LAW OFFICES

OERTEL, HOFFMAN, FERNANDEZ & COLE, P.A.

301 SOUTH BRONOUGH STREET
SUITE 500
TALLAHASSEE, FLORIDA 32301

(850) 521-0700
FAX (850) 521-0720

MAILING ADDRESS:
POST OFFICE BOX 1110
TALLAHASSEE, FLORIDA 32302-1110

http://www.ohfc.com

TIMOTHY P. ATKINSON
JEFFREY BROWN
M. CHRISTOPHER BRYANT
C. ANTHONY CLEVELAND
TERRY COLE
SEGUNDO J. FERNANDEZ
SCOTT W. FOLTZ
KENNETH F. HOFFMAN
KENNETH G. OERTEL
PATRICIA A. RENOVITCH

PAUL A. LEHRMAN
OF COUNSEL

RECEIVED
OCT 24 2001
BUREAU OF AIR REGULATION

October 22, 2001

VIA HAND DELIVERY

Jack Chisolm, Deputy General Counsel
Office of General Counsel
Florida Department of Environmental Protection
3900 Commonwealth Blvd.
Tallahassee, FL 32399-3000

Re: CSR Rinker Materials Corporation
DEP File No. 020014-007-AC
Miami Cement Plant
Notice of Permitting Determination

Dear Jack:

We represent CSR Rinker Materials Corporation with respect to the above-referenced matter. The company received the Department's Notice of Permitting Determination, dated September 28, 2001, on October 1, 2001. A copy of the Department's Notice is attached hereto as Exhibit A. The point of entry to Administrative Proceedings set forth on page 2 of 3 of Exhibit A provides that any petition must be filed with the Department within fourteen (14) days of receipt of the Notice.

CSR Rinker Materials Corporation is desirous of continuing discussions with Department staff on the subject of the Notice. The Company requested an extension of time, to October 29, 2001, by letter dated October 5, 2001. On Thursday, October 18, representatives of the Company met with the Department's Air Permitting staff in Tallahassee, and agreed on certain actions to resolve all pending issues. However, additional time is needed to implement these matters. Company representatives and the Department staff agreed that a further extension of time would be desirable. Accordingly, an extension of time in which to file a petition for hearing, should filing a petition be necessary, is both desirable and reasonable.

Pursuant to Rule 28-106.111, Florida Administrative Code, we hereby file this request for an extension of time to file a petition for administrative hearing with respect to the Notice of Permitting Determination dated September 28, 2001, and attached hereto Exhibit A, up to and including Friday, December 28, 2001. As stated above, an additional time request was discussed and agreed to by Mr. Scott Benyon and Mr. Mike Vardamann of Rinker and Mr. Al Linero and Mr. Clair Fancy of DEP.

Thank you for your consideration of this matter. If you have any questions, please feel free call us.

Sincerely,

Segundo J. Fernandez
Timothy P. Atkinson

w/o encl.

c: Howard Rhodes
C.H. Fancy, P.E.
A. A. Linero, P.E.
Stacey Cowley
Sharon DeHays
Mike Vardamann
Scott Benyon
John Koogler, Ph.D., P.E.

F:\Document\TPA\LTR\Rinker Const Permit Pet Extension Req 2658-1 10.22.01.wpd

KOOGLER & ASSOCIATES
ENVIRONMENTAL SERVICES
4014 NW THIRTEENTH STREET
GAINESVILLE, FLORIDA 32609
352/377-5822 ▪ FAX/377-7158

263-00-05
October 16, 2001

Via Fax and Hand Delivery

Mr. Clair Fancy, Chief
Bureau of Air Regulation
Florida Department of Environmental Protection
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Subject: ***Rinker Materials Corporation***
Miami Cement Plant
DEP File No. 0250014-007-AC
Comments on Draft Amendments to Air Construction Permit

Dear Clair:

I have reviewed the above-captioned draft amendments dated September 28, 2001, to the Air Construction Permit originally issued to CSR Rinker Materials Corporation (Rinker) in September 1997 for the modernization of their Miami Cement Plant. There are two conditions in the amended permit that were not requested by Rinker, and are not consistent with resolutions to these matters that Mike Vardeman and I discussed with you and with others on your staff during meetings in Tallahassee on May 22 and June 7, 2001. These conditions are related to the use of alternative fuels and compliance assurance for VOCs. The proposed amendments are no different than amendments proposed by the Department on March 15, 2001. Those amendments were not acceptable to Rinker at that time and resulted in the previous referenced meetings of May 22 and June 7, 2001. Following those meetings, we understood that the matters had been resolved as outlined in my letter to you of June 14, 2001. Our concerns regarding these two issues will be readdressed in the following paragraphs and general comments will follow.

Alternative Fuels

Specific Condition B.5 of Rinker's air construction permit authorizes the use of several alternative fuels for the kiln system including:

- whole tires and tire derived fuel;
- non-hazardous oil filters, booms and rags from spill cleanup; and
- non-hazardous unused diapers, paper products, non-chlorinated plastics and sewage sludge from PTOWs

The use of these alternative fuels is also authorized by Rinker's Title V Permit (0250014-003-AV). The

Title V Permit includes a Compliance Plan which requires Rinker to complete all construction necessary to use the alternative fuels by March 31, 2002; approximately five and a half months from now. The Compliance Plan further states that if construction is not completed by March 31, 2002, Rinker must submit an application for a construction permit requesting additional time to install the equipment required to use these alternative fuels.

The above-captioned amendments withdraw the authorization to use any of the aforementioned alternative fuels with no apparent reason other than the presumption that:

> "With the bypass project taking precedent, it is reasonable to conclude that tires cannot be burned at the facility for sometime in the future."

And the general statements that:

> "Similarly there is no equipment to inject sewage sludge."
> - and -
> "Finally, there is no equipment to introduce diaper-derived fuel or any other solid waste into the kiln."

The fact is, there is approximately five and a half months remaining in the construction schedule authorized by the Compliance Plan of the Title V Permit for the installation of equipment necessary to feed the alternative fuels. This is more than adequate time for Rinker to install the necessary equipment to use these alternative fuels. For the Department to unilaterally withdraw approval to use the alternative fuels based on fact that the necessary feed equipment is not presently in place or the presumption that the work will not be completed by March 31, 2002 is not justified

Mike Vardeman and I discussed this matter with you and others on more than one occasion and it was my understanding (see my letter to you dated June 14, 2001) that none of the conditions related to the use of alternative fuels would change as a result of amendments to Rinker's air construction permit. There is no need for conditions related to alternative fuels to be changed in the air construction permit. Closure of the matter is adequately addressed in the Compliance Plan of the Title V Permit which requires Rinker to complete all necessary construction of equipment and/or systems necessary to feed the alternative fuels by March 31, 2002. If the construction is not completed by that date, Rinker will be required to submit an application for an air construction permit authorizing additional work. Rinker is aware of this condition and agrees with the condition. For these reasons, Rinker requests that all amendments in the above-captioned draft permit related to the use of alternative fuels be deleted; leaving the air construction permit as it was issued relative to these fuels.

The one exception to these comments is related to the use of sludge from POTWs as an alternative fuel. As Rinker has stated to you, the company has no intention of burning sludge as an alternative fuel. Therefore Rinker has no objection to sewage sludge being removed from the air construction permit as an alternative fuel.

Total Hydrocarbon CEMS

The draft amendments to Rinker's air construction permit require the installation of a CEMS for THC to provide assurance of compliance with the VOC limit established for the kiln system. The draft amendments also require annual compliance testing for VOCs using EPA Method 25A as further assurance of compliance. As I reminded you and Al during our telephone conversation of September 26, the present permits (AC and AV) both state that:

> "VOC emissions shall be tested initially to comply with the conditions of this permit [the air construction permit]. Thereafter, compliance will be assumed provided the CO allowable emission rate is reached."

On December 21, 2000, emission measurements were conducted demonstrating compliance with the permitted VOC emission limit for the kiln system. Subsequent to that time, and as a result of the emission measurements showing actual THC emissions close to the permitted emission limit for VOCs, Rinker discussed with you and, on its own initiative, submitted to DERM, a proposed VOC Monitoring Plan designed to expand and improve upon the VOC monitoring requirements contained in Rinker's Permit. The Monitoring Plan submitted to DERM requires Rinker to monitor the hydrocarbon content of feed materials to the kiln system and further requires Rinker to conduct quarterly VOC emission measurements (EPA Method 25A). These two measures, in Rinker's opinion, will provide additional assurance of continuing compliance with the permitted VOC emission limit. The VOC Monitoring Plan voluntarily offered by Rinker goes well beyond what the permit actually contemplates and requires, and is a show of good faith by Rinker to provide the Department and DERM additional comfort and assurance of compliance with the permitted VOC limit.

In spite of the Monitoring Plan offered by Rinker, the draft amended air construction permit is requiring the installation of a CEMS for THC. The Department comments that:

> "...the Department lacked reasonable assurance that the facility would meet the Volatile Organic Compound emission limit..."
>
> "...there were a number of delays by Rinker in testing for Volatile Organic Compounds (VOC) emissions..."
>
> "...the Department received the results of the VOC emission tests. These results indicated very marginal non-compliance based on the factor given in the permit for calculation of clinker production based on raw material input. Rinker subsequently provided information based on their calculations of the conversion factor of raw materials to clinker and reported the VOC emissions tests as marginally in compliance based on lb/ton of clinker."
>
> "Rinker conducted VOC tests several months after they planned to

> conduct them. The results are marginally out of compliance based on the raw materials to clinker conversion factor given in the permit. Without additional permit conditions, the Department does not have reasonable assurance that the kiln will operate in compliance with the limit or emit less VOC than required to 'net out' of PSD."
>
> "Because the VOC test did not clearly show compliance, it can not be assumed that future compliance with the VOC limit can be demonstrated by reliance on the CO tests as surrogates."
>
> "Apparently VOC emissions have much to do with raw materials and not just incomplete fuel combustion...Additionally, Rinker plans to install a kiln bypass that will necessitate additional fuel use. It is not known how this will affect the [VOC emission rate]."
>
> The Department cites the fact that Florida Rock Industries was required to install a CEMS for THC and that Tarmac and Suwannee American both have installed CEMS for THC.

First, I would like to make certain comments regarding several of these statements. The fact that there was rescheduling of the initial compliance tests at Rinker (including the VOC emission tests), is an irrelevant observation. The fact is Rinker conducted the initial compliance tests within the time frame established by Rule and Permit. Rinker scheduled and conducted those tests as an act of good faith, even though final commissioning and shakedown of the plant was not complete. Because of the construction status, Rinker could have requested an extension of time to perform these tests. Instead, Rinker chose to proceed with the tests, knowing it was not fully finished with construction. Rinker did so not only to comply with permit commitments, but to demonstrate to the local community and the Department it was in compliance even during this commissioning and shakedown phase of construction.

Furthermore, if you recall, because of issues elsewhere in the state at that time, there was heightened sensitivity on the Department's behalf regarding NO_X. In recognition of this, and to expedite the testing process, Rinker chose to bifurcate the testing and perform the NO_X, SO_2 and CO testing first in order to directly address the plant's performance relative to these emissions. When the follow-up round of testing, (including tests for VOCs) was scheduled, a tropical storm hit Miami producing the worst flooding in the areas surrounding the plant in decades. Understandably this round of testing had to be delayed as the plant for all intents and purposes, was unreachable by testing personnel. To apparently insinuate Rinker did not perform as expected because of the timing of the VOC testing, is inappropriate.

The second general comment is related to references that the VOC test results showed "marginal non-compliance based on the [average] factor given in the permit." This is another irrelevant and misleading statement as the "average factor" is of no consequence; the actual conversion factor for converting preheater feed to clinker production at the time of the VOC emission tests is the factor of concern. Based on the actual conversion factor, the test results showed that the measured THC emissions

were less than, but close to the permitted VOC emission limit. "Marginal non-compliance" is irrelevant and misleading. The plant was, in fact, in compliance using the actual conversion factor.

Our specific comment is related to reasonable assurance of VOC compliance. Much has been learned about VOC emissions from the preheater/precalciner of Portland cement plants in Florida since the Rinker air construction permit was first issued. My September 20, 2001 letter to DERM (of which you received a copy) summarized some of what we now know; that is, the total hydrocarbon (THC) concentration in the gas stream exiting the kiln and precalciner (measured at the base of the preheater) is non-detectable. These data demonstrate that the pyro-processing system (the kiln and precaliner) of a dry process Portland cement plant is extremely effective in combusting hydrocarbon materials in that part of the system. Hydrocarbon measurements made at the top of the preheater tower and the stack exhausting the kiln system, however, have shown varying amounts of hydrocarbons, depending upon the hydrocarbon content of the preheater feed material. Further, it has been found that the component of the preheater feed material that has generally contributed most significantly to the hydrocarbon emissions is millscale; the iron source. Thus, if the hydrocarbon content of the raw feed materials, particularly the hydrocarbon content of the millscale, is controlled, VOC emission limits such as established for Rinker, will be met. This has been demonstrated at the Rinker plant as well as other dry process Portland cement plants in Florida. This summarized information is the basis for the VOC Monitoring Plan proposed by Rinker. As I stated in my September 20, 2001 letter to DERM, it is our firm opinion that the proposed VOC Monitoring Plan is adequate to provide reasonable assurance that the VOC emission limit is met on a continuing basis. Furthermore, the Monitoring Plan goes well beyond what is required or even contemplated by the permit.

One final comment related to CEMS for THCs is directed toward statements regarding THC CEMS at other cement plants in Florida. It should be clarified that Florida Rock Industries was not "required by the Department" to install a CEMS for THC; the company volunteered to install the CEMS to settle certain matters with the Department. Regarding Tarmac and Suwannee American, both of these plants will install CEMS for THCs to satisfy MACT requirements; not to provide assurance that the Department permitted VOC emission limit will be met. None of these three projects is relevant to the Rinker permitting matter or to Rinker's ability to meet applicable VOC limits.

Editorial, Technical and Philosophical Issues

Editorially, in the fourth paragraph of the section entitled *Intent to Issue Air Construction Permit Modification*, references are made to the Northeast District office of FDEP and to a Draft Title V Permit. If reference to a local program is required, the reference should be to DERM, as Rinker is not located in the Northeast District. It should also be noted that Rinker's Title V Permit is FINAL.

Regarding technical comments:

- Rinker concurs with the extension of the air construction permit expiration date to March 31, 2002 but requests that the work authorized by the amended permit cover all work addressed in the Compliance Plan of Rinker's Title V Permit.

- Rinker concurs with the deletion of the reference to 40 CFR 60, Subpart Eb from the air construction permit.

- Rinker concurs with the revisions to the emissions limiting standards Table 1-2, *Air Pollutant Standards and Terms.* These revisions change the permit limit for SO_2 to 2.23 pounds per ton of clinker, change the permit limit for NO_X to 4.9 pounds per ton of clinker and delete the permit limit for beryllium.

- As previously stated, Rinker concurs with the removal of sewage sludge from POTWs from the list of approved alternative fuels.

- Rinker concurs with the addition of EPA Method 25A as an approved test method for VOC emission measurements (although this was an earlier permit amendment).

- Rinker concurs with the requirement to establish a factor for determining clinker production as a function of the preheater feed rate and the requirement to report this factor the appropriate compliance agency in advance of any emission test.

The following philosophical comments relate to comments in the *Technical Evaluation and Preliminary Determination* related to NO_X and beryllium.

In the fourth paragraph of Section VI - Evaluation, the statement is made that:

> "The previous wet process kilns were out of compliance with the mentioned [NO_X] RACT Rule."

This statement is not only irrelevant in the present permitting process but it is also incorrect. Rinker was well aware of the fact that NO_X emissions from the retired wet process kilns would not meet the NO_X RACT limit when this limit was first proposed. Rinker subsequently approached the Department and voluntarily entered into a consent agreement which provided for the operation of the two wet process kilns at their existing NO_X emission rate until certain decisions could be made. The decision eventually made by Rinker was to modernize the cement plant and to retire the two existing wet process kilns, which was the most costly and comprehensive of the alternatives approved by the Department. As a consequence, the Department (through its PEP Program), the EPA, DERM and the Miami Chamber of Commerce have all given environmental awards to Rinker for this new facility.

Regarding beryllium, Rinker concurs with the removal of the emission limiting standard for beryllium from the air construction permit. The Department amended Rule 62-212.400 F.A.C. in October 1997, approximately one month after the original air construction permit was issued to Rinker, to eliminate beryllium from the PSD pre-construction review process. As beryllium is no longer a regulated air pollutant, there is no rule basis for the beryllium emission limiting standard. This being the case, Rinker requested, and the Department concurred, that the beryllium emission limiting standard

should be removed from Rinker's air construction permit. There should not be any association between this plant and any cement plants burning hazardous waste as this could cause an uninformed reader confusion and could result in unwarranted and unnecessary apprehension directed toward the Rinker facility.

I appreciate your consideration of our comments and look forward to the opportunity of meeting with you on October 18, 2001 to discuss these issues. If there are questions prior to our meeting, please do not hesitate to contact me at 352-377-5822.

Very truly yours,

KOOGLER & ASSOCIATES

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

JBK/jhm
cc: Al Linero
Scott Benyon
Mike Vardeman
Segundo Fernandez

LAW OFFICES

OERTEL, HOFFMAN, FERNANDEZ & COLE, P.A.

301 SOUTH BRONOUGH STREET
SUITE 500
TALLAHASSEE, FLORIDA 32301

(850) 521-0700
FAX (850) 521-0720

MAILING ADDRESS:
POST OFFICE BOX 1110
TALLAHASSEE, FLORIDA 32302-1110

http://www.ohfc.com

TIMOTHY P. ATKINSON
JEFFREY BROWN
M. CHRISTOPHER BRYANT
C. ANTHONY CLEVELAND
TERRY COLE
SEGUNDO J. FERNANDEZ
SCOTT W. FOLTZ
KENNETH F. HOFFMAN
KENNETH G. OERTEL
PATRICIA A. RENOVITCH

PAUL A. LEHRMAN
OF COUNSEL

October 5, 2001

RECEIVED
OCT 08 2001
BUREAU OF AIR REGULATION

VIA HAND DELIVERY

Jack Chisolm, Deputy General Counsel
Office of General Counsel
Florida Department of Environmental Protection
3900 Commonwealth Blvd.
Tallahassee, FL 32399-3000

Re: CSR Rinker Materials Corporation
DEP File No. 020014-007-AC
Miami Cement Plant
Notice of Permitting Determination

Dear Jack:

We represent CSR Rinker Materials Corporation with respect to the above-referenced matter. The company received the Department's Notice of Permitting Determination, dated September 28, 2001, on October 1, 2001. A copy of the Department's Notice is attached hereto as Exhibit A. The point of entry to Administrative Proceedings set forth on page 2 of 3 of Exhibit A provides that any petition must be filed with the Department within fourteen (14) days of receipt of the Notice.

CSR Rinker Materials Corporation is desirous of continuing discussions with Department staff on the subject of the Notice. Accordingly, an extension of time in which to file a petition for hearing, should filing a petition be necessary, is both desirable and reasonable.

Pursuant to Rule 28-106.111, Florida Administrative Code, we hereby file this request for an extension of time to file a petition for administrative hearing with respect to the Notice of Permitting Determination dated September 28, 2001, and attached hereto Exhibit A, for one additional month, up to and including Monday, October 29, 2001. The undersigned certifies that this request was discussed with Stacey Cowley, Assistant General Counsel, who directed us to speak with C.H. Fancy, P.E., Chief, Bureau of Air

Regulation. Mr. Fancy stated today that he had no objections to the request. correct

Thank you for your consideration of this matter. If you have any questions, please feel free call us.

Sincerely,

Timothy P. Atkinson

Segundo J. Fernandez
Timothy P. Atkinson

c: Howard Rhodes
C.H. Fancy, P.E.
A. A. Linero, P.E.
Stacey Cowley
Sharon DeHays
Mike Vardamann
Scott Benyon
John Koogler, Ph.D., P.E.

F:\Document\TPA\LTR\Rinker Const Permit Pet Extension Req 2658-1 10.3.01.wpd