Florida Department of Environmental Protection

Southeast District
400 N. Congress Avenue, Suite 200
West Palm Beach, FL 33401

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary-
Designee

April 16, 2007

ELECTRONIC CORRESPONDENCE
clynch@lawrencelynch.com

Mr. Chris Lynch
President
Okeechobee Asphalt and Ready Mix Concrete, Inc.
509 NW 9th Street
Okeechobee, FL. 33497

DEP File No. 0930001-005-AC
Okeechobee County
Project: Transfer of Air Permit

RE: Transfer of Air Permit, Permit Number 0930001-003-AO, Issued February 22, 2006, and Permit Number 0930001-004-AC, Issued July 13, 2006.

Dear Mr. Lynch:

We have reviewed your request for transfer of the above permit. Pursuant to that request, the permit is changed as follows:

FROM:

PERMITTEE:

Okeechobee Asphalt
509 NW 9th Street
Okeechobee, FL 34972
Mr. Kim Glowacki, President

TO:

PERMITTEE:

Okeechobee Asphalt and Ready-Mix Concrete, Inc.
509 NW 9th Street
Okeechobee, FL 34972
Mr. Chris Lynch, President

This letter must be attached to the original permits and becomes part of those permits. This modification does not alter the expiration date, specific or general conditions, or other requirements of the original permits.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative hearing in accordance with sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, (Telephone: 850/245-2242; Fax 850/245-2303). Petitions filed by the permit applicant or any of the parties listed below must be filed within fourteen days of receipt of this modification. A petitioner must mail a copy of the petition to the applicant at the address indicated above, at the time of filing. The failure of

any person to file a petition (or a request for mediation, as discussed below) within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-5.207, F.A.C.

A petition must contain the following information:

(a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Department Permit File Number, and the county in which the project is proposed;
(b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
(c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action;
(d) A statement of the material facts disputed by the petitioner, if any;
(e) A statement of the facts that the petitioner contends warrant reversal or modification of the Department's action or proposed action;
(f) A statement identifying the rules or statutes that the petitioner contends require reversal or modification of the Department's action or proposed action; and
(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take with respect to the action or proposed action addressed in this modification.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this modification. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

A person whose substantial interests are affected by the Department's proposed permitting decision, may elect to pursue mediation by asking all parties to the proceeding to agree to such mediation and by filing with the Department a request for mediation and the written agreement of all such parties to mediate the dispute. The request and agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, (Telephone: 850/245-2242; Fax 850/245-2303), by the same deadline as set forth above for the filing of a petition.

A request for mediation must contain the following information:

(a) The name, address, and telephone number of the person requesting mediation and that person's representative, if any;
(b) A statement of the preliminary agency action;
(c) A statement of the relief sought; and
(d) Either an explanation of how the requester's substantial interests will be affected by the action or proposed action addressed in this modification or a statement clearly identifying the petition for hearing that the requester has already filed, and incorporating it by reference.

The agreement to mediate must include the following:

(a) The names, addresses, and telephone numbers of any persons who may attend the mediation;
(b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;
(c) The agreed allocation of the costs and fees associated with the mediation;
(d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;
(e) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;
(f) The name of each party's representative who shall have authority to settle or recommend settlement; and
(g) The signatures of all parties or their authorized representatives.

As provided in section 120.573, F.S., the timely agreement of all parties to mediate will toll the time limitations imposed by sections 120.569 and 120.57 for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under sections 120.569 and 120.57 remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

In addition to the above, a person subject to regulation has a right to apply for a variance from or waiver of the requirements of particular rules, on certain conditions, under section 120.542, F.S. The relief provided by this state statute applies only to state rules, not statutes, and not to any federal regulatory requirements. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have in relation to the action proposed in this modification.

The application for a variance or waiver is made by filing a petition with the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, (Telephone: 850/245-2242; Fax 850/245-2303. The petition must specify the following information:

(a) The name, address, and telephone number of the petitioner;
(b) The name, address, and telephone number of the attorney or qualified representative of the petitioner, if any;
(c) Each rule or portion of a rule from which a variance or waiver is requested;
(d) The citation to the statute underlying (implemented by) the rule identified in (c) above;
(e) The type of action requested;
(f) The specific facts that would justify a variance or waiver for the petitioner;
(g) The reason why the variance or waiver would serve the purposes of the underlying statute (implemented by the rule); and
(h) A statement whether the variance or waiver is permanent or temporary and, if temporary, a statement of the dates showing the duration of the variance or waiver requested.

The Department will grant a variance or waiver when the petition demonstrates both that the application of the rule would create a substantial hardship or violate principles of fairness, as each of those terms is defined in section 120.542(2), F.S., and that the purpose of the underlying statute will be or has been achieved by other means by the petitioner.

Persons subject to regulation pursuant to any federally delegated or approved air program should be aware that Florida is specifically not authorized to issue variances or waivers from any requirements of any such federally delegated or approved program. The requirements of the program remain fully enforceable by the Administrator of EPA and by any person under the Clean Air Act unless and until the Administrator separately approves any variance or waiver in accordance with the procedures of the federal program.

If you have questions regarding this modification, you may contact Lee Hoefert at 561-681-6624.

Executed in West Palm Beach, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Lee C. Hoefert 4-16-2007

Lee C. Hoefert, P.E. Date
Air Permitting Supervisor
Southeast District

LH/md

cc: Arlington Environmental Services, Inc. **barlington@arlingtonenvironmental.com**

FILING AND ACKNOWLEDGMENT: FILED**,** on this date, pursuant to § 120.52(7), F.S., with the designated Department Clerk, receipt of which is hereby acknowledged.

Maria Samano 4/16/07

Clerk Date