

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

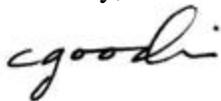
Mr. Joseph Charney  
Page 2  
May 25, 2010

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