

Gibson, Victoria

From: Gibson, Victoria
Sent: Friday, June 06, 2008 11:32 AM
To: Moore, Ronni
Subject: RE: Cemex 0530010-030-AC

No we won't need one. Thanks.

Have a great weekend.

Vickie

From: Moore, Ronni
Sent: Friday, June 06, 2008 10:58 AM
To: Gibson, Victoria
Subject: RE: Cemex 0530010-030-AC

If you all need one I will, but I wasn't seeing the case settled in a written formal agreement.

Ronda L. Moore
Assistant General Counsel



Please consider the environment before printing this email.

From: Gibson, Victoria
Sent: Friday, June 06, 2008 10:32 AM
To: Moore, Ronni
Subject: Cemex 0530010-030-AC

Hi,

Just wanted to check in with you on this case; you will be sending us a case closed memo as well?

Vickie

Victoria Gibson, Administrative Secretary for
Trina Vielhauer, Chief
Bureau of Air Regulation
Division of Air Resource Management
victoria.gibson@dep.state.fl.us
850-921-9504 fax 850-921-9533

Gibson, Victoria

From: Vielhauer, Trina
Sent: Friday, June 06, 2008 11:24 AM
To: Gibson, Victoria
Subject: RE: Cemex 0530010-030-AC

Nope. I don't think we need one.

From: Gibson, Victoria
Sent: Friday, June 06, 2008 11:00 AM
To: Vielhauer, Trina
Subject: FW: Cemex 0530010-030-AC

FYI,

Vickie

From: Moore, Ronni
Sent: Friday, June 06, 2008 10:58 AM
To: Gibson, Victoria
Subject: RE: Cemex 0530010-030-AC

If you all need one I will, but I wasn't seeing the case settled in a written formal agreement.

Ronda L. Moore
Assistant General Counsel



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To: Moore, Ronni
Subject: Cemex 0530010-030-AC

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Just wanted to check in with you on this case; you will be sending us a case closed memo as well?

Vickie

Victoria Gibson, Administrative Secretary for
Trina Vielhauer, Chief
Bureau of Air Regulation
Division of Air Resource Management
victoria.gibson@dep.state.fl.us
850-921-9504 fax 850-921-9533

Gibson, Victoria

From: Moore, Ronni
Sent: Wednesday, June 04, 2008 10:40 AM
To: Heron, Teresa; Vielhauer, Trina; Linero, Alvaro
Cc: Gibson, Victoria
Subject: RE: cemex BART - case closed and jurisdiction relinquished
Attachments: Cemex - ORD - order closing file.pdf; CemexBART RevisedPermit.pdf

Morning:

DOAH has closed the Cemex case and relinquished jurisdiction to the Department (1st attachment) to issue Cemex's revised draft BART permit. The permit attached has the change Teresa made to paragraph 4 page 5. Thank you all for your outstanding work in resolving this case.

Ronni

Ronda L. Moore
Assistant General Counsel



Please consider the environment before printing this email.

From: Moore, Ronni
Sent: Monday, June 02, 2008 8:39 AM
To: Heron, Teresa
Subject: RE: cemex BART

That was all. Thanks Teresa.

Ronda L. Moore
Assistant General Counsel



Please consider the environment before printing this email.

From: Heron, Teresa
Sent: Monday, June 02, 2008 8:32 AM
To: Moore, Ronni
Subject: RE: cemex BART


This is the word version. I changed condition No. 4 to 2014. Please let me know what else is needed. Teresa.

From: Moore, Ronni
Sent: Friday, May 30, 2008 5:23 PM
To: Vielhauer, Trina
Cc: Linero, Alvaro; Heron, Teresa; Arif, Syed
Subject: RE: cemex BART

6/5/2008

Here is what was filed with DOAH today. I will let you know as soon as I know when the case is relinquished to the Department for issuance of the permit.

Ronda L. Moore
Assistant General Counsel

 Please consider the environment before printing this email.


From: Vielhauer, Trina
Sent: Friday, May 30, 2008 5:00 PM
To: Moore, Ronni
Cc: Linero, Alvaro; Heron, Teresa; Arif, Syed
Subject: RE: cemex BART

ok. Great. Thank YOU for your help on this. Just let us know when jurisdiction is relinquished so we can correct and issue.

From: Moore, Ronni
Sent: Friday, May 30, 2008 4:49 PM
To: Vielhauer, Trina
Cc: Linero, Alvaro; Heron, Teresa; Arif, Syed
Subject: FW: cemex BART

FYI. We are going to file the Settlement Stipulation today, with the revised draft permit that does not have this change. I'll be sure to cc you all. Before issuance of the draft BART permit to Cemex, please, please make sure this change is made. THANK YOU!!!!


Ronda L. Moore
Assistant General Counsel

 Please consider the environment before printing this email.

From: Moore, Ronni
Sent: Friday, May 30, 2008 4:44 PM
To: Tim Atkinson
Cc: Segundo Fernandez
Subject: FW: cemex BART

FYI. I do not have access to a non-PDF version of the revised draft BART permit to make this change today, but paragraph 4 on page 5 will be changed from the year 2004 to 2014.

Ronda L. Moore
Assistant General Counsel

 Please consider the environment before printing this email.

From: Vielhauer, Trina
Sent: Friday, May 30, 2008 4:36 PM
To: Heron, Teresa; Arif, Syed; Linero, Alvaro

6/5/2008

Cc: Moore, Ronni

Subject: cemex BART

Paragraph 4 on page 5 seems to still have the 2004 instead of 2014 date. Can you please fix and send to Ronni.

6/5/2008

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

CEMEX CEMENT, INC.,)
)
 Petitioner,)
)
 vs.) Case No. 08-1619
)
 DEPARTMENT OF ENVIRONMENTAL)
 PROTECTION,)
)
 Respondent.)
 _____)

ORDER CLOSING FILE AND RELINQUISHING JURISDICTION

This cause came before the Administrative Law Judge on the parties' Settlement Stipulation and Motion to Relinquish Jurisdiction in which it is represented that the parties' disputes have been fully resolved through their stipulation to the issuance of a revised permit with agreed terms. Therefore, it is

ORDERED that the file of the Division of Administrative Hearings in this case is CLOSED and jurisdiction is relinquished to the Department of Environmental Protection for final action.

DONE AND ORDERED this 3rd day of June, 2008, in Tallahassee, Leon County, Florida.

S

BRAM D. E. CANTER
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 3rd day of June, 2008.

COPIES FURNISHED:

Ronda Lynne Moore, Esquire
Department of Environmental Protection
3900 Commonwealth Boulevard, Mail Station 35
Tallahassee, Florida 32399-3000

Timothy P. Atkinson, Esquire
Oertel, Fernandez, Cole & Bryant
Post Office Box 1110
Tallahassee, Florida 32302-1110

Gibson, Victoria

From: Arif, Syed
Sent: Wednesday, June 04, 2008 4:28 PM
To: Linero, Alvaro
Cc: Gibson, Victoria
Subject: FW: cemex BART - case closed and jurisdiction relinquished

FYI

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

From: Vielhauer, Trina
Sent: Wednesday, June 04, 2008 1:19 PM
To: Arif, Syed
Subject: Re: cemex BART - case closed and jurisdiction relinquished

Right. We can finalize the revised draft permit with new public notice then al can do a letter.

Trina Vielhauer

Sent from my BlackBerry Wireless Handheld

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

From: Arif, Syed
To: Vielhauer, Trina
Sent: Wed Jun 04 12:22:52 2008
Subject: RE: cemex BART - case closed and jurisdiction relinquished

Trina,

You do want the revised draft issued prior to responding to the objection letter that their attorney sent regarding SCR language in the Specific Condition. You were going to get Al to respond to that letter.

Syed

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

From: Vielhauer, Trina
Sent: Wednesday, June 04, 2008 11:26 AM
To: Arif, Syed
Subject: Fw: cemex BART - case closed and jurisdiction relinquished

Can you be sure the dates are corrected? You can sign for me if you're comfortable with that.

Trina Vielhauer

Sent from my BlackBerry Wireless Handheld

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

From: Moore, Ronni
To: Heron, Teresa; Vielhauer, Trina; Linero, Alvaro
Cc: Gibson, Victoria
Sent: Wed Jun 04 10:40:13 2008
Subject: RE: cemex BART - case closed and jurisdiction relinquished

Morning:

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Ronni

Ronda L. Moore

Assistant General Counsel

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Ronda L. Moore

Assistant General Counsel

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Assistant General Counsel

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Ronda L. Moore

Assistant General Counsel

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Sent: Friday, May 30, 2008 4:36 PM
To: Heron, Teresa; Arif, Syed; Linero, Alvaro
Cc: Moore, Ronni
Subject: cemex BART

Paragraph 4 on page 5 seems to still have the 2004 instead of 2014 date. Can you please fix and send to Ronni.

Gibson, Victoria

From: Gibson, Victoria
Sent: Friday, January 25, 2008 3:57 PM
To: Vielhauer, Trina; Linero, Alvaro
Subject: FW: Petition for Hearing rec'd - 0530010-030-AC - Cemex Cement

Importance: High

Attachments: Di4700801251640.PDF

FYI,

Vickie

From: Crandall, Lea
Sent: Friday, January 25, 2008 3:50 PM
To: Gibson, Victoria; Heron, Teresa
Subject: Petition for Hearing rec'd. - 0530010-030-AC - Cemex Cement

Hi,

The attached petition was filed on January 24, 2008. Have a great weekend!

Thanks,
Lea

Lea Crandall

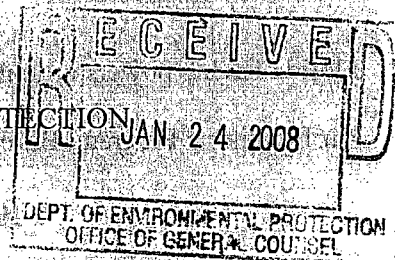
Agency Clerk
Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, FL 32399-3000
Phone: (850) 245-2212 SC: 205-2212
Fax: (850) 245-2303

From: Knight, Barnard
Sent: Friday, January 25, 2008 3:42 PM
To: Crandall, Lea
Subject: From KONICA MINOLTA Di470



Di4700801251640.
PDF (2 MB)

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION



CEMEX CEMENT, INC.

Petitioner / Applicant,

v.

DOAH CASE NO.:
FDEP Permit No.: 0530010-030-AC

STATE OF FLORIDA, DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

Respondent.

PETITION FOR FORMAL ADMINISTRATIVE PROCEEDINGS

Petitioner/Applicant, CEMEX Cement, Inc. ("CEMEX"), by and through its undersigned counsel, files this Petition for Formal Administrative Proceeding pursuant to Sections 120.569 and 120.57(1), Florida Statutes, in combination with Section 120.54(5)(b)(4), Florida Statutes, Chapter 403 Florida Statutes, and Chapters 28 and 62, Florida Administrative Code, challenging the State of Florida Department of Environmental Protection ("DEP") Written Notice of Intent to Issue Air Permit including the Draft Permit and certain findings by the DEP in the Technical Evaluation & Preliminary Determination. In support of this Petition, CEMEX states:

Identification of the Parties

1. The Petitioner/Applicant is CEMEX Cement, Inc., 16301 Ponce De Leon Blvd, Brooksville, FL 34614-0849, telephone number 352 799-2011. For purposes of this proceeding, Petitioner's address, telephone and facsimile numbers are that of his undersigned attorneys.

2. The Respondent is Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, FL 32399-2400, telephone number 850-921-9528, and the Project Engineer is Alvaro Linero. The DEP is a component of the Executive Branch of the State of

Florida having powers articulated in Florida Statutes, and the DEP's Permitting Authority is the Air Permitting Program, Bureau of Air Regulation, Division of Air Resource Management.

Respondents File Number and County

3. DEP assigned CEMEX Cement Inc., BART Project, Draft Permit No. 0530010-30-AC. The project is located in Hernando County, Florida.

Receipt of Notice of Agency Action

4. On or about December 17, 2007 CEMEX received the DEP's Written Notice of Intent to Issue Air Permit, which included the DEP's Technical Evaluation and Preliminary Determination dated December 17, 2007, with proposed Draft Permit, and the Public Notice of Intent to Issue Air Permit. The timeline relating to this notice is described below.

Substantial Interests Affected

5. CEMEX through its consultant, Koogler & Associates, Inc., submitted an application to satisfy the requirements of Best Available Retrofit Technology (BART) pursuant to Rule 62-296.340, Florida Administrative Code ("FAC") for the eligible units at the subject facility. This application was submitted on or about January 31, 2007. The entire application package, requests for additional information, other documents, and the proposed Draft Permit, Technical Evaluation and Preliminary Determination, are attached and incorporated herein as Exhibit A.

6. CEMEX submitted its application to the DEP in accordance with the provisions of Chapter 403, Florida Statutes and Chapters 62-4, and 62-296, FAC.

7. On or about December 17, 2007 CEMEX received the DEP's Written Notice of Intent to Issue Air Permit, which included the DEP's Technical Evaluation and Preliminary Determination dated December 17, 2007, with proposed Draft Permit, and the Public Notice of

Intent to Issue Air Permit. CEMEX responded in writing to the Draft Permit expressing its concerns relating to some of the provisions of the Draft Permit and Technical Evaluation & Preliminary Determination ("Technical Evaluation") on January 4, 2008, and amended January 9, 2008, as illustrated as follows:

a. The DEP determined that, while the current nitrogen oxide (NOx) emission limit of kiln No. 1 (emission unit 003) is acceptable for BART, additional controls would be required for NOx control for kiln No. 1.

b. A specific condition in the draft permit established an SO₂ continuous emission monitoring system (CEMS) as the method of compliance, when the method of compliance should instead be reasonably determined from stack test data; and

c. The DEP determined a reduced limit of particulate matter emissions for the Cement Storage Silos Dust unit (emission unit 009) without basis in the Technical Evaluation or the Draft Permit.

8. The administrative hearing in this case will a *de novo* review of agency action with no presumption of correctness accorded to the proposed agency action. Florida Department of Transportation v. J.W.C., 396 So.2d 778 (Fla. 1st DCA 1981). When a petition for an administrative hearing is filed pursuant to Chapter 120, Florida Statutes, that petition, until a final order is entered, renders the agency decision non-final agency action. Capeletti Bros. v. State of Florida, Department of Transportation, 362 So.2d 346 (Fla. 1st DCA 1978); McDonald v. Department of Banking and Finance, 346 So.2d 569 (Fla. 1st DCA 1979). The goal of such a proceeding is to enable the agency to come to the correct decision after hearing factual and legal arguments from the substantially affected parties with respect to the agency's decision. Capeletti

at 348. See also, Ward v. Board of Trustees of the Internal Improvement Trust Fund, 651 So.2d 1256 (Fla. 4th DCA 1995).

9. The application was supported by sufficient documentation to the support the determination of BART compliance for each eligible source.

10. The facts to justify the basis for some limitation and restrictions contained in the Technical Evaluation and Draft Permit have not been articulated by DEP. Requiring CEMEX to comply with these type requirements in the DEP's Technical Evaluation and in the Draft Permit is factually, technically and legally unwarranted and unjustified and creates a serious economic and legal hardship for CEMEX.

Background

11. CEMEX operates the existing the existing Brooksville cement plant. The facility is located in Hernando County at 16301 Ponce De Leon Blvd, Brooksville, FL 34614.

12. The facility is a major source of hazardous air pollutants, a Title V major source of air pollution in accordance with Chapter 213, FAC, a major stationary source for the Prevention of Significant Deterioration of Air Quality pursuant to Rule 62-212.400, FAC, and the facility operates units subject to the Best Available Retrofit Technology ("BART") as provided in Rule 62-296.340, FAC, which requires a determination of the BART for each BART-eligible source as defined in 40 CFR 51.301.

13. On January 31, 2007, CEMEX submitted an application to satisfy the requirements of BART for the eligible units at the facility.

14. The application was deemed complete on August 30, 2007.

15. On December 17, 2007, the DEP issued, among other things, a Written Notice of Intent to Issue Air Permit, the Draft Permit, and the Technical Evaluation. The Technical

Evaluation summarizes the DEP's Bureau of Air Regulation's technical review of the application and the DEP's basis for the preliminary determination to issue a Draft Permit.

16. On January 4, 2007 and January 10, 2008, CEMEX submitted detailed, written comments regarding CEMEX concerns with the Draft Permit and Technical Evaluation. (A copy of which is attached as Exhibit "A".) However, there has been no official communication from DEP regarding the concerns of CEMEX.

17. On January 4, 2008, CEMEX submitted a Motion for Extension of Time to allow the DEP and CEMEX to address issues of concern to CEMEX relating to the Draft Permit and Technical Evaluation. On January 9, 2008, The DEP denied the extension. The DEP order denying the request allowed CEMEX until January 24, 2008 to file a petition in this matter. This petition is timely filed.

Disputed Issues of Material Fact

18. The following are the CEMEX's disputed issues of material fact. CEMEX reserves the right to amend and supplement these disputed issues of material fact, as necessary.

- a. Whether CEMEX is entitled to the permit that it applied for.
- b. Whether DEP's Bureau of Air Regulation's method to require additional NOx control on emission unit 003 is justified given the current NOx limitations are determined acceptable by DEP and CEMEX currently meets the limit using existing technology.
- c. Whether DEP's method of evaluating the CEMEX Application is different from the method used by the DEP in reviewing other BART permit applications.
- d. Whether the factual and technical basis provided in the DEP's Technical Evaluation to justify additional NOx control within of the authority to establish BART per 62-296.340, F.A.C.

- e. Whether any factual or technical basis exists to justify the installation of Selective Catalytic Reduction (SCR) to meet BART-acceptable limits.
- f. Whether the existing Selective Non-Catalytic Reduction (SNCR) system is capable of meeting BART-acceptable limits.
- g. Whether any factual or technical basis exists to justify the installation of in-direct firing to meet BART-acceptable limits.
- h. Whether the proposed benefits of Selective Catalytic Reduction (SCR) in the Technical Evaluation are not quantified and are unsubstantiated.
- i. Whether any factual or technical basis exists for DEP's specific condition in the draft permit for SO₂ method of compliance.
- j. Whether the proper method of determining SO₂ compliance with BART-derived emissions limitations should be from stack test data.
- k. Whether potential SO₂ emissions from this source are near the BART SO₂ de-minimis levels.
- l. Whether the additional SO₂ monitoring will not serve the purpose of the Regional Haze Rule (i.e. BART) to reduce visibility impact in Class I areas.
- m. Whether the additional SO₂ recordkeeping will not serve the purpose of the Regional Haze Rule (i.e. BART) to reduce visibility impact in Class I areas.
- n. Whether the additional SO₂ reporting will not serve the purpose of the Regional Haze Rule (i.e. BART) to reduce visibility impact in Class I areas.
- o. Whether the current SO₂ emission limit and control technology will allow this facility to meet BART-derived emission limits.

p. Whether the proposed particulate matter (PM) emission limits in the draft permit were established by DEP without a factual or technical basis.

q. Whether the proposed particulate matter (PM) emission limits established by DEP in the draft permit are arbitrary and capricious.

r. Whether the current technology for the control of particulate matter (PM) emissions is adequate for BART compliance.

s. Whether DEP utilized the proper methodology to review the application submitted by CEMEX.

t. Whether DEP is required to utilize a uniform methodology in reviewing petitioner's, and others', BART permit applications.

u. Whether the DEP properly determined BART in accordance with the criteria, procedures and guidelines contained in 40 CFR § 51.308(e).

v. Whether the DEP properly determined BART in accordance with the criteria, procedures and guidelines contained in 40 CFR Part 51, Appendix Y.

w. Whether the permit applicant provided reasonable assurances based on test results, pollution control equipment, and other information that the facility will not cause pollution in contravention of applicable laws, regulations, standards, and rules.

x. Whether the draft permit requires CEMEX to provide a higher degree of treatment than is necessary to effect the intent and purpose of Chapter 403, Fla. Stat.

Concise Statement of Ultimate Facts Alleged

19. CEMEX alleges the following ultimate facts which it contends warrant reversal or modification of the agency's proposed action:

a. No additional controls (SCR or in-direct firing) are required for kiln No. 1 (emission unit 003) to meet the current nitrogen oxide (NOx) emission limits or for any BART requirement.

b. No SO₂ continuous emission monitoring system (CEMS) is needed as the method of compliance; the method of compliance should instead be reasonably determined from stack test data.

c. The existing limit of particulate matter emissions for the Cement Storage Silos Dust unit (emission unit 009) in the current permit is appropriate; no factual or technical basis exists or was provided for a lower limit.

Laws Entitling Petitioner to Relief

20. The laws entitling CEMEX to relief in this action include Chapters 120 and 403, Fla. Stat., and Chapter 62, FAC, in combination with 40 CFR 51 and its associated appendices.

Request for Relief

WHEREFORE, the Petitioner respectfully requests the Department to forward this matter to the Division of Administrative Hearings, that the Division assign this petition to an Administrative Law Judge who, after conducting an appropriate proceeding, determines that the Department revise and issue the Technical Evaluation and Draft Permit to address the issues of concern identified by the applicant so that the proper BART determination is implemented, and any other relief as may be appropriate.

Respectfully submitted,



SEGUNDO J. FERNANDEZ

Florida Bar ID #218391

TIMOTHY P. ATKINSON


Florida Bar ID #982260

OERTEL, FERNANDEZ, COLE
& BRYANT, P.A.
Post Office Box 1110
Tallahassee, FL 32302-1110
(850) 521-0700
(850) 521-0720-facsimile
tatkinson@ohfc.com

Attorneys for Petitioner CEMEX Cement, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing document has been filed via Hand Delivery with the Agency Clerk, Florida Department of Environmental Protection, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399, and with the Office of General Counsel, Florida Department of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399, on this 24th day of January 2008.



Attorney

c: CEMEX Cement, Inc.
Max Lee, Ph.D., Koogler & Associates, Inc.

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

CEMEX CEMENT, INC.

Petitioner,

vs.

OGC CASE NO. 07-2731
PERMIT NO. 0530010-030-AC

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

Respondent.

**ORDER DENYING REQUEST FOR EXTENSION
OF TIME TO FILE PETITION FOR HEARING**

This cause has come before the State of Florida Department of Environmental Protection (Department) upon receipt of a request made by Petitioner, Cemex Cement, Inc. (Petitioner), to grant an extension of time to file a petition for administrative proceeding regarding the Intent to Issue Air Permit No. 0530010-030-AC, for its facility located in Hernando County, Florida. Due to Environmental Protection Agency deadlines imposed on the Department to submit a State Implementation Plan,

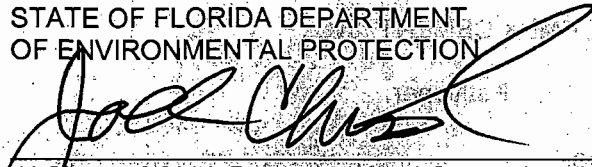
IT IS ORDERED:

The request for an extension of time to file a petition for administrative proceeding is DENIED. The Petitioner shall have fifteen (15) days from the date set forth in the certificate of service on the last page of this order to file a petition in this matter. The petition must be filed (received) in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

STATE ENGINEER - FDEP
TALLAHASSEE OFFICE - FDEP

DONE and ORDERED this 9th day of January, 2008, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


JACK CHISOLM, Deputy General Counsel
3900 Commonwealth Boulevard - MS 35
Tallahassee, Florida 32399-3000

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing, Order Denying Request for Extension of Time to File Petition for Hearing, was furnished via facsimile U.S. mail hand delivery ONLY, this 9th of January, 2008, to:

Max Lee, Ph. D., P.E.
Engineer of Record
4014 N.W. 13th Street
Gainesville, FL 32609

Facsimile: 352/377-7158

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


RONDA L. MOORE, Assistant General Counsel
3900 Commonwealth Boulevard - MS 35
Tallahassee, Florida 32399-3000
850-245-2193 facsimile 850-245-2302
Florida Bar No. 0676411

cc via electronic mail:

Trina Vielhauer, Chief - FDEP BAR
Alvaro Linero, Engineer - FDEP BAR

Gibson, Victoria

From: Moore, Ronni
Sent: Wednesday, January 09, 2008 2:26 PM
To: Gibson, Victoria
Subject: FW: Cemex - Order Denying Req Ext1-9-08.pdf
Attachments: Order Denying Req Ext1-9-08.pdf

FYI.

Ronda L. Moore
Assistant General Counsel



Please consider the environment before printing this email.

From: Lizotte, Ashley
Sent: Wednesday, January 09, 2008 1:56 PM
To: Vielhauer, Trina; Linero, Alvaro
Cc: Moore, Ronni
Subject: Order Denying Req Ext1-9-08.pdf

Gibson, Victoria

From: Linero, Alvaro
Sent: Tuesday, January 08, 2008 3:47 PM
To: Gibson, Victoria
Subject: RE: Denial on Cemex 0530010-030-AC

I don't think so, but I'll check.

From: Gibson, Victoria
Sent: Tuesday, January 08, 2008 3:46 PM
To: Linero, Alvaro
Subject: Denial on Cemex 0530010-030-AC

Hi,

Have you received a copy of the denial issued by OGC on this case yet?

Vickie

Victoria Gibson, Administrative Secretary for
Trina Vielhauer, Chief
Bureau of Air Regulation
Department of Air Resource Management
victoria.gibson@dep.state.fl.us
850-921-9504 fax 850-921-9533

Gibson, Victoria

From: Gibson, Victoria
Sent: Tuesday, January 08, 2008 4:15 PM
To: Moore, Ronni
Cc: Vielhauer, Trina; Linero, Alvaro
Subject: RE: Cemex 0530010-030-AC

Okay....thanks very much.

Vickie

From: Moore, Ronni
Sent: Tuesday, January 08, 2008 4:07 PM
To: Gibson, Victoria
Subject: RE: Cemex 0530010-030-AC

Yes. I'll walk the orders into Jack this afternoon or tomorrow. Lisa is out today.

Ronda L. Moore
Assistant General Counsel
P Please consider the environment before printing this email.

From: Gibson, Victoria
Sent: Tuesday, January 08, 2008 4:02 PM
To: Moore, Ronni
Subject: Cemex 0530010-030-AC

Hi,

Just wanted to check in and get the status on this denied extension request. Is it waiting to be signed?

Thank you.

Vickie

Victoria Gibson, Administrative Secretary for
Trina Vielhauer, Chief
Bureau of Air Regulation
Department of Air Resource Management
victoria.gibson@dep.state.fl.us
850-921-9504 fax 850-921-9533

Gibson, Victoria

From: Vielhauer, Trina
Sent: Thursday, January 03, 2008 1:26 PM
To: Moore, Ronni
Cc: Lizotte, Ashley; Linero, Alvaro; Gibson, Victoria
Subject: Re: Request for Extension of Time - 0530010-030-AC - Cemex Cement, Inc.

Please deny. Thanks.
Trina Vielhauer

Sent from my BlackBerry Wireless Handheld

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

From: Moore, Ronni
To: Vielhauer, Trina
Cc: Lizotte, Ashley
Sent: Thu Jan 03 13:14:47 2008
Subject: FW: Request for Extension of Time - 0530010-030-AC - Cemex Cement, Inc.

Hey Trina,

FYI. I haven't seen it yet, so it's not attached here, but Cemex sent in a req. for ext. of time to file a petition on their BART permit. I'll send it over when I have it. Please let me know what you'd like to do.

Thanks!
Ronni

Wanda L. Moore
Assistant General Counsel
P Please consider the environment before printing this email.

From: Brown, Lisa L.
Sent: Thursday, January 03, 2008 12:41 PM
To: Lizotte, Ashley
Cc: Moore, Ronni
Subject: FW: Request for Extension of Time - 0530010-030-AC - Cemex Cement, Inc.

This goes to Ronni. When it comes downstairs, grab it, change it in LCT, make file, & give to Ronni, please!

Lisa

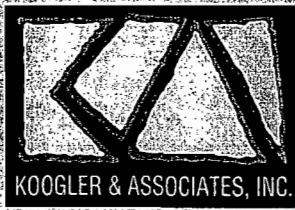
From: Crandall, Lea
Sent: Wednesday, January 02, 2008 12:29 PM
To: Chisolm, Jack; Brown, Lisa L.; Gibson, Victoria; Heron, Teresa
Subject: Request for Extension of Time - 0530010-030-AC - Cemex Cement, Inc.

FYI, a Request for Extension of Time was filed on 12/31/07 re: 0530010-030-AC - Cemex Cement, Inc.

Thanks,
Lea

Lea Crandall
Agency Clerk
Department of Environmental Protection

3900 Commonwealth Boulevard, MS 35
Tallahassee, FL 32399-3000
Phone: (850) 245-2212 SC: 205-2212
Fax: (850) 245-2303



4014 NW 13th STREET
GAINESVILLE, FL 32609-1923
352/377-5822 ■ FAX/377-7158

KA 521-06-06

December 28, 2007

RECEIVED

JAN 02 2008

BUREAU OF AIR REGULATION

Thomas M. Beason, Esquire
Office of General Counsel
Florida Department of
Environmental Protection
3900 Commonwealth Blvd., MS 35
Tallahassee, FL 32399-3000

Subject: Motion for Extension of Time to
File a Petition
Cemex Cement, Inc., Brooksville Cement Plant
Hernando County, Florida
DEP File No. 0530010-030-AC

Dear Mr. Beason:

Attached is a request for an extension of time to file for a hearing in accordance with Rule 28-106, FAC.

If you have any questions concerning this request, please do not hesitate to contact me.

Very truly yours,

KOOGLER & ASSOCIATES

Max Lee, Ph.D., P.E.

ML

Encl.

C: ✓ Alvaro Linero, FDEP
Jimmy L. Rabon and Charles Walz, Cemex Cement, Inc.

RECEIVED

JAN 02 2008

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

BUREAU OF AIR REGULATION

In the Matter of an Application
for Air Permit by

Cemex Cement, Inc.
16301 Ponce De Leon Boulevard
Brooksville, Florida

FDEP File Nos. 0530010-030-AC

Hernando County

MOTION FOR EXTENSION OF TIME

The Applicant, Cemex Cement, Inc., by and through its undersigned Engineer of Record and pursuant to Rule 28-106, FAC, requests the Secretary of FDEP to grant a 60-day extension of time in which to file a petition. This will allow submittal of additional information to FDEP on the permit application review and allow time to resolve issues of concern.

Dated the 28th day of December, 2007, in Gainesville, Alachua County, Florida.

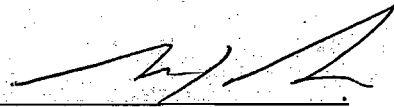
Koogler & Associates, Inc.



Max Lee, Ph.D., P.E.
Engineer of Record
Florida Registration No. 58091
4014 N.W. 13th Street
Gainesville, FL 32609
(352) 377-5822

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been furnished to Thomas Beason, Office of the General Counsel, 3900 Commonwealth Blvd., Tallahassee, Florida 32399-3000, and Mr. Alvaro Linero, FDEP, 2600 Blair Stone Road Tallahassee, FL 32399-2400, and Mr. Jimmy L. Rabon and Charles Walz, Cemex Cement, Inc. 16301 Ponce De Leon Boulevard, Brooksville, FL 34614-0849 by overnight courier, this 28th day of December, 2007.



Max Lee, Ph.D., P.E.
Florida Registration No. 58091

Gibson, Victoria

From: Gibson, Victoria
Sent: Wednesday, January 02, 2008 4:25 PM
To: Vielhauer, Trina
Subject: Cemex Cement

Importance: High

Hi,

Per AI, the only special circumstance for the extension of time is that they received the draft permit on Dec 17.

Vickie

Victoria Gibson, Administrative Secretary for
Trina Vielhauer, Chief
Bureau of Air Regulation
Department of Air Resource Management
victoria.gibson@dep.state.fl.us
850-921-9504 fax 850-921-9533

Gibson, Victoria

From: Gibson, Victoria
Sent: Wednesday, January 02, 2008 4:10 PM
To: Vielhauer, Trina
Subject: FW: Request for Extension of Time - 0530010-030-AC - Cemex Cement, Inc.

Attachments: Cemex Extension part 1.pdf; Cemex Extension part 2.pdf; Cemex Extension part 3.pdf

Hi,

I am sending you the extension of time request from Cemex in three parts. Sorry about that. The envelope looked like it had been dragged behind the postal truck a few times in the rain so it was hard to scan.

Also, see Al's note below and my response.



Cemex Extension
part 1.pdf (27...



Cemex Extension
part 2.pdf (26...



Cemex Extension
part 3.pdf (18...

Vickie

From: Gibson, Victoria
Sent: Wednesday, January 02, 2008 3:38 PM
To: Linero, Alvaro
Subject: RE: Request for Extension of Time - 0530010-030-AC - Cemex Cement, Inc.

Yes, she is. Trina wanted to give extensions on the BART projects only until 12/31 unless there was some special circumstance to be considered? Do you know of any for Cemex?

Vickie

From: Linero, Alvaro
Sent: Wednesday, January 02, 2008 3:33 PM
To: Gibson, Victoria
Subject: FW: Request for Extension of Time - 0530010-030-AC - Cemex Cement, Inc.

Vickie.

I believe Trina is making these decisions on draft BART permits.

Al.

From: Heron, Teresa
Sent: Wednesday, January 02, 2008 3:32 PM

To: Linero, Alvaro
Subject: FW: Request for Extension of Time - 0530010-030-AC - Cemex Cement, Inc.

Is CEMEX

From: Crandall, Lea
Sent: Wednesday, January 02, 2008 12:29 PM
To: Chisolm, Jack; Brown, Lisa L.; Gibson, Victoria; Heron, Teresa
Subject: Request for Extension of Time - 0530010-030-AC - Cemex Cement, Inc.

FYI, a Request for Extension of Time was filed on 12/31/07 re: 0530010-030-AC - Cemex Cement, Inc.

Thanks,
Lea

Lea Crandall

Agency Clerk
Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, FL 32399-3000
Phone: (850) 245-2212 SC: 205-2212
Fax: (850) 245-2303

Chronology of Activities

OGC Number **07 2731** **27 AC** District **SOUTHWEST** County **HERNANDO**
 Style of Case **CEMEX CEMENT, INC. VS. DEP**
 Program Area **AIR CONSTRUCT** Mode **PERMITTING**
 Lead Attorney **RONNI L MOORE** Status **CLOSED**
 Forum Name _____ Forum Case Number _____
 Permit Appl **0630010-030-AC** Final Order Number _____

Date *	Code	Activity Description
12/31/2007	REX1	RECEIVED FIRST REQUEST FOR EXTENSION OF TIME
01/02/2008	AA	ASSIGNED TO LEAD ATTORNEY JACK J CHISOLM
01/02/2008	ACO	ADMIN. CASE OPENED IN OGC
01/09/2008		ORDER DENYING REQUEST
01/24/2008	RPFH	PETITION FOR FORMAL HEARING RECEIVED
01/28/2008	AR	RE-ASSIGNED TO LEAD ATTORNEY RONNI L MOORE
04/01/2008		REQUEST FOR ALJ SENT
04/03/2008		INITIAL ORDER
04/10/2008	REX1	RECEIVED FIRST REQUEST FOR EXTENSION OF TIME
04/10/2008		TO RESPOND TO INITIAL ORDER

04/02/2009 17:25:24

Chronology of Activities

OGC Number: **07** **2731** **27** **AC** District: **SOUTHWEST** County: **HERNANDO**
 Style of Case: **CEMEX CEMENT, INC. VS. DEP**
 Program Area: **AIR CONSTRUCT** Mode: **PERMITTING**
 Lead Attorney: **RONNI** **L** **MOORE** Status: **CLOSED**
 Forum Name: Forum Case Number:
 Permit Appl: **0530010-030-AC** Final Order Number:

Date	Code	Activity Description
04/14/2008		CORRESPONDENCE WITH MR. FERNANDEZ
04/14/2008		PROPOSED SETTLEMENT ON BART PERMIT 0530010-030-AC
04/18/2008	REX1	RECEIVED FIRST REQUEST FOR EXTENSION OF TIME
04/18/2008		TO RESPOND TO INITIAL ORDER
04/21/2008		ORDER GRANTING EXTENSION OF TIME UNTIL 04/25/08
04/25/2008	REX2	RECEIVED SECOND REQUEST FOR EXTENSION OF TIME
04/25/2008		TO RESPOND TO INITIAL ORDER
04/28/2008		ORDER GRANTING EXTENSION OF TIME UNTIL 05/09/08
05/09/2008	REX3	RECEIVED THIRD REQUEST FOR EXTENSION OF TIME
05/14/2008		ORDER GRANTING EXTENSION OF TIME UNTIL 05/23/08

Chronology of Activities

OGC Number **07 2731** **27 AC** District **SOUTHWEST** County **HERNANDO**
 Style of Case **CEMEX CEMENT, INC. VS. DEP**
 Program Area **AIR CONSTRUCT** Mode **PERMITTING**
 Lead Attorney **RONNI** **L MOORE** Status **CLOSED**
 Forum Name _____ Forum Case Number _____
 Permit Appl **0530010-030-AC** Final Order Number _____

Date *	Code	Activity Description
04/29/2008		ORDER GRANTING EXTENSION OF TIME UNTIL 05/03/08
05/09/2008	REX3	RECEIVED THIRD REQUEST FOR EXTENSION OF TIME
05/14/2008		ORDER GRANTING EXTENSION OF TIME UNTIL 05/23/08
05/23/2008		CONSENTED MOTION FOR EXTENSION OF TIME SENT TO DOAH
05/27/2008		DOAH ORDER GRANTING MOTION UNTIL 05/30/08
05/30/2008		SETTLEMENT STIPULATION AND MOTION TO RELINQUISH JURISDICTION
06/03/2008		DOAH ORDER CLOSING FILE AND RELINQUISHING JURISDICTION
06/13/2008	CC	CASE CLOSED IN OGC
06/13/2008		TO BE ARCHIVED PER RONNI MOORE
06/25/2008		IN BOX 08-136