

A&L KIRTS
FOR YOUR FILES

FLORIDA ROCK INDUSTRIES INC

CEMENT GROUP / 4000 N.W. CR 235 / P.O. Box 459 / Newberry, FL 32669 / (352) 472-4722



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STATE OF FLORIDA
DEP - NE DISTRICT
JACKSONVILLE

February 7, 2001

Mr. Kirby B. Green, III
Deputy Secretary
FDEP
3900 Commonwealth Blvd., MS-47
Tallahassee, FL 32399-3000

Mr. Ernie Frye, Director
Northeast District
FDEP
7825 Baymeadows Way, Suite B-200
Jacksonville, Florida 32256

Re: Proposed Consent Order

Dear Messrs. Green and Frye:

On behalf of Florida Rock Industries, Inc., I would like to thank you and Department staff for invaluable assistance and guidance as Florida Rock worked through and solved its problems associated with last years anomalous VOC emissions. It is my desire to conclude all issues related to the proposed consent order as soon as possible. To that end, and in conjunction with the re-draft of the consent order previously provided to the Department by our attorneys, we hereby submit this counteroffer for your consideration.

First, due to the relatively minor nature of the VOC emissions at issue, the total amount of natural and man-made VOC emissions in Alachua County, the anomalous nature of the VOC emissions, and the lost production and great expense borne by Florida Rock in solving the unanticipated emission problems, we believe that any monetary penalty should be a minor one. As such, we propose a penalty and cost reimbursement amount of \$10,000.00.

Secondly, although not directly tied to the language in the proposed consent order, Florida Rock would be willing to accede to the Department's wish for the company to install a Continuous Emissions Monitor (CEM) for VOC emissions, and not contest such a requirement in the Title V Permit. As you know, the CEM provision of the new federal rules is not applicable to Florida Rock's facility. Nevertheless, we would be willing to comply with the Department's request as part of an overall settlement. The added capital and operating expenses alone would justify reducing the proposed penalty.

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Please keep in mind that I have tried to keep the Department apprised of our actions throughout the period in question. In fact, when our lawyers met with Larry Morgan and Mr. Frye on September 6, 2000, we acceded to the suggestion to put the whole matter under consent order. Although we did not receive a draft for our consideration until late December (for understandable reasons), the company is happy that we are now ready to put this matter to rest.

We also propose that the penalty amount be satisfied through a Supplemental Environmental Project (SEP) in Alachua County, Florida, and if this is agreeable to you, will immediately develop one for your approval.

Parenthetically, the new federal rules which require CEMs for VOCs also establishes a MACT standard for Portland cement plants of 50 ppmvd, which is equivalent to approximately 43.4 pounds per hour THC with the facility operating in compound mode. Florida Rock, during the period of anomalous VOC emissions last summer, did not exceed this new MACT standard. I ask that a certain element of fairness be applied to this situation relative to the national standards.

Another justification for considering a minor penalty is that the anomalous VOC emissions did not result from a failure of BACT (i.e., the combustion technology recognized in the construction permit as BACT). We have explained that at length in Florida Rock's allegations in our redraft of the consent order.

Additionally, please find enclosed a VOC Emission Comparison, previously provided to your counsel, which calculates and compares actual emissions against permitted emissions. This analysis reveals that Florida Rock actually emitted 2.488 tons less than permitted from July 13, 2000 through December 31, 2000. We have also calculated our lost production based on our extensive efforts to diagnose the anomalous emissions, which have been provided to your counsel, see attached. Lost production, through only September 23, 2000, amounted to at least 55,119.8 tons of clinker; at an average price of \$70 per ton, that amounts to approximately \$3,858,386 in lost revenues due to these difficulties. In short, the company did not sustain any economic benefits, but instead suffered tremendous losses in both clinker production and lost revenues.

As you know, the extensive investigation of the anomalous VOC emissions revealed that the excess emissions were not originating from the BACT-derived and designed pyro-processing system, but instead from a high hydrocarbon content in the mill scale used as a raw material. Nevertheless, in order to put these issues to rest, and in consideration of the

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minor nature of the VOC emissions, Florida Rock is agreeable to installing a CEM for VOC emissions, subject to a new 30-day rolling average, as part of an overall settlement.

Our attorneys tell us that you will be meeting internally to discuss a final settlement on Friday, February 9, 2001. Please call me before or during your meeting if you desire additional information or require my assistance in any way.

Thank you for your help in this matter. I look forward to hearing from you in the very near future concerning the conclusion of this matter.

Sincerely,



Fred W. Cohrs

c: Howard Rhodes
Al Linero, P.E.
Trina Vielhauer

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**FLORIDA ROCK INDUSTRIES, INC.
LOST PRODUCTION**

Date	Rated Production	Actual	Lost Production
7/14/00	2300	1877	423
7/15/00	2300	1600	700
7/16/00	2300	1533.4	766.6
7/17/00	2300	1574.6	725.4
7/18/00	2300	1799.4	500.6
7/19/00	2300	1789.1	510.9
7/20/00	2300	1329.1	970.9
7/21/00	2300	1577	723
7/22/00	2300	1475.2	824.8
7/23/00	2300	1672.8	627.2
7/24/00	2300	1876.4	423.6
7/25/00	2300	1749.7	550.3
7/26/00	2300	1776	524
7/27/00	2300	1776	524
7/28/00	2300	1269.7	1030.3
7/29/00	2300	1541.9	758.1
7/30/00	2300	1621.9	678.8
7/31/00	2300	1304.8	995.2
8/1/00	2300	1309.7	990.3

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**FLORIDA ROCK INDUSTRIES, INC.
LOST PRODUCTION**

Date	Rated Production	Actual	Lost Production
8/2/00	2300	1912.7	387.3
8/3/00	2300	1889.7	410.3
8/4/00	2300	1735.2	564.8
8/5/00	2300	1761.2	538.8
8/6/00	2300	1869.1	430.9
8/7/00	2300	1992.7	307.3
8/8/00	2300	1516.3	783.7
8/9/00	2300	764.9	1535.1
8/10/00	2300	2015.8	284.2
8/11/00	2300	2062.4	237.6
8/12/00	2300	2174	126
8/13/00	2300	2147.9	152.1
8/14/00	2300	2187.3	112.7
8/15/00	2300	2079.4	220.6
8/16/00	2300	2186.7	113.3
8/17/00	2300	2044.3	255.7
8/18/00	2300	1907.9	392.1
8/19/00	2300	1177.6	1122.4
8/20/00	2300	0.6	2299.4

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**FLORIDA ROCK INDUSTRIES, INC.
LOST PRODUCTION**

Date	Rated Production	Actual	Lost Production
8/21/00	2300	1095.2	1204.8
8/22/00	2300	733.3	1566.7
8/23/00	2300	2.4	2297.6
8/24/00	2300	0	2300
8/25/00	2300	0	2300
8/26/00	2300	30.3	2269.7
8/27/00	2300	164.9	2135.1
8/28/00	2300	1913.9	386.1
8/29/00	2300	1832.8	467.2
8/30/00	2300	1989.7	310.3
8/31/00	2300	1831.5	468.5
9/1/00	2300	550.9	1749.1
9/2/00	2300	1535.7	764.3
9/3/00	2300	1964.8	335.2
9/4/00	2300	2158.8	141.2
9/5/00	2300	2327.9	-27.9
9/6/00	2300	2321.3	-21.3
9/7/00	2300	2027.3	272.7
9/8/00	2300	2017.6	282.4
9/9/00	2300	2133.4	166.6

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**FLORIDA ROCK INDUSTRIES, INC.
LOST PRODUCTION**

Date	Rated Production	Actual	Lost Production
9/10/00	2300	1745.5	554.5
9/11/00	2300	1610.3	689.7
9/12/00	2300	0	2300
9/13/00	2300	1170.3	1129.7
9/14/00	2300	1909.7	390.3
9/15/00	2300	1812.1	487.9
9/16/00	2300	1590.3	709.7
9/17/00	2300	1318.2	981.8
9/18/00	2300	1438.2	861.8
9/19/00	2300	1593.3	706.7
9/20/00	2300	1389.7	910.3
9/21/00	2300	1424.9	875.1
9/22/00	2300	1215.2	1084.8
9/23/00	2300	1752.1	547.9
Totals: Days 72		110480.9	55119.8

LOST PRODUCTION: 55,119.8 TONS
AVERAGE PRICE PER TON: \$ 70
DOLLARS LOST: 55,119.8 TONS x \$70 = \$ 3,858,386
TON

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VOC Emission Comparison: Actual vs Permitted

I. Period of alleged excess emissions (July 13, 2000 - September 22, 2000).

A. Actual Emissions

1. Actual emissions based on actual tons of clinker produced

108,728.1 tons of clinker x 0.30 lbs. VOC/ton of clinker + 2,000
lbs./ton = 16.309 tons VOC actually emitted

B. Permitted Emissions

1. Permitted emissions based on rate of 2,300 tons of clinker per day,
for 71 days, at permitted emission levels

71 days x 2,300 tons of clinker x 0.12 lbs. VOC/ton of clinker +
2,000 lbs./ton = 9.798 tons VOC permitted to be emitted

C. Difference Between Actual and Permitted Emissions

16.309 tons VOC actually emitted
-9.798 tons VOC permitted to be emitted
6.511 tons VOC emitted above allowable

**II. AASHTO Type I Cement Production - No Mill Scale Used (September 23,
2000 - October 10, 2000).**

A. Actual Emissions

1. Actual emissions based on actual tons of clinker produced

26,399.21 tons of clinker x 0.082 lbs. VOC/ton of clinker + 2,000
lbs./ton = 1.082 tons VOC actually emitted

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B. Permitted Emissions

1. Permitted emissions based on rate of 2,300 tons of clinker per day, for 18 days, at permitted emission levels

18 days x 2,300 tons of clinker x 0.12 lbs. VOC/ton of clinker +
2,000 lbs./ton = 2.484 tons VOC permitted to be emitted

C. Difference Between Actual and Permitted Emissions

2.484 tons VOC permitted to be emitted
-1.082 tons VOC actually emitted
1.402 tons VOC emitted less than allowable

III. **AASHTO Type II Cement Production - Low THC Mill Scale (October 11, 2000
- December 31, 2000)**

A. Actual Emissions

1. Actual emissions based on actual tons of clinker produced

94,089.52 tons of clinker x 0.082 lbs. VOC/ton of clinker + 2,000
lbs./ton = 3.857 tons VOC actually emitted

B. Permitted Emissions

1. Permitted emissions based on rate of 2,300 tons of clinker per day, for 81 days, at permitted emission levels

81 days x 2,300 tons of clinker x 0.12 lbs. VOC/ton of clinker +
2,000 lbs./ton = 11.178 tons VOC permitted to be emitted

C. Difference Between Actual and Permitted Emissions

11.178 tons VOC permitted to be emitted
- 3.857 tons VOC actually emitted
7.321 tons VOC emitted less than allowable

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IV. Entire Time Period (July 13, 2000 - December 31, 2000)

A. Actual Emissions Actual emissions based on actual tons of clinker produced

16.309 tons VOC emitted (July 13, 2000 - September 22, 2000)

1.082 tons VOC emitted (September 23, - October 10, 2000)

+ 3,857 tons VOC emitted (October 11, 2000 - December 31, 2000)

Total: 21.248 tons VOC emitted (July 13, 2000 - December 31, 2000)

B. Permitted Emissions

1. Permitted emissions based on rate of 2,300 tons of clinker per day, for 172 days, at permitted emission levels

172 days x 2,300 tons of clinker x 0.12 lbs. VOC/ton of clinker +
2,000 lbs./ton = 23,736 tons VOC permitted to be emitted

C. Difference Between Actual and Permitted Emissions

23,736 tons VOC permitted to be emitted

- 21,248 tons VOC actually emitted

2,488 tons VOC emitted less than allowable

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