

## Reynolds, John

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**From:** Maybin, Leslie  
**Sent:** Friday, March 16, 2001 1:38 PM  
**To:** Fancy, Clair  
**Cc:** Beason, Doug; Vielhauer, Trina; Reynolds, John; Linero, Alvaro; Sheplak, Scott; Mitchell, Bruce; Kirts, Christopher  
**Subject:** March 14, 2001 teleconference, FRI AIRS I.D. #0010087

Clair,

This is in reference to the Koogler and Associates letter of March 8, 2001, and the teleconference of March 14, 2201. Here is what DARM and NED agreed on:

- 1.1. Include the word Combustion.
- 1.2. Added "s" to pollutants.
- 1.3. Added to both parts of the statement.
- 1.4. NED will do some combining of Common Conditions J and K.
- 1.5. Missing information will be added to both parts.
- 1.6. Al will check with Bruce on this issue.
- 1.7. Okay.
- 1.8. A.3 will be added.
- 1.9. The sentence will end after dry feed.
- 1.10. Dates will be included in C.10.
- 1.11. The sentence will end after dry feed.
- 1.12. NED will verify the information. If incorrect we will remove with DARMS approval; and the No. 7 footnote will read "VOC CEMs."
- 1.13. NED will remove Performance Specification 1, provided DARM sends a note that this is not applicable to the AC permit.
- 1.14. "Opacity" has been changed to "Emission". The Performance Specification reference is being checked by DARM.
- 1.15. NED is okay with the change.
- 1.16. End sentence after dry feed.
- 1.17. NED will remove Table II reference.
- 1.18. Will change revised Table II after DARM change the AC.
- 1.19. NED will change Table 1-1.
- 2.1. DARM will check the rule citation.
- 2.2. DARM will review, make a decision and inform NED.
- 2.3. Al okayed the change to 45 days.
- 2.4. As needed has been added.
- 2.5. DARM is checking the rule.
- 2.6. NED is okay with the change.
- 3.1. DARM will review, decide and inform NED.
- 3.2. If DARM changes, then NED will change.
- 3.3. The legal department will decide.
- 4.1. John will look this over.
- 4.2. DARM will change revised Table II. NED will reflect the AC change.

-Leslie

**Reynolds, John**

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**From:** Vielhauer, Trina  
**Sent:** Thursday, March 15, 2001 9:32 AM  
**To:** Reynolds, John  
**Subject:** RE: ConsentOrdr.rtf

Thanks- and for the article also!

-----Original Message-----

**From:** Reynolds, John  
**Sent:** Thursday, March 15, 2001 9:30 AM  
**To:** Vielhauer, Trina  
**Subject:** ConsentOrdr.rtf

Trina, I believe this will reflect what was agreed to. Thanks, JR.

**From:** Vielhauer, Trina  
**Sent:** Wednesday, March 14, 2001 2:24 PM  
**To:** Reynolds, John  
**Subject:** Florida Rock  
John,

I want to be sure this language makes sense and reflects the permitting discussions this morning on Florida Rock:

1. On or before December 31, 2001, Respondent shall install, calibrate, maintain and operate a continuous emission monitoring system in the kiln/~~clinker~~ raw mill stack to measure and record the emissions of VOC from the kiln/~~clinker~~ raw mill. The CEM system shall be installed, operated and maintained in accordance with Performance Specification 8 of Appendix B to 40 CFR 60. The CEM system's data shall be quality assured using the procedures of Appendix F of 40 CFR 60. The owner or operator shall report no later than the 10<sup>th</sup> day following each calendar quarter a summary of the daily average VOC emissions reported by the CEMS system for the days of that calendar quarter to the Department's Northeast District Office. These results should be reported as pounds per hour of VOC as propane, and pounds of VOC as propane per ton of clinker. [NOT including the 7% oxygen but do I need to add anything?]

Thanks,

Trina

## Reynolds, John

---

**From:** Vielhauer, Trina  
**Sent:** Wednesday, March 14, 2001 2:24 PM  
**To:** Reynolds, John  
**Subject:** Florida Rock

John,

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1. On or before December 31, 2001, Respondent shall install, calibrate, maintain and operate a continuous emission monitoring system in the kiln/<sup>raw mill</sup> calciner stack to measure and record the emissions of VOC from the kiln/calciner. The CEM system shall be installed, operated and maintained in accordance with Performance Specification 8 of Appendix B to 40 CFR 60. The owner or operator shall report no later than the 10<sup>th</sup> day following each calendar quarter a summary of the daily average VOC emissions reported by the CEMS system for the days of that calendar quarter to the Department's Northeast District Office. These results should be reported as pounds per hour of VOC, and pounds of VOC per ton of clinker. [NOT including the 7% oxygen but do I need to add anything?]

Thanks,

Trina

## Reynolds, John

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**From:** Linero, Alvaro  
**Sent:** Thursday, March 08, 2001 4:04 PM  
**To:** Reynolds, John  
**Subject:** FW: Florida Rock Consent Order

Please look at this ASAP and advise. Thanks. Al.

-----Original Message-----

**From:** Vielhauer, Trina  
**Sent:** Thursday, March 08, 2001 8:00 AM  
**To:** Banks, Richard; Beason, Doug; Benjamin, Morton; Frey, Ernest; Gay, John; Kirts, Christopher; Linero, Alvaro; Rhodes, Howard  
**Subject:** Florida Rock Consent Order

I met with Tim Atkinson yesterday regarding the Consent Order language. In paragraph 56 on page 14 we have the VOC CEMS requirement. **Questions for you:** Is this language consistent with the draft Title V and/or construction mod? Also, they are asking whether they could do the quarterly reports for 1 year and if it shows compliance do a semi-annual report- is that something we would do? What do the permits require? Also, they have an issue with reporting results as propane corrected to 7 percent oxygen lb/hr VOC. I don't really understand their position here [to me it just seems like a calculation/conversion not a big deal] but I told them I would inquire.

Also, I asked folks here about dividing the CO into a "Department allegations" section and a "Florida Rock allegations" section. Apparently, it is something that we do quite frequently. Florida Rock still will remove some of the extraneous language that they originally included in the FL Rock allegations section but some of it can stay [we'll have introductory language saying the Department does not necessarily agree with the following...]

I have not heard anything more from the County Attorney's office about the Consent Order. I will keep you posted on that.

Thanks!

Trina

## Reynolds, John

---

**From:** Linero, Alvaro  
**Sent:** Thursday, March 08, 2001 4:04 PM  
**To:** Reynolds, John  
**Subject:** FW: Florida Rock Consent Order

Please look at this ASAP and advise. Thanks. Al.

1-8875

-----Original Message-----

**From:** Vielhauer, Trina  
**Sent:** Thursday, March 08, 2001 8:00 AM  
**To:** Banks, Richard; Beason, Doug; Benjamin, Morton; Frey, Ernest; Gay, John; Kirts, Christopher; Linero, Alvaro; Rhodes, Howard  
**Subject:** Florida Rock Consent Order

I met with Tim Atkinson yesterday regarding the Consent Order language. In paragraph <sup>46</sup>56 on page <sup>14</sup>14 we have the VOC CEMS requirement. **Questions for you:** Is this language consistent with the draft Title V and/or construction mod? Also, they are asking whether they could do the quarterly reports for 1 year and if it shows compliance do a semi-annual report- is that something we would do? What do the permits require? Also, they have an issue with reporting results as propane corrected to 7 percent oxygen lb/hr VOC. I don't really understand their position here [to me it just seems like a calculation/conversion not a big deal] but I told them I would inquire.

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I have not heard anything more from the County Attorney's office about the Consent Order. I will keep you posted on that.

Thanks!

Trina

## Reynolds, John

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**From:** Linero, Alvaro  
**Sent:** Thursday, March 08, 2001 4:07 PM  
**To:** Reynolds, John  
**Subject:** FW: Draft Consent Order



FRI draft consent order  
5.doc



Card for Timothy P.  
Atkinson

John. Please look at the condition related to monitor. Al.

-----Original Message-----

**From:** Vielhauer, Trina  
**Sent:** Thursday, March 08, 2001 3:45 PM  
**To:** Banks, Richard; Beason, Doug; Benjamin, Morton; Frey, Ernest; Gay, John; Kirts, Christopher; Linero, Alvaro; Rhodes, Howard  
**Subject:** FW: Draft Consent Order

I just received this from Tim-haven't yet opened it myself. Since they are proposing changes to both the permit and consent order language [VOC CEMS reporting frequency and 7% oxygen requirement] we should all discuss these changes. Thanks!

-----Original Message-----

**From:** Timothy P. Atkinson [mailto:tatkinson@ohfc.com]  
**Sent:** Thursday, March 08, 2001 3:28 PM  
**To:** Vielhauer, Trina  
**Cc:** Segundo Fernandez  
**Subject:** Draft Consent Order

Dear Trina -

Please find attached the latest version of the Consent Order. I have made all of the changes you and I agreed to, and those changes which I was to consider following our conversation yesterday.

In an effort to avoid confusion, I have prepared a "clean" version of the agreed-to changes. The new changes are reflected by either underline or strike-thru, as appropriate.

Please call us as soon as possible to finalize. I look forward to hearing from you on this matter.

Sincerely,  
Tim

c: Segundo J. Fernandez

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION,	)	IN THE OFFICE OF THE NORTHEAST DISTRICT
	)	
Complainant,	)	
	)	
v.	)	OGC FILE NO.: _____
	)	
FLORIDA ROCK INDUSTRIES, INC.	)	
	)	
Respondent.	)	

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CONSENT ORDER

This Consent Order is entered into between the State of Florida Department of Environmental Protection (“Department”) and Florida Rock Industries, Inc. (“Respondent”) to reach settlement of certain matters at issue between the Department and Respondent.

Preliminary Findings:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapter 403 Florida Statutes (“F.S.”) and the rules promulgated thereunder in Florida Administrative Code (“F.A.C.”) Title 62. The Department has jurisdiction over the matters addressed in this Consent Order.

2. Respondent is a corporation and is a person within the meaning of Section of 403.031(5), F.S.

3. Respondent owns and operates Thompson S. Baker Cement Plant ("Facility") located on Alachua County Road 235, Newberry, Alachua County, Florida. The Facility is a portland cement plant that makes Types I and II cement.

4. The Facility is a "facility" as that term is defined in Rule 62-204.200(16) F.A.C. and is an "affected facility" as that term is used throughout 40 CFR 60.7, Notification and Recordkeeping.

5. As part of its activities at the Facility, Respondent utilizes and has utilized equipment, operations and activities, specifically the kiln/ precalciner, that have emitted or caused and that emit or cause the emission of "air pollutants" as that term is defined in Rule 62-204.200(2) F.A.C.

6. The kiln/precalciner is an "emission unit" as that term is defined in Rule 62-204.200(14) F.A.C. and is a stationary source.

7. On March 11, 1995, the Department received Respondent's application for a construction permit for its Facility.

8. Rule 62-204.340, F.A.C., establishes the areas of the state that are in attainment and nonattainment with the national ambient air quality standards ("NAAQS"). Alachua County is in attainment with the NAAQS.

9. Portland cement plants are a listed "Major Facility Category" in Table 62-212.400-1, F.A.C.

10. Respondent's Facility has the potential to emit 100 tons per year of at least one regulated air pollutant and is, therefore, a new Major Facility subject to the preconstruction



review requirements of Rule 62-212.400, F.A.C., Prevention of Significant Deterioration (“PSD”).

11. Rule 62-212.400, F.A.C., requires Respondent to implement the best available control technology (“BACT”).

12. As part of the application process, Respondent provided the Department with information related to the BACT for its Facility pursuant to Rule 62-212.400(5)(h), F.A.C.

13. On December 23, 1996, the Department issued permit # AC01-267311 (PSD-FL-228) (“Permit”) for Respondent’s Facility. At Respondent’s request, the Permit was amended on July 13, 2000 to allow Respondent to demonstrate compliance with VOC emissions by either Method 25 or Method 25A (“amended Permit”). By letter dated July 17, 2000, Respondent requested an extension of the amended Permit.

14. Respondent’s Facility is subject to all applicable provisions of Chapter 403, F.S., Chapters 62-204 through 297 F.A.C., and 40 CFR 60 (1995) which are incorporated into Specific Condition 1 of the Permit and amended Permit.

15. Respondent’s Facility is subject to the requirements established in 40 CFR 60, Subpart A, Appendix A and Appendix B (1994), Subparts F, Y, OOO and Kb which are incorporated by Rule 62-204, F.A.C., and Specific Condition 2 of the Permit and amended Permit.

16. Table II of the Permit and amended Permit establishes an emission limit for volatile organic compounds (“VOC”) from the kiln/ precalciner stack of 11.55 pounds per hour and 0.12 pounds per ton of clinker. These numbers were derived from an estimate provided by Respondent as BACT for VOC emissions.

17. Specific Condition 6 of the Permit required Respondent to utilize Method 25-“determination of total gaseous nonmethane organic emissions as carbon,” to demonstrate compliance with VOC emission limits. Specific Condition 6 of the amended Permit allowed Respondent to utilize Method 25A-“determination of total gaseous organic concentration using a flame ionization analyzer” to demonstrate compliance with VOC emission limits.

18. On June 16, 2000, Koogler notified the Department that a compliance stack test would be conducted at the Facility beginning on July 5, 2000.

See No. 27  
p. 6

19. On July 13, 2000, Department personnel witnessed compliance stack tests at the Facility [EPA Methods 6C (SO<sub>2</sub>), 7E (NO<sub>x</sub>), 10 (CO), and 25A (VOC)].

20. Koogler & Associates Environmental Services (“Koogler”) is the company that has conducted the stack testing referred to in the consent order on behalf of Respondent.

21. Respondent notified the Department of an August 2, 2000 compliance stack test. Department personnel witnessed the compliance stack tests at the Facility [EPA Method 25A and Method 25 (VOC)].

22. On September 23, 2000 a stack test was conducted at the Facility using Method 25A and Method 25 (VOC).

Department’s Allegations.

The following consist of the Department’s factual allegations in support of this Consent Order. These Department allegations do not constitute an admission by Respondent to any violations.

23. On May 31 and June 1, 2000, Koogler conducted stack testing at the Facility to determine VOC emissions. The results of this test were submitted to the Department on September 22, 2000 and indicated an average emissions rate of 71.1 lbs/hr VOCs reported as total hydrocarbons (“THC”). Respondent failed to immediately notify the Department of possible noncompliance with the VOC emission limit set forth in the Permit and amended Permit as required by Rule 62-4.130, F.A.C. In addition, Method 25 was not used to determine VOC emissions as required by Specific Condition 6 of the Permit.

24. On August 28, 2000, the Department received the results of the July 13, 2000 compliance stack tests. The average VOC emission rate during the July 13, 2000 compliance stack test at the Facility was reported as 30.8 lbs/hr. The VOC emissions exceeded the VOC emission limit set forth in the Permit and amended Permit.

*Stricken out on prior page* 25. On September 25, 2000, the Department received the results of the August 2, 2000 compliance stack tests. The average VOC emission rate during the August 2, 2000 compliance stack test at the Facility was reported as 37.4 lbs/hr. The VOC emissions exceeded the VOC emission limit set forth in the Permit and amended Permit.

26. Respondent operated the Facility continuously from at least May 31, 2000 through present except a shutdown period due to a lightning strike from August 19 through 25, 2000.

#### Respondent’s Allegations.

The following consist of Respondent’s factual allegations in support of this Consent Order. The Department neither agrees nor denies with Respondent’s allegations.

27. Respondent conducted initial performance tests on July 13, 2000, for VOCs and other permitted air pollutants. All tests conducted by Respondent prior to July 13, 2000, were preliminary in-house measurements which were not designed to comply with Permit conditions and did not constitute official compliance tests. The emission data developed during the period of May 31-June 2, 2000, were based on preliminary, in-house measurements made during the shakedown period of the plant. Being preliminary, in-house measurements, the formalities required of official compliance tests were not applicable.

*June 16  
notification  
of compliance test  
by Koogler.  
See p. 4  
No. 18*

28. The average VOC emission rate alleged in paragraph 28, above, did not contain an adjustment for the methane fraction of the THC. Respondent estimates, based on in-house measurements made on August 2, 2000, and consistent with measurements made on September 23, 2000, that the methane fraction on July 13, 2000, was approximately 13.4 percent of THC or approximately 4.1 pounds per hour methane.

29. The measurements taken May 31-June 2, 2000, were made with a flame ionization total hydrocarbon analyzer; the instrument specified in EPA Method 25A. Being preliminary, in-house measurements, the emission measurements did not comply with all of the requirements of EPA Method 25A, or of the formalities required of official compliance tests. Deviations from Method 25A included: (A) the THC analyzer was not calibrated before and after each period of time for which emission data are reported; (B) stack gas flow rate measurements did not correspond to the specific periods of time when THC measurements were made; (C) the performance of the THC analyzer was not documented as required by EPA Method 25A; and (D) plant operating parameters were not documented.

30. On August 2, 2000, Respondent conducted additional in-house tests for total hydrocarbon and methane emission data as part of an ongoing effort by Respondent to evaluate anomalous hydrocarbon emissions, and specifically, to determine the methane contribution to total hydrocarbon (THC) emissions. The Department was notified that this testing would be conducted and an FDEP observer was on site during the tests.

31. Respondent has continuously kept the Department apprised of its efforts to conclude its performance testing. Dr. Koogler sent a letter dated May 22, 2000 to Mr. Lalit Lalwani of DEP, advising the Department that initial testing was being postponed to insure that the tests would be performed at a time when the plant was operating at permitted capacity. The Department did not respond to that letter with any concerns.

32. Even though Respondent was not required to submit a report to FDEP on the July 13, 2000, initial performance tests for 45 days following the tests, Respondent immediately met with FDEP Bureau of Air Quality Management representatives in Tallahassee and with the Jacksonville Office of FDEP to inform them of the test results. Respondent received assurances that it would receive sufficient time to address and correct the VOC issue as contemplated by the construction Permit process.

33. Respondent reacted to the anomalous VOC measurements by conducting additional stack tests, and subsequently embarked on a time consuming and expensive program of testing and process modifications to determine if the anomalous VOC emissions alleged by the Department were the product of incomplete combustion in the kiln/precalciner.

34. The results of Respondent's investigations revealed that the VOCs measured in the stack were not the result of incomplete combustion, but rather from some extraneous

source of hydrocarbons that entered the process. Thus, fuel and the combustion process were eliminated as a source of the VOC readings. Tests from the kiln/precalciner system demonstrated VOC values of 0.07-0.08 lbs./ton clinker, well below the Permit limit.

35. Respondent then proceeded to test all raw materials for hydrocarbons. The results indicated that the ash received from Florida Power Corporation contained some hydrocarbons and the mill scale contained a sufficient amount of hydrocarbons to potentially be the cause of the VOC readings found in the stack gas.

36. Respondent immediately secured another source of fly ash lower in volatile matter.

37. Respondent immediately reduced, and ultimately discontinued, its use of mill scale to the minimum needed to meet ASTM standards, and searched for a replacement mill scale with lower hydrocarbon content. When Respondent voluntarily discontinued the use of mill scale, it was not longer able to produce the AASHTO Type II cement presently required under Florida DOT specifications and the market at large in Florida. Even so, the company continued to operate the Facility so as to only produce Type I cement until an alternative source of iron was located which would allow both FDOT specifications and FDEP Permit requirements to be met.

38. On September 23, 2000 a stack test was conducted at the Facility using Method 25A and Method 25 (VOC). The average VOC emissions were reported to be in compliance with the VOC emission limit set forth in the Permit and amended Permit. The average VOC emission rate was found to be 7.33 pounds per hour compared to the maximum permitted VOC rate for Respondent's Facility of 11.55 pounds per hour.

39. On October 11, 2000, Respondent conducted an additional stack compliance test using mill scale with low total hydrocarbon content, and making Type II cement. The average VOC emission rate was found to be 8.51 pounds per hour compared to the maximum permitted VOC rate for Respondent's Facility of 11.55 pounds per hour.

40. Respondent's FDEP Air Construction Permit for the Facility does not contain any ambient standards for VOC emissions. Respondent is required to meet Best Available Control Technology ("BACT"), which is described in the Permit as "combustion technology." Florida Rock has complied with BACT at its Facility, through the appropriate design of the kiln/precalciner combustion system. Florida Rock has tested the exhaust gases from the kiln/precalciner process and determined that regardless of the total hydrocarbon content of the mill scale used that it is well below the VOC Permit limits. The BACT-set emission limit for VOCs was based on the efficacy of the combustion process of the kiln/precalciner system, and addressed the potential for VOC emissions as a product of incomplete combustion. The unexpected VOC readings from unanticipated sources constitute an anomaly not envisioned by Respondent, ~~by the administrative regulation at issue, or by the FDEP Air Construction Permit.~~

41. Respondent's Facility was the first portland cement plant permitted and constructed in Florida with an emission limit for VOCs.

42. Appendix 2.3.4 of the Alachua County Air Quality Commission's Final Report (January 2000) is 1997 inventory of all sources of Volatile Organic Compounds in Alachua County, Florida, which reveals that there were 39,626 tons of VOC emissions in Alachua County in 1997, from all sources, including major stationary sources, minor stationary

sources, major stationary areas, on-vehicles, off-road vehicles and engines, natural biogenic and fire sources, and other miscellaneous sources. Table II of Respondent's FDEP Air Construction Permit establishes a limit for VOC compounds from the kiln/precalciner of 11.55 pounds per hour, 0.12 pounds per ton of clinker, and an annual emission limit of 42.90 tons per year.

43. In the summer of 2000, the Federal EPA published a new regulation which establishes a total hydrocarbon content (THC) "MACT" (Maximum Available Control Technology) standard for new portland cement plants of 50 ppmvd, which is equivalent to approximately 43.4 pounds per hour THC with the Facility operating in compound mode. Measurements at the Florida Rock Facility on July 13, 2000, August 2, 2000, September 23, 2000, and October 11, 2000, all referenced above, would all have complied with the new MACT standard for THC. (VOC's are a subset of THC) See 40 CFR 63, Subpart LLL at Section 63.1340 et seq., particularly Table 1 to Section 63.1342.

#### Agreement to Settle

Representatives of Florida Rock Industries, Inc. and the Department have met in an effort to resolve their disputes as to air compliance issues and any alleged violation of Chapter 403, Florida Statutes. Entry into this agreement does not constitute an admission by Respondent to any violations. The parties have agreed to enter into this Consent Order in order to expeditiously address compliance issues without litigation and its attendant costs and delays.

Having reached a resolution of the matter, the Department and the Respondent mutually agree and it is,



ORDERED

44. Within thirty days of the effective date of this Consent Order, Respondent shall pay the Department \$20,000 in settlement of the matters addressed in this Consent Order. This amount includes \$10,000 in civil penalties for alleged violations of the Florida Statutes and of the Department's rules and \$10,000 for costs and expenses incurred by the Department for costs and investigation of this matter and the preparation and tracking of this Consent Order. Payment shall be made by cashier's check or money order. The instrument shall be made payable to the "Department of Environmental Protection" and shall include thereon the OGC number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund." The payment shall be sent to: Department of Environmental Protection, Northeast District, 7825 Baymeadows Way, Jacksonville, FL 32256-7590.

45. This Consent Order fully resolves all issues regarding the matters addressed herein and in the Department's September 5, 2000, Warning Letter. The Department reserves the right to take appropriate enforcement action against Florida Rock Industries, Inc. for any future violation of the Department's rules or permit conditions. Florida Rock Industries, Inc. reserves its right to contest any such enforcement action in accordance with applicable law.

46. On or before December 31, 2001, Respondent shall install, calibrate, maintain and operate a continuous emission monitoring system in the kiln/calcliner stack to measure and record the emissions of VOC from the kiln/calcliner. The CEM system shall be installed, operated and maintained in accordance with Performance Specification ~~8A~~ of Appendix B to 40 CFR 60. The owner or operator shall report no later than the 10<sup>th</sup> day following each

calendar quarter a summary of the daily average VOC emissions reported by the CEMS system for the days of that calendar quarter to the Department's Northeast District Office. The obligation to provide quarterly reports pursuant to this paragraph shall cease upon the submission to the Department of four quarterly reports without an exceedence of the applicable VOC emission limitation standards set forth in Respondent's FDEP Air Permits. ~~These results should be reported as propane corrected to 7 percent oxygen, pounds per hour of VOC, and pounds of VOC per ton of clinker.~~

47. In the event that Respondent determines it is out of compliance with air pollution control emission limits established in 40 C.F.R. 60, Chapter 403 of the Florida Statutes, Title 62 of the Florida Administrative Code, and/or construction or operation permits issued by the Department, Respondent shall immediately notify the Department's Northeast District Office as required by Rule 62-4.130, F.A.C. In addition, Respondent shall immediately undertake the appropriate diagnostic tests ~~cease operations~~ and conduct appropriate maintenance or repairs to return to compliance with such emission limits.

48. In the event that Respondent willfully commits a violation as defined in Section 403.161, Florida Statutes, Respondent may be subject to criminal prosecution as provided in 403.161(3)-(5), F.S. ~~determines it is out of compliance with Respondent acknowledges that willful violations of its~~ air pollution control emission limits established in 40 C.F.R. 60, Chapter 403 of the Florida Statutes (2000), Title 62 of the Florida Administrative Code (2000), and/or construction or operation permits issued by the Department and the terms of this Consent Order may be subject to a criminal prosecution as provided in 403.161(3)-(5), F.S. Nothing herein shall be deemed to affect Respondent's

rights and obligations under the applicable provisions of the Florida Statutes or Florida Administrative Rules, including 62-4.130, 62-4.160 and 62-210.700, Florida Administrative Code, and of general and specific conditions in its permits. Respondent does not immediately cease operations and conduct appropriate maintenance or repairs to return to compliance with such emission limits as required by paragraph 58 above, Respondent may be subject to criminal prosecution as provided in 403.161, F.S.

49. Respondent shall publish the following notice in a newspaper of daily circulation in Alachua County, Florida, which shall be published one time only within 10 days after the effective date of the Consent Order:

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NOTICE OF CONSENT ORDER

The Department of Environmental Protection gives notice of agency action of entering into a Consent Order with Florida Rock Industries, Inc. pursuant to Section 120.57(4), Florida Statutes. The Consent Order addresses the air emissions violations at its Thomas S. Baker Cement Plant, Alachua County Road 235, Newberry, Alachua County, Florida. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, Northeast District, 7825 Baymeadows Way, Jacksonville, FL 32256-7590.

*What about Tallahassee? Office*

Persons whose substantial interests are affected by this Consent Order have a right to petition for an administrative hearing on the Consent Order. The Petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the

21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information: (a) The name, address, and telephone number of each petitioner; the Department's identification number for the Consent Order and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

A person whose substantial interests are affected by the Consent Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes, or may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes, before the deadline for filing a petition. Choosing mediation will not

adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth below.

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the Respondent, the Department, and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Consent Order. The 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, within 10 days after the deadline as set forth above for the filing of a petition.

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) Either an explanation of how the substantial interests of each mediating party will be affected by the action or proposed action addressed in this notice of intent or a statement clearly identifying the petition for hearing that each party has already filed, and incorporating it by reference.

(h) The signatures of all parties or their authorized representatives.

As provided in Section 120.573, Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, 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, and must therefore file their petitions within 21 days of receipt of this notice. 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, Florida Statutes, 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.

50. Entry of this Consent Order does not relieve Respondent of the need to comply with applicable federal, state or local laws, regulations or ordinances.

51. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, Florida Statutes. Failure to comply with the terms of this Consent Order may ~~shall~~ constitute a violation of Section 403.161(1)(b), Florida Statutes.

52. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per violation and criminal penalties.

53. Respondent shall allow all authorized representatives of the Department access to the property and Facility at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules of the Department.

54. All plans, applications, penalties, stipulated penalties, costs and expenses, and information required by this Consent Order to be submitted to the Department should be sent to Florida Department of Environmental Protection, Northeast District Office, 7825 Baymeadows Road Suite 200B, Jacksonville, Florida 32256-7590.

55. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes or the rules promulgated thereunder that are not specifically addressed by the terms of this Consent Order.

56. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations outlined in this Consent Order. Respondent acknowledges but waives its right to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, on the terms of this Consent Order. Respondent acknowledges its right to appeal the terms of this Consent Order pursuant to Section 120.68, Florida Statutes, but waives that right upon signing this Consent Order.

57. With regard to any determination made by the Department regarding implementation of the requirements of this Consent Order, if Respondent objects to the Department's determination, Respondent may file a Petition for Formal or Information Administrative Hearing Proceeding, pursuant to Sections 120.569 and 120.57, Florida Statutes. The petition must be received by the Department's Office of General Counsel, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399, within 14 days after receipt of written notice from the Department of any determination Respondent wishes to challenge. Failure to file a petition within this time period shall constitute a waiver by Respondent of its right to request an administrative proceeding under Sections 120.569 and 120.57, Florida Statutes.

58. The provisions of this Consent Order shall apply to and be binding upon the parties, their officers, their directors, agents, servants, employees, successors, and assigns and all persons, firms and corporations acting under, through or for them and upon those persons, firms and corporations in active concert or participation with them.

59. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both of the Respondent and the Department.

60. In the event of a sale of the Facility or of the property upon which the Facility is located, if all of the requirements of this Consent Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the property or Facility, (1) notify the Department of such sale or conveyance, (2) provide to the Department the name and address of the purchaser, or operator, or person(s) in control of the Facility, and (3) provide a copy of this Consent Order with all attachments to the new owner. The sale or



conveyance of the Facility or the property upon which the Facility is located shall not relieve the Respondent of the obligations imposed in this Consent Order.

61. This Consent Order is a settlement of the Department's civil and administrative authority arising from Chapters 403 and 376, Florida Statutes, to resolve the allegations addressed herein. This Consent Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law.

62. Neither this Consent Order nor actions taken hereunder shall be admissible as evidence in any administrative or judicial proceeding without Respondent's agreement, except for proceedings initiated pursuant to the terms of this Order. Respondent hereby expressly reserves the right to an administrative or judicial determination as to the Respondent's compliance with any term or condition of this Consent Order, and reserves all of its legal rights and defenses, not otherwise waived in paragraph 68, in any legal action which may be initiated by the Department. ~~including the right to challenge the validity or enforceability of the standards and/or criteria alleged by the Department to be applicable.~~

63. This Consent Order is a final order of the Department pursuant to Section 120.52(7), Florida Statutes, and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT:

\_\_\_\_\_  
Mr. Fred W. Cohrs  
Vice President  
Florida Rock Industries Inc.  
155 East 21<sup>st</sup> Street  
Jacksonville, FL 32206

\_\_\_\_\_  
Date

Done and ordered this \_\_\_\_\_ day of \_\_\_\_\_, 2001 in Duval County,  
Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

\_\_\_\_\_  
Ernest E. Frey  
Director of District Management  
7825 Baymeadows Way, Suite 200B  
Jacksonville, Florida 32256-7590

FILING AND ACKNOWLEDGMENT FILED,  
on this date, pursuant to §120.52, Florida Statutes,  
with the designated Department Clerk receipt of  
which is hereby acknowledged.

\_\_\_\_\_  
CLERK

\_\_\_\_\_  
Date

c: Larry Morgan  
Segundo J. Fernandez  
Timothy P. Atkinson



Board of County Commissioners

# ALACHUA COUNTY ENVIRONMENTAL PROTECTION DEPARTMENT

201 SE 2<sup>nd</sup> Avenue, Suite 201 • Gainesville, Florida 32601

Tel: (352) 264-6800 • Fax (352) 264-6852

Suncom: 651-6800

Home Page: [www.co.alachua.fl.us](http://www.co.alachua.fl.us)

RECEIVED

MAR 19 2001

BUREAU OF AIR REGULATION

Chris Bird  
Environmental  
Protection Director  
[cbird@co.alachua.fl.us](mailto:cbird@co.alachua.fl.us)

John J. Mousa  
Pollution Prevention  
Manager  
[jmousa@co.alachua.fl.us](mailto:jmousa@co.alachua.fl.us)

Robert L. Norton  
Natural Resources  
Supervisor  
[rnorton@co.alachua.fl.us](mailto:rnorton@co.alachua.fl.us)

Barbara J. Pierce  
Administrative Assistant  
[bpierce@co.alachua.fl.us](mailto:bpierce@co.alachua.fl.us)

March 16, 2001

Mr. C. H. Fancy, P.E.  
Florida Department of Environmental Protection  
Bureau of Air Regulation  
2600 Blair Stone Road  
Mail Station # 5505  
Tallahassee, Florida 32399-2400

RE: Notice of Intent to Issue Draft Air Construction Permit Modification  
Thompson S. Baker Cement Plant  
DEP File: 0010087-002-AV and DEP File: 0010087-003-AC/PSD-FL-228A

Dear Mr. Fancy:

Alachua County is submitting comments in response to the Public Notice of Intent to Issue an Air Construction Permit Modification for the Thompson S. Baker Cement Plant located in Newberry, Florida published in the Gainesville Sun on February 17, 2001.

Alachua County's comments and issues are summarized in the attached "Alachua County's Petition for Formal Administrative Hearing" submitted to the Florida Department of Environmental Regulation on March 1, 2001.

Sincerely,

Chris Bird  
Director

cc: Chris Kirts, DEP Northeast District  
David Wagner  
David Schwartz  
John Mousa



STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ALACHUA COUNTY,

Petitioner,

v.

Case No.:

FDEP File Nos. 0010087-003-AC/PSD-FL-228-A  
and 0010087-002-AV

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

and

FLORIDA ROCK INDUSTRIES, INC.,

Respondents.

ALACHUA COUNTY'S PETITION FOR FORMAL ADMINISTRATIVE HEARING

Petitioner, Alachua County ("County"), hereby files a petition for formal administrative hearing, pursuant to Sections 120.569 and 403.0872(5), Florida Statutes, and Rules 28-106.111 and 28-106.201, Florida Administrative Code (F.A.C.), to challenge the State of Florida Department of Environmental Protection's ("DEP" or "Department") Notice of Intent to Issue Draft Title V Construction Permit Modification No. 0010087-003-AC and Draft Title V Operation Permit No. 0010087-002-AV for the Thompson S. Baker Cement Plant in Newberry located on County Road 235, 2.5 miles Northeast of Newberry in Alachua County, and states the following:

1. The affected agencies and file numbers in this matter are:
  - a. State of Florida Department of Environmental Protection  
Office of General Counsel  
c/o Kathy Carter, Agency Clerk  
3900 Commonwealth Boulevard, MS 35  
Tallahassee, Florida 32399-3000

FDEP File Nos. 0010087-003-AC/PSD-FL-228-A, AC01-267311/PSD-FL-228, and 0010087-002-AV.

- b. United States Environmental Protection Agency  
Region 4  
Air, Pesticides & Toxics Management Division  
61 Forsyth Street  
Atlanta, Georgia 30303

FDEP File Nos. 0010087-003-AC/PSD-FL-228-A, AC01-267311/PSD-FL-228, and 0010087-002-AV.

2. The Petitioner is:

Alachua County  
c/o David C. Schwartz, Assistant County Attorney  
Office of the County Attorney  
12 S.E. 1<sup>st</sup> Street  
Gainesville, Florida 32602-2877  
(352)-374-5218

3. Petitioner, Alachua County, is a charter county that is vested with the authority and duty to protect the public health, safety, and welfare of the citizens of Alachua County, in which the subject cement plant is located. The proposed issuance of Draft Title V Construction Permit Modification No. 0010087-003-AC and Draft Title V Operation Permit No. 0010087-002-AV for the cement plant poses a real, immediate, and ongoing threat of discharging such types and quantities of pollutants so as to jeopardize or compromise the health, safety, and welfare of the County's citizens, particularly given the applicants' outstanding and unresolved violations and failure to otherwise demonstrate reasonable assurances that it will comply with all applicable rules, regulations, and permit conditions, as described more fully below. Petitioner is also the owner of property and operates and employs personnel at the Half Moon Fire & Emergency Medical Transport Station at 6005 S.W. State Road 45, approximately 8.2 miles south of the cement plant, and the

Jonesville Fire Station (Station #17) at 401 N.W. 143<sup>rd</sup> Street, approximately 9.7 miles east of the cement plant. The Jonesville Fire Station is part of the First Alarm assignment to the cement plant for any emergency. The County has also experienced increasing ozone levels and has a substantial interest in protecting its citizens, agriculture, and economy from the deleterious health effects of ozone and other pollutants emitted from the cement plant, and from the potentially adverse consequences of the County becoming non-attainment for ozone, for which volatile organic compounds (VOCs) and nitrogen oxides (NO<sub>x</sub>) are precursors. Further, emissions from the cement plant are reasonably expected to degrade the water quality of the nearby Santa Fe River and exacerbate mercury and nitrate levels that are already high and that pose threats to public health and to the recreational utility of this Outstanding Florida Water. As demonstrated, the County clearly is a substantially affected party with standing to challenge the proposed permits.

4. The County received a copy of the Intent to Issue the draft permits on January 30, 2001.

On February 9, 2001, the County timely filed a Request for Extension of Time to File Petition for Formal Administrative Hearing, seeking an extension of time until March 1, 2001. The Department has not yet acted upon the Request, and by operation of Rule 28-106.111(3), F.A.C., the County still has until at least March 1, 2001, or even until the Request is acted upon, to file a petition. Thus, the filing of this Petition is timely.

5. Disputed Issues of Material Fact:

a. Whether the applicant has violated the volatile organic compounds (VOC) emission limit of 11.55 lbs. per hour and 0.12 lbs. per ton of clinker, established in Table II of the Construction Permit and Section III, Conditions C.12., H.O., and I.1. of the proposed Operation Permit. This issue is one of mixed fact and law, and an issue of material fact remains in dispute, at least so long as the applicant refuses to formally stipulate to an admission of the violations.

b. Whether the applicant has demonstrated that it can effectively control the quality of its raw materials and fuels so as to assure that it will comply with all applicable emission limits, including but not limited to VOCs and NO<sub>x</sub>.

c. Whether contributing causes exist for applicant's VOC violations other than the purported contamination of mill scale and fly ash used as raw feed.

d. Whether the requirement for a continuous emission monitor for VOCs, in Specific Condition 6.a. of the proposed modification to the Construction Permit and in Section II, Condition 7.3, and Section III, Condition C.33 of the Operation Permit, is adequate to ensure that the applicant will comply with its VOC emission limit.

e. Whether existing testing and operating data demonstrate that the applicant will meet the required NO<sub>x</sub> emissions reduction to 2.8 lb. NO<sub>x</sub>/ton of clinker in Table II of the Construction Permit and in Section II, Condition 7.2, and Section III, Conditions C.10., H.0., and I.1. of the proposed Operation Permit without, or with, application of a Low NO<sub>x</sub> Multi-Stage Calciner (MSC).

f. Whether the applicant has demonstrated that it will burn tires as a fuel properly and in the manner intended through the permit applications and Specific Condition 4 and 6 of the Construction Permit and Section III, Condition C.3., of the proposed Operation Permit, and so as to assure compliance with its emission limits and permit conditions.

g. Whether the applicant's cement plant, as presently constructed, is capable of consistently emitting substantially lower levels of mercury and total particulate matter (PM) than the proposed emission limits in the subject permits, and whether such limits should be revised downward based upon test results and monitoring data in order to optimize pollution control in the manner described for SO<sub>2</sub>, NO<sub>x</sub>, VOCs, and CO in Section III, Condition I.1, of the proposed Operation Permit.

h. Whether the applicant's cement plant is reasonably expected to significantly degrade the surface waters of the Santa Fe River, designated Outstanding Florida Waters located approximately 8 miles from the cement plant, and the underlying Floridan Aquifer by way of atmospheric deposition of mercury and nitrogen (as nitrates).

i. Whether the applicant has demonstrated that its cement plant will consistently and simultaneously meet its emission limits for VOCs and NO<sub>x</sub>.

j. Whether the applicant has demonstrated reasonable assurances that it will comply with the emission limits for VOCs, NO<sub>x</sub>, and with all other applicable rules, regulations, and permit conditions, given (1) the unresolved permit and rule violations for (a) failure to timely notify the Department and the Environmental Protection Agency (EPA) Administrator of commencement of construction; (b) failure to timely notify the Department and the EPA Administrator of the initial plant startup; (c) failure to timely demonstrate compliance with SO<sub>2</sub> limits by way of continuous emission monitoring; (d) VOC exceedances during at least the months of July through September, 2000; (e) failure to immediately notify the Department of the VOC exceedances; and (f) failure to use required and appropriate test methods for VOCs and other pollutants; and (2) existing operating and testing data that demonstrate problems with VOCs and NO<sub>x</sub>; (3) the apparent lack of control over the quality of raw materials and fuel supply; (4) lack of any demonstration that tires will be burned as a fuel properly and in a manner that complies with all rules and permit conditions, including emission limits; (5) the applicant's apparent opposition or resistance to the proposed installation of a Low NO<sub>x</sub> Multi-Stage Calciner (MSC) and VOC continuous emission monitor; and (6) other possible factors to be determined through discovery. This is an issue of mixed fact and law, but certainly involves issues of material fact in dispute.



k. Whether reasonable assurances of compliance have been demonstrated for tire burning and beryllium at the time of the issuance of the proposed permits, rather deferring this determination to a future date (see Table II of the proposed modification to the Construction Permit and Section III, Condition C.13 and Table 2-1, EU003 Kiln, of the proposed Operation Permit). This is an issue of mixed fact and law, but certainly involves issues of material fact in dispute.

l. Whether the proposed permit limits for mercury of 200 lbs. per year and for total particulate matter (PM) of 0.20 lbs. per ton of dry feed to the kiln, 0.31 lbs. per ton of clinker, 30.00 lbs. per hour, and 110.50 tons per year, in Table II of the Construction Permit and in Section II, Condition 7.I, and Section III, and Conditions C.7, H.O., and I.1., of the Operation Permit, are overly inflated and unrepresentative of projected emission levels, fail to optimize pollution control, and fail to adequately protect public health, safety, and welfare.

~~m. To the extent that Appendix TV-3, Title V Conditions, was distributed to the applicant~~  
only, as stated in Section II, Condition 1, of the draft Operation Permit, and such conditions, once revealed to Petitioner, involve additional issues of material fact, Petitioner reserves the right to raise such issues by way of amendment to the Petition, if necessary. Petitioner further reserves the right to raise additional issues as might come to light through the course of discovery in this proceeding.

6. The ultimate facts are that (1) the applicant committed rule and permit violations, as referenced and described in paragraph 5.j., above, and such violations remain outstanding and unresolved; (2) the applicant has not demonstrate that the cement plant will consistently and simultaneously comply with the existing and proposed emission limits for VOCs and NO<sub>x</sub>; (3) the applicant has not demonstrated that tires will be burned as a fuel properly and in a manner that complies with all rules and permit conditions, including applicable emission limits; (4) the applicant has not demonstrated that it can effectively control the quality of its raw materials and fuels so as to

assure that it will comply with all applicable emission limits, including but not limited to VOCs and NO<sub>x</sub>; (5) the testing and operating data do not demonstrate that the applicant will meet the required reduction in NO<sub>x</sub> to 2.8 lb. NO<sub>x</sub>/ton of clinker as provided in Table II of the Construction Permit and in Section II, Condition 7.2 and Section III, C.10., H.O., I.1., of the proposed Operation Permit, without, or with, application of a Low NO<sub>x</sub> Multi-Stage Calciner (MSC); (6) applicant's cement plant, as presently constructed, is capable of consistently emitting substantially lower levels of mercury and total particulate matter (PM) than the proposed emission limits in the subject permits; (7) the applicant's cement plant is reasonably expected to significantly degrade the surface waters of the nearby Santa Fe River and the underlying Floridan Aquifer by way of atmospheric deposition of mercury and nitrogen (as nitrates); (8) the applicant has failed to demonstrate reasonable assurances that it will comply with its emission limits for VOCs and NO<sub>x</sub>, and with all other applicable rules, regulations, and permit conditions, given the unresolved permit violations and operating and testing data, lack of control over the quality of its raw materials and fuel supply, demonstrated problems and poor performance in the burning of tires as a fuel, the applicant's apparent opposition or resistance to the proposed installation of a Low NO<sub>x</sub> Multi-Stage Calciner (MSC) and VOC continuous emission monitor, and other possible factors to be determined. Petitioner presently has only limited access to the testing and operating data, reports, operation logs, correspondence, and other documents and testimony that Petitioner intends to obtain through discovery in this proceeding in order to more thoroughly identify the specific and detailed facts supporting its statement of ultimate facts in this Petition.

7. The statutes and rules that warrant reversal or modification of the Department's proposed action include:

Section 403.021(1-6) and (7)(b), Florida Statutes  
Section 403.061(8) and (14), F.S.  
Section 403.087(1), (4), and (7), F.S.  
Section 403.0872(2), F.S.  
Section 403.088(1) and (2)(b), F.S.  
Section 403.161(1)(b), F.S.  
Rule 62-4.030, Florida Administrative Code  
Rule 62-4.130, F.A.C.  
Rule 62-4.070(1-3) and (5), F.A.C.  
Rule 62-4.080(1), F.A.C.  
Rule 62-4.100(2) and (3)(b), F.A.C.  
Rule 62-4.160(2), (6), (8), (9), (13)(a) and (c)  
Rule 62-4.210(2), F.A.C.  
Rule 62-4.242(1)(a) and (b) and (2)(a), F.A.C.  
Rule 62-204.220(1) and (2), F.A.C.  
Rule 62-204.240(1-5), F.A.C.  
Rule 62-210.300(2)(a)1. and 2., F.A.C.  
Rule 62-212.300(1)(b-d) and (3)(a)2., F.A.C.  
Rule 62-212.400(1)(c), (6) and (7), F.A.C.  
Rule 62-213.300(2)(d) and (3)(c), (g) and (k)4., F.A.C.  
Rule 62-213.420, F.A.C.  
Rule 62-213.440(1), (3)(a)1., and (4)(b)4., F.A.C.  
Rule 62-296.320(1)(a), F.A.C.  
Rule 62-296.407, F.A.C.  
Rule 62-296.701, F.A.C.  
Rule 62-302.300(11-12), and (14-17), F.A.C.  
Rule 62-302.400(1), (10), and (12)(b)1., F.A.C.  
Rule 62-302.500(1)(a)6., F.A.C.  
Rule 62-302.530, F.A.C.  
Rule 62-302.700(1), (6), (9)(c)60., (9)(e)12., and (9)(i)27. F.A.C.  
Rule 62-520.300(1)(a), (b), and (f-h) and (3), F.A.C.  
Rule 62-520.400(1)(a) and (d), F.A.C.  
40 CFR 60.7(a)(1)  
40 CFR 60.7(a)(3)  
40 CFR 63.4(a)

8. Petitioner seeks the following relief:
- a. Denial of the Draft Title V Air Operation Permit No. 0010087-002-AV.
  - b. Denial of further extensions of authorization to operate under the auspices of a construction permit.

c. Deletion of authorization to use tires as a fuel, including but not limited to Specific Condition 4 and 6 of the Construction Permit and Section III, Condition C.3., of the proposed Operation Permit.

d. A substantial reduction of the emission limit for mercury, to no more than 97 lbs. per year or lower, based upon operating and test data.

e. A substantial reduction of the emission limit for total particulate matter (PM), to no more than 0.13 lbs. per ton of dry feed to the kiln, or lower, based upon operating and test data, and equivalent reductions in the PM emission limits expressed in other terms.

f. Addition of a permit condition limiting the use of coal as a fuel to only low-mercury content coal.

g. Addition of a permit condition providing a compliance schedule requiring modification of the Construction and Operation Permits to impose EPA's emission limit for PM<sub>2.5</sub> immediately upon the date of implementation specified by EPA.

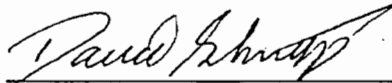
h. Revision of the appropriate permit conditions to provide that all additional construction related to the installation of the VOC continuous emission monitoring system shall be completed by June 1, 2001, all additional construction related to the installation of the Low-NO<sub>x</sub> Multi-Stage Calciner (MSC) shall be completed by September 30, 2001, and all compliance testing for the Construction Permit Modifications shall be completed by December 31, 2001.

i. Addition of a permit condition requiring that all continuous emission monitoring results shall be provided and made accessible to the public in real-time data converted to terms that equate to the emission limits established in the permits.

WHEREFORE, Petitioner, Alachua County, pursuant to Sections 120.569 and 403.0872(5), Florida Statutes, and Rules 28-106.111 and 28-106.201, Florida Administrative Code, requests a formal administrative hearing on the above-described matters.

Respectfully submitted this 1<sup>st</sup> day of March, 2001.

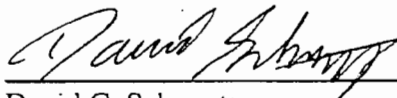
ALACHUA COUNTY ATTORNEY'S OFFICE



David C. Schwartz  
Assistant County Attorney  
Florida Bar No. 749079  
Alachua County Attorney's Office  
Post Office Box 2877  
Gainesville, FL 32602-2877  
(352) 374-5218

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by regular U.S. Mail to Segundo Fernandez, Esquire, Oertel, Hoffman, Fernandez & Cole, P.A., 301 South Bronough Street, Suite 500, Tallahassee, Florida 32301 on this 1<sup>st</sup> day of March, 2001.



David C. Schwartz  
Assistant County Attorney

TO: Chris Kirts, P.E. Administrator, NED  
FROM: Scott Sheplak, P.E. Administrator, Title V Section  
Bruce Mitchell  
DATE: March 28, 2001  
RE: Florida Rock's Comments Dated March 8, 2001

This is a follow up to the meeting between Florida Rock and the DEP held on March 14, 2001. Below please find our responses to the subject comments **1.13.** and **2.5.**

**1.13. DRAFT Title V Operation Permit, page 18, Specific Conditions C.30. and C.32.**

The request was to delete the reference to "Performance Specification 1" contained in Specific Condition C.30.

DEP's Responses:

After reviewing the permit, it was realized that the reference to Performance Specification 3 should be addressed as well (also contained in Specific Condition C.30); in addition, it became apparent that Specific Condition C.32. should probably carry the requirement for Performance Specification 1. In a discussion with Dr. John Koogler and Leslie Maybin this morning, these additional issues were raised and hopefully resolved. Therefore, the following recommendations are made:

**A.** Performance Specification 1 (40 CFR 60, Appendix B) applies only to a continuous opacity monitoring system (COMS). Since the COMS requirement lies in Specific Condition C.32., delete the reference to it in Specific Condition C.30. and add the following to the end of the text in Specific Condition C.32. as follows:

FROM:  
.....ESP stack pursuant to 40 CFR 60.63.

TO:  
.....ESP stack pursuant to 40 CFR 60.63, and 40 CFR 60, Appendix B, Performance Specification 1 (1995 version).

**B.** Performance Specification 3 (40 CFR 60, Appendix B) applies only to O<sub>2</sub> and CO<sub>2</sub> continuous emission monitoring systems (CEMS). This reference in Specific Condition C.30. should be deleted, instead of being moved to Specific Condition C.31. (which carries the requirement for the O<sub>2</sub> and CO<sub>2</sub> CEMS, but are process monitors only), because 40 CFR 60, Appendix B (Performance Specification 3) does not apply pursuant to Specific Condition C.31.

**2.5 DRAFT Title V Operation Permit, Statement of Basis, page 3, Condition No. 4 (was No. 5 before renumbering).**

The request was to delete the future requirement (90 days after issuance of the FINAL Title V Operation Permit) for disclosing the type of material, saturated or unsaturated, that the affected emission units in Section III., Subsection A, will be processing.

DEP's Response:

This has already been done, based on the emission limiting standards imposed in the Specific Conditions A.2. and A.3. Again, in a discussion with Dr. John Koogler and Leslie Maybin this morning, it was pointed out that 40 CFR 60.676(g), which has been adopted by reference in Rule 62-204.800(7)(b),

F.A.C., and is contained in Specific Condition A.6., requires that any change made in the type of material processed (saturated to unsaturated or vice versa) by any of the affected emission units be reported by the owner or operator within 30 days following such change; and, note that the visible emission limiting standard(s) change as well with the change in the type of material processed.

Therefore, it is recommended that the requirement contained in the Statement of Basis (now No. 4, on page 3) be deleted and allow Specific Condition A.6. to govern any changes being made in the types of material processed. Also, please change the citing in Specific Condition A.6. as follows:

FROM:

40 CFR 60.676(a)(4)(g)

TO:

40 CFR 60.676(g)

cc: Leslie Maybin, NED  
Al Linero, BAR

c: personal/memos/florida.rock.comments

## Reynolds, John

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**From:** Kirts, Christopher  
**Sent:** Wednesday, March 28, 2001 10:22 AM  
**To:** Beason, Doug; Fancy, Clair; Reynolds, John; Linero, Alvaro  
**Cc:** Maybin, Leslie; Comer, Patricia; Sheplak, Scott  
**Subject:** RE: FRI

Hello to all, NED prepared an E-Mail to summarize the meeting as we understood it. There are some items that DARM will have to resolve so that we may make the changes to the Title V. It is important to note that the meeting was to discuss the applicant's comments to the DRAFT status of the permit. Alachua County submitted "comments" that were a copy of their items listed for their ADMINISTRATIVE HEARING request, which is still unresolved. NED does not know if there are any other comments from folks. I thought that we were to actually make adjustments after HEARING stuff was resolved.

-----Original Message-----

**From:** Beason, Doug  
**Sent:** Monday, March 26, 2001 9:08 AM  
**To:** Fancy, Clair; Reynolds, John; Linero, Alvaro; Kirts, Christopher  
**Subject:** FRI

Good Morning. Where do we stand with respect to our agreed revisions to the PSD permit? It is my understanding that we (DARM) will issue a letter reflecting the agreed changes. Will the NED issue a separate letter with respect to the Title V? I received an e-mail from the NED but I assume that FRI will want something a little more formal.

Douglas Beason



**Reynolds, John**

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**From:** Linero, Alvaro  
**Sent:** Monday, April 09, 2001 5:55 PM  
**To:** Reynolds, John  
**Subject:** FW: FRI  
FYI

-----Original Message-----

**From:** Beason, Doug  
**Sent:** Monday, April 09, 2001 5:01 PM  
**To:** Linero, Alvaro  
**Subject:** FW: FRI

-----Original Message-----

**From:** Segundo Fernandez  
**Sent:** Mon 4/9/2001 1:13 PM  
**To:** Beason, Doug  
**Cc:** Fred Cohrs; tatkinson@ohfc.com  
**Subject:** FRI

I believe John Koogler has submitted final comments/details on the requested modifications of the proposed agency action on the construction and Title V permits. Please call me to discuss bringing closure to these issues.

Thanks!

Segundo J. Fernandez  
Oertel, Hoffman, Fernandez & Cole, P.A.  
P.O. Box 1110 (32302-1110)  
301 South Bronough Street, Suite 500  
Tallahassee, FL 32301  
Office: (850) 521-0700  
Fax: (850) 521-0720  
Mobile: (850) 524-3503



**KOOGLER & ASSOCIATES**

**ENVIRONMENTAL SERVICES**

4014 NW THIRTEENTH STREET  
GAINESVILLE, FLORIDA 32609  
352/377-5822 ■ FAX/377-7158

187-99-08  
April 6, 2001

**RECEIVED**

VIA FAX: 850-922-6979  
and VIA USPS

APR 10 2001

BUREAU OF AIR REGULATION

Mr. John Reynolds  
Florida Department of  
Environmental Protection  
Division of Air Resources Management  
2600 Blair Stone Road, MS 5505  
Tallahassee, Florida 32399-2400

**Subject: Florida Rock Industries, Inc.  
Comments on Original Air Construction Permit No. AC01-267311/PSD-FL-228  
and Draft Title V Permit No. 0010087-002-AV**

Dear Mr. Reynolds:

I would like to request some additional administrative changes to the above-captioned permits as we are in the process of amending both these permits. It has recently been brought to my attention that certain changes in the final design of the Florida Rock Cement Plant eliminated the need for three of the small bag house dust collectors that were included in the original plant design. Additionally, the final design also resulted in the renaming of another of the small bag house dust collectors. The changes were:

1. Dust Collector E-29 was eliminated as the dust from that transfer point is now vented back into the kiln/raw mill ESP (Collector E-19) for control.
2. Dust Collector M-07 was eliminated because of the redesign of the discharge system of the clinker storage silos.
3. Dust Collector N-14 was renamed N-91, and still serves the same function in the finish mill.
4. Dust Collector Q-27 was eliminated by inter-venting the four Portland cement silos through a single dust collector. A separate bag house still exists on the cement silo used for masonry cement.

Visible emission test results reported to the Department have demonstrated compliance with all visible emission standards, even with these changes.

The three dust collectors eliminated and the dust collector renamed are identified in the original Air Construction Permit in Table 1, Allowable Opacity Limitations, as:

1. E-29 Recycled Dust Airlift
2. M-07 Clinker to Finish Mill
3. N-14 Cement Handling and Finish Mill
4. Q-27 Cement Storage Silos

This is the only reference to these dust collectors in the Air Construction Permit. The appropriate notation should be made in Amended Air Construction Permit 0010087-003-AC/PSD-FL-28A recently drafted by the Department indicating that these three dust collectors have been eliminated and that N-14 has been renamed N-91.

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In the above-captioned Draft Title V Permit, references made to these dust collectors are as follows:

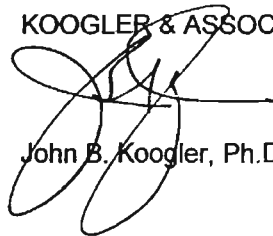
1. Page 10 of 36 - Dust Collector E-29 is identified as EP02, Recycle Dust Airlift in the Brief Description of the raw mill system;
2. Page 23 of 26 - Dust Collector M-07 is identified as EP01, Clinker to Finish Mill; Dust Collector N-14 is identified as EP05, Cement Handling in Finish Mill; and Dust Collector Q-27 is identified as EP08, Cement Storage Silos, in the Brief Description of Finish Grinding Operations. N-14 has been renamed N-91 but serves the same purpose and can remain EP05.
3. Table 1, Allowable Opacity Limitations, Dust Collectors E-29, M-07, N-14 and Q-27 are all referenced in this table;
4. Table 1-1, Summary of Air Pollutant Standards and Terms, Dust Collector E-29 is identified as EP 02 on the page listing the Standards and Terms for EU002, and Dust Collectors M-07, N-14 and Q-27 are identified as EP01, EP05 and EP08, respectively, on the page listing the Standards and Terms for EU005.
5. Table 2-1, Summary of Compliance Requirements, Dust Collector E-29 is listed as EP02 on the page listing the Requirements for EU002, and Dust Collectors M-07, N-14 and Q-27 are identified as EP01, EP05 and EP08, respectively, on the page listing the Requirements for EU05.

The appropriate corrections should be made to the Title V Permit.

If there are any questions regarding these matters, please do not hesitate to contact me 352-377-5822.

Very truly yours,

KOOGLER & ASSOCIATES



John B. Koogler, Ph.D., P.E.

JBK/jhm  
Enclosure

cc:	C.H. Fancy,	FDEP Tallahassee
	A.A. Linero,	FDEP Tallahassee
	Scott Sheplak,	FDEP Tallahassee
	Chris Kirts,	FDEP Jacksonville
	Doug Beason,	FDEP OGC, Tallahassee
	Fred Cohrs,	FRI Jacksonville
	Cary Cohrs,	FRI Newberry
	George Townsend,	FRI Newberry
	Segundo Fernandez,	OHFC, Tallahassee