



**OMB Meeting Agenda**  
**New Executive Office Building**  
**725 17<sup>th</sup> Street NW**  
**Washington, DC**  
**11:00 A.M.**  
**January 15, 2010**

SEFA Attendees: Thomas C. Hendrix, President & CEO  
Jimmy C. Knowles, Vice President Market Development

SEFA Office Information: 217 Cedar Road; Lexington, SC 29073  
803.520.9000

SEFA Business Structure: Marketing, Manufacturing, Transportation, Engineering/R&D  
Company Stock Closely Held by the Immediate Family of Thomas C. Hendrix  
Company Founded in April, 1976  
Number of employees: 148 +/-  
Yearly payroll – fully burdened: \$11,218,651  
Yearly revenue: \$33,344,263  
Stockholders equity: \$10,621,243

SEFA Mission Statement: The SEFA Group's purpose is to develop mutually advantageous relationships within the utility and construction industries in order to maximize the beneficial utilization of coal combustion products in an environmentally friendly way.

SEFA Business Plan Since 1990 Clean Air Act Amendments: SEFA has diligently explored, developed, and utilized technologies to beneficiate coal ash in order to promote the beneficial uses of its unique chemical and physical characteristics. Ironically, the end game of this business philosophy was to increase the value of coal ash as a national resource and to discredit the “ash is trash” mentality of coal ash detractors.

Issues to be highlighted in our discussion:

1. Review of SEFA's email of request for this OMB Meeting
2. Review of SEFA's earlier correspondence with EPA
3. Present cost to SEFA due to threat of coal ash being designated as hazardous
  - Delays in current and future coal ash beneficiation projects due to uncertainty
4. Unintended consequences from coal ash being designated as hazardous
  - Loss of beneficial use markets from liability and/or stigma
5. Future ramifications to SEFA from hazardous waste designation
  - Net loss of 130 jobs and \$9.8M annual payroll
  - Stranded capital assets at beneficiation plants and S-Corp bankruptcies

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**Regional Office**  
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Greenville, TN 37744  
Tel (423) 639-8531  
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**Corporate Office**  
P.O. Box 6  
Moncks Corner, SC 29461  
Tel (843) 761-1999  
Fax (843) 899-7213

## Tom Hendrix

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**From:** Tom Hendrix  
**Sent:** Tuesday, January 05, 2010 5:21 PM  
**To:** Jimmy Knowles (jknowles@sefagroup.com); Jim Clayton (jclayton@sefagroup.com); Bert Nunn (bnunn@sefagroup.com); Bret Harris (bharris@sefagroup.com); Tom Hendrix (tomhendrix@prodigy.net)  
**Subject:** FW: EO 12866 Meeting Request

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**From:** Tom Hendrix  
**Sent:** Tuesday, January 05, 2010 5:19 PM  
**To:** 'Mabel\_E.\_Echols@omb.eop.gov'  
**Cc:** Gregg Hendrix (ghendrix@sefagroup.com)  
**Subject:** EO 12866 Meeting Request

Ms. Echols,

The SEFA Group is a relatively small business with less than 150 employees specializing in the beneficial use of coal combustion products (CCPs). For over thirty years our company has been developing environmentally friendly markets for CCPs and due to our efforts many millions of tons of coal fly ash have been used to make sustainable buildings and other products rather than disposed as waste in landfills.

As you can imagine, we are very concerned about the negative impact and stigma associated with EPA potentially designating this valuable resource as "hazardous waste." We have already lost projects and clients based only on the possibility that CCPs would be designated as hazardous either for disposal or for reuse. The negative economic impact on our company and our employees that would be result from a hazardous waste designation for coal fly ash would be devastating.

Over the last ten years our research and development activities have been focused on the development of innovative "beneficiation processes" that refine coal fly ash into a high-value, pure mineral matter that can be used in additional markets that have never before been able to tolerate by-product fly ashes. We have literally invested many millions of dollars to develop these fly ash beneficiation technologies and to design and construct actual fly ash beneficiation plants that now transform worthless coal fly ash into a valued mineral resource for beneficial use.

We currently market beneficiated fly ash from three (3) multi-million dollar plants located in South Carolina; our company has over 31 million dollars invested in two of the facilities that we own. We believe that all three of these plants would become worthless and our employees would become jobless if the EPA designates coal fly ash as hazardous waste.

Therefore, I request an EO 12866 meeting to discuss this very important issue. Please respond with the first available time this might be scheduled.

Respectfully Submitted,



Tom Hendrix  
President  
The SEFA Group  
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[thendrix@sefagroup.com](mailto:thendrix@sefagroup.com)



July 9, 2009

Honorable Lisa Jackson  
Administrator  
United States Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave NW  
MC 1101A  
Washington, DC 20460

Dear Administrator Jackson,

The SEFA Group strongly opposes any designation of coal combustion products (CCPs) as hazardous waste. Such action would have significant and long lasting effect upon society's willingness to beneficially use fly ash and other CCPs by destabilizing their markets. Regulatory schemes that would designate these materials as hazardous for purposes of disposal will stigmatize them and eliminate many examples of environmentally and socially sound beneficial use. CCP disposal standards can and should be addressed without unnecessarily stigmatizing resources with high potential for safe beneficial use as a preferred alternative to disposal. We welcome dialogue with the Agency and the environmental community to ensure that future regulatory frameworks promote the safe beneficial re-use of CCPs.

RCRA requires that EPA consider the "current and potential utilization" of CCPs in evaluating its regulatory options for CCPs [*See* RCRA § 8002(n)(8)]. EPA and the States have consistently recognized that regulating CCPs as hazardous waste under Subtitle C would adversely impact their beneficial use. Such a result would not be consistent with RCRA's directive that EPA consider such beneficial uses in evaluating CCB regulatory options. On the other hand, regulation of CCPs under RCRA Subtitle D would not adversely impact CCP beneficial use, while at the same time allowing for the development of federal regulations that would ensure that CCPs are managed in a manner protective of human health and the environment.

On May 22, 2000, the EPA published its final Regulatory Determination on Wastes from Fossil Fuels in which the Agency concluded that these materials "do not warrant regulation under subtitle C of RCRA." EPA also stated that it did "not wish to place any unnecessary barriers on the beneficial uses of these wastes, because they conserve natural resources, reduce disposal costs and reduce the total amount of waste destined for disposal."

The concern with the impact of hazardous waste regulations is even greater now. In 1999, CCP utilization was estimated to be 30% or approximately 30 million tonners annually. In 2008, that number had risen to 43% and 56 million tons annually, nearly double the tonnage reported in

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1999. This is a remarkable achievement, considering total tonnage of CCPs has grown significantly during the same period.

One of the reasons for a significant increase in CCP beneficial use rates since EPA's 2000 Final Regulatory Determination has been the reliance of State regulatory agencies, CCP producers and marketers on EPA's decision. The Final Regulatory Determination was issued after a vigorous public discussion that gave industry confidence that matters pertaining to a hazardous waste designation were settled and that they could move forward on beneficial use implementation with little fear of retroactive liability.

Many CCP producers began increasing capital investments in facilities needed to direct CCPs to beneficial use rather than disposal. The SEFA Group alone has invested over \$100 million in research, development and commercialization of two separate thermal beneficiation processes for fly ash that refine the coal combustion by-product (CCB) fly ash produced by coal-fired power plants, transforming the CCBs into high-quality CCPs that are not only used as pozzolan in concrete, but also as high-quality ingredients for paints, plastics, rubbers, etc.

Clearly defined state regulations encouraging beneficial use have supported the development of a robust market for CCPs in a manner protective of the public health and environment. State policies encouraging CCP beneficial use provide a powerful incentive to producers and marketers of CCPs.

If the EPA were to reverse its Final Determination and assign a hazardous waste designation for CCPs, even for the limited purpose of disposal operations, we believe it would have a devastating effect on the beneficial use of the resource. Producers, marketers and users of CCPs would be confronted with myriad new uncertainties and perceived risks associated with marketing, handling, transporting and utilizing CCPs. By impeding the beneficial use of CCPs, a hazardous waste designation would have the unintended consequences of dramatically increasing the volumes of material disposed and eliminating the significant environmental, economic, and sustainability benefits accomplished by beneficial use. The valuable mineral resources contained in coal combustion products need to be matched nationally to environmentally sustainable practices rather than destined for disposal. The net effect will be an increase in the amount of these mineral resources wasted and disposed, and at the same time create an increase in the mining of essentially the same "natural" minerals with associated environmental production impacts.

Any proposal to regulate disposal of CCPs as "hazardous waste" threaten to undo the considerable progress that industry, in partnership with EPA, has made to increase CCP beneficial use. Nearly 30 years of technical study with high scientific integrity has concluded that there is no basis for a hazardous waste designation for CCPs – for disposal or beneficial use. Similarly, going back to 1980, years of federal regulatory determinations have also concluded



that a hazardous waste designation is unwarranted. And most importantly, a hazardous determination would undo and nearly completely stop beneficial uses for all CCPs.

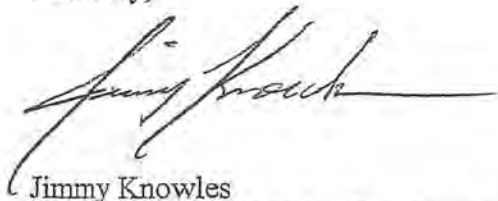
In 2005, the American Coal Council performed an economic assessment of the impact that the CCP industry has on the nation's economy. At that time, it was estimated that the combined direct and indirect economic benefits that CCPs provided was approximately \$4.5 billion. That number has grown substantially since 2005 since production and utilization has increased nearly ten percent and green building has expanded even more since the study was completed. This incorporation of CCPs into the "green supply chain" has created jobs and has been used in countless sustainable projects that illustrate the long term benefits of products containing CCPs as well as reducing green house gasses and providing locally available materials to many sites. Reducing the amount of waste generated in this nation, while reducing the costs of projects and conserving other materials for higher values of use are essential elements of a more sustainable America.

The Arthur Ravenel Jr. Bridge over the Cooper River in Charleston, South Carolina is an excellent example. This bridge was constructed using high-volume fly ash concrete specifically because this low-permeability concrete will increase the life expectancy of the bridge from 50 years to well over one hundred years. The fly ash used in this bridge was beneficiated by The SEFA Group using our thermal beneficiation plants and this bridge would never have been built if we had not invested in developing and commercializing this innovative technology for fly ash. Unfortunately, this type of innovation and beneficial use for fly ash will cease if the EPA reverses their long-standing position that fly ash is non-hazardous.

We believe that a hazardous waste designation is not supported by nearly three decades of EPA study and formal determinations marked by strong scientific integrity. The regulation of CCP disposal as non-hazardous waste under RCRA Subtitle D will ensure protection of human health and the environment without unnecessarily stigmatizing resources that have the high potential for safe beneficial use as a preferred alternative to disposal. This approach will ensure that CCPs are safely managed while continuing to promote and expand their beneficial use.

Thank you for your consideration of The SEFA Group's views.

Sincerely,



Jimmy Knowles  
Vice President of Market Development



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 20 2009

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

Mr. Jimmy Knowles  
Vice President of Market Development  
The SEFA Group  
217 Cedar Road  
Lexington, SC 29073

JUL 23 2009

Dear Mr. Knowles:

Thank you for your letter of July 9, 2009, to Administrator Jackson, in which you expressed concern regarding the U.S. Environmental Protection Agency's (EPA) consideration of regulations that would re-classify ash released from coal-fired power plants as hazardous waste. You specifically described in your letter your concern about the potential impact of a hazardous waste designation on the current and future recycling or beneficial uses for this material.

We appreciate your interest and input in the development of regulations for the disposal of coal combustion wastes. EPA is considering all regulatory options, including regulation under Subtitle C or Subtitle D of RCRA. The impact on beneficial or alternative uses of coal combustion residue is being specifically considered. Administrator Jackson has committed to having a proposal in the Federal Register by the end of the calendar year. As with all regulatory proposals, comments will be invited on both the selected regulatory option and on the other options considered. Your letter will be entered into the record for this rulemaking and be given our full attention.

I appreciate your interest in this matter. The potential impacts on human health and the environment from the management of coal ash is an issue of high priority to the Agency. If you need further information, please contact me or have your staff contact Mr. Richard Kinch of my staff at (703)-308-8214.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Hale".

Matt Hale, Director  
Office of Resource Conservation and Recovery