEQ) has completed its review of Use Determination Application 8262. A negative use determination is issued for the above-referenced application due to the following:

1. In January of 2004, Sunrise Chemical, L.L.C. (Sunrise Chemical) sold to and then leased back one of its ENB units (ENB2) from Mizuho Corporate Bank (MHCB). In February of 2005, Sunrise Chemical mistakenly applied for and received a Tier I 100% positive use determination for the pollution control property associated with ENB2. The property consisted of a flare, monitoring equipment on control devices, fugitive emissions monitors, welded pipe joints, hoods and collection systems, stacks, conveyances, pumps, sumps, tanks, basins, a wastewater treatment facility, storm water containment, and potable water systems. In December of 2009, MHCB asked the executive director to revise the Tier I 100% positive use determination to reflect MHCB's ownership. On December 3, 2009, the executive director issued a revised use determination. On April 28, 2010, the TCEQ considered the appeal filed by Harris County Appraisal District with regard to the revised positive use determination. The Commission set aside the revised positive use determination and remanded the matter to the executive director for a new use determination.
2. MHCB owns ENB2 and the associated pollution control equipment. MHCB was not required by law to use or possess the pollution control equipment associated with ENB2. MHCB leases ENB2 and the associated pollution control equipment to Sunrise Chemical

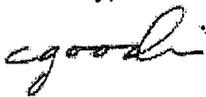
Mr. Joseph Charney
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in return for lease payments. MHCB is not eligible to receive a positive use determination under Section 11.31(a) of the Texas Tax Code and 30 Texas Administrative Code (TAC) §17.6(1) because MHCB is: 1) providing a service that prevents, monitors, controls, or reduces air, water, or land pollution at Sunrise Chemical's Bayport Facility; and 2) participating in the commercial trade of pollution control equipment.

If you wish to appeal this determination, the process for appealing can be found at 30 TAC § 17.25. **Note: pursuant to 17.25(a)(1), an appeal must be filed with the chief clerk of the commission within 20 days of receipt of this letter.** If appealed, please submit a copy of your appeal to the TCEQ Tax Relief for Pollution Control Property Program at the letterhead address, Mail Code 110.

If you have any questions or require additional information, please contact Ron Hatlett with the Tax Relief for Pollution Control Property Program at the letterhead address, Mail Code 110, by telephone at (512) 239-6348, or by e-mail at rhatlett@tceq.state.tx.us.

Sincerely,



Chance Goodin, Team Leader
Stationary Source Programs
Air Quality Division

CG/rh

cc: Chief Appraiser, Harris County Appraisal District, P. O. Box 992004, Houston, Texas 77292