

Gibson, Victoria

From: Gibson, Victoria
Sent: Friday, August 19, 2005 3:28 PM
To: Light, Lisa
Subject: Archives

Hi,

Please send the following case to archives:

Florida Crushed Stone / Rinker 0530021-007-AV OGC # 05-0899

Thank you.

Vickie

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

Gibson, Victoria

From: Gibson, Victoria
Sent: Monday, August 08, 2005 2:28 PM
To: Light, Lisa
Subject: Florida Crushed Stone

Hi,

Florida Crushed Stone was issued a Denial with Leave to Amend on 7/12....however, this entry has not been made into LCT

0530021-007-AV OGC # 05-0899

Please add this entry for us into LCT.

Thanks.

Vickie

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

*done as of 7/12 on LCT
on 8/9 a so by Lisa*

*———
VJ*

Gibson, Victoria

From: Vielhauer, Trina
Sent: Wednesday, July 13, 2005 8:37 AM
To: Gibson, Victoria
Subject: FW: Florida Crushed Stone

Attachments: ORD - DENY Ext Request.pdf

This one's my fault. She sent it electronically and I didn't see you weren't on there.

From: Light, Lisa
Sent: Tuesday, July 12, 2005 12:11 PM
To: Beason, Doug; Vielhauer, Trina; Bradley, Christopher
Subject: RE: Florida Crushed Stone



ORD - DENY Ext
Request.pdf (40...

Lisa ☺

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

From: Beason, Doug
Sent: Tuesday, July 12, 2005 10:39 AM
To: Vielhauer, Trina; Light, Lisa; Bradley, Christopher
Subject: Florida Crushed Stone

Trina, I just signed the FCS order dismissing w/leave to amend.

Lisa, could you send Trina, Chris and me each a e-copy of the order. Thanks.

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

**FLORIDA CRUSHED STONE COMPANY,
A WHOLLY-OWNED SUBSIDIARY OF RINKER
MATERIALS CORPORATION
(BROOKSVILLE CEMENT PLANT),**

Petitioner,

v.

OGC Case No. 05-0899
FDEP File No. 0530021-007-AV

**DEPARTMENT OF
ENVIRONMENTAL PROTECTION,**

Respondent.

**ORDER DENYING REQUESTS FOR EXTENSION OF TIME TO FILE A SECTION 120.57(1),
FLORIDA STATUTES, PETITION FOR FORMAL ADMINISTRATIVE PROCEEDINGS
AND PETITIONS FOR FORMAL ADMINISTRATIVE HEARING**

On May 6, 2005, the Department of Environmental Protection (Department) received a request for an extension of time to file a Section 120.57(1), Florida Statutes, Petition for Formal Administrative Proceedings from the Petitioner, Florida Crushed Stone Company. The request for an extension of time cites to Rule 62-110.106(4), F.A.C., as authorization for the request. The request for an extension of time alleges that on April 15, 2005, the Petitioner submitted to the Department a request for confirmation that the August 2004 compliance test at its Brooksville Cement Plant of Dioxin/Furan emissions was properly noticed and performed in accordance with permit requirements. The request for an extension of time alleges that on April 25, 2005, the Petitioner received an e-mail, which the Petitioner contends reflects the Department's "determination to reject Florida Crushed Stone's August of 2004 compliance test of Dioxin/Furan emissions." This initial request sought an extension of time through June 20, 2005, so that the parties could meet to discuss the issues. A meeting was held but no resolution has yet been reached. On June 20, 2005, the Department received a second request

for an extension of time. The Petitioner seeks a further extension until July 20, 2005, to file a petition for formal administrative hearing to challenge whether the August 2004 compliance test was properly noticed and performed pursuant to 40 CFR 63, Subpart LLL.

Under Section 120.57, Florida Statutes, a party may petition for an administrative evidentiary hearing to contest any proposed final agency action where the proposed final agency action would determine that party's substantial interests and where there is a disputed issue of material fact that formed a basis for the proposed final agency action. The burden is on the Petitioner to demonstrate that the Department has taken final agency action that affects the Petitioner's substantial interests. The e-mail attached to the request for an extension of time is not an agency action as defined in Section 120.52(2), F.S., and is not subject to review under the Administrative Procedures Act. The e-mail is neither a rule nor an order, nor does Petitioner allege that it is of such a character. The e-mail does not, in and of itself, appear to affect the Petitioner's substantial interests. The e-mail attached to the request for an extension of time appears to reflect nothing more than preliminary, non-final agency action.

Based on the foregoing

IT IS ORDERED:

- A. The requests for an extension of time are DENIED.
- B. Petitioner requests that, should its request for extension of time be denied, the Department consider the pleadings to be Petitions for Formal Administrative Hearing. To the extent that the Requests for Extension are considered to be Petitions for Formal Administrative Hearing, they are insufficient, and are also DENIED.
- C. The Petitioner is allowed **fourteen (14)** days from the date set forth in the certificate of service on the last page of this order within which to file a petition for a Section 120.57(1), Florida Statutes, formal administrative proceeding. The petition must be filed (received) in the Office of General Counsel, Department of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, by 5:00 p.m.

The petition for administrative hearing must contain the following information:

(a) The Petitioner's name, address, and telephone number; the Department case identification number and the county in which the subject matter or activity is located;

(b) A statement of the specific facts which demonstrate that the Department has taken final agency action subject to review under Chapter 120, Florida Statutes.

(c) A statement of how and when the Petitioner received notice of the alleged final agency action;

(d) A statement of how each petitioner's substantial interests are affected by the alleged final agency action;

(e) A statement of the material facts disputed by the Petitioner;

(f) A statement of facts that the Petitioner contends warrant reversal or modification of the alleged final agency action;

(g) A statement of which rules or statutes the Petitioner contends require reversal or modification of the alleged final agency action; and

(h) A statement of the relief sought by the Petitioner, stating precisely the action that the Petitioner wants the Department to take.

D. Nothing herein precludes Petitioner from timely requesting an administrative hearing at such time as the Department takes Final Agency Action with respect to any asserted permit non-compliance issues.

E. This order constitutes final agency action of the Department unless a timely amended petition is filed in conformance with this order.

Any party to this order has the right to seek judicial review of the order under section 120.68 of the Florida Statutes by the filing of a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate

district court of appeal. The notice of appeal must be filed within thirty days after the date this order is filed with the clerk of the Department.

DONE and ORDERED this 11th day of July, 2005 in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

/s/ Gregory M. Munson

GREGORY M. MUNSON, General Counsel
3900 Commonwealth Boulevard, M.S. 35
Tallahassee, Florida 32399-3000

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

/s/ Kay Buchanan
CLERK

July 12, 2005
DATE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via
✓ U. S. Mail ✓ facsimile ___ ONLY, this 11th day of July, 2005, to:

Segundo J. Fernandez, Esq.
Timothy P. Atkinson, Esq.
Oertel, Fernandez, Cole and Bryant, P.A. facsimile: 850-521-0720
Post Office Box 1110
Tallahassee, Florida 32302-1110

/s/ Doug Beason

W. Douglas Beason, Assistant General Counsel
STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION
3900 Commonwealth Boulevard - Mail Station 35
Tallahassee, FL 32399-3000
850-245-2242 facsimile 850-245-2302

With an internal courtesy copy to:

Trina L. Vielhauer
Chief
Bureau of Air Regulation

via fax only - 850-921-9533

Gibson, Victoria

From: Light, Lisa
Sent: Tuesday, July 12, 2005 9:04 AM
To: Vielhauer, Trina; Beason, Doug
Cc: Gibson, Victoria
Subject: RE: Rinker/Florida Crushed Stone - Petition

Kay handed it to me just at 5 last night. Will go out this morning. Just needs Doug to sign the cert service.

Lisa ☺

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

From: Vielhauer, Trina
Sent: Tuesday, July 12, 2005 8:20 AM
To: Beason, Doug; Light, Lisa
Cc: Gibson, Victoria
Subject: FW: Rinker/Florida Crushed Stone - Petition

Checking in on the denial on FCS. The District is now asking about the status. Thanks.

From: Bradley, Christopher
Sent: Tuesday, July 12, 2005 8:10 AM
To: DeAngelo, Gregory; Vielhauer, Trina
Cc: Smolen, Joel
Subject: Rinker/Florida Crushed Stone - Petition

Trina and Greg:

Anything new on the Rinker/Florida Crushed Stone petition of agency action saga? Joel and I had a very productive meeting with Deborah late last week while updating her on FCS and where the District was regarding the alleged process alteration during testing. Bill Schroeder and Bob Soich are detailing the results of their inspections, which will be included in the facility file.

We also discussed Cemex and details of the penalty calculation with Deborah. The third draft has been completed and will be forwarded to Deborah, Larry Morgan and the two of you after being reviewed by Joel. At this point the number is at ~\$505K. We can talk in more detail after you have had an opportunity to review

If either of you have any questions, please call me.

Chris

Gibson, Victoria

From: Light, Lisa
Sent: Monday, July 11, 2005 9:15 AM
To: Beason, Doug; Vielhauer, Trina
Cc: Gibson, Victoria
Subject: RE: FCS denial

Unfortunately, yuppers. Since they added in the Ext Req that the pleading be treated as a petition, Jack said it is also a denial of the petitions, thus, it goes thru the cast of thousands before it gets upstairs to Greg. Actually, just 2, Jack (who made revisions) and Terry W. Be glad that was delegated and that the Secretary no longer signs, or it would route thru thousands.

As of thursday afternoon, friday morning, and friday afternoon, it was on Terry's desk for review. I've nagged and will continue to do so, but Syndie says he's working on some big final order. I'll continue to nag.

[Monday was a holiday, and I was on leave on tuesd., worked on it weds.]

Lisa ☺

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

From: Beason, Doug
Sent: Saturday, July 09, 2005 8:10 PM
To: Light, Lisa; Vielhauer, Trina
Cc: Gibson, Victoria
Subject: RE: FCS denial

What? I thought it would go out either Monday or Tuesday? An order denying a request for an extension of time requires four levels of review?

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

From: Light, Lisa
Sent: Fri 7/8/2005 1:20 PM
To: Vielhauer, Trina; Beason, Doug
Cc: Gibson, Victoria
Subject: RE: FCS denial

Nope. I made Jack's revisions and now it is back on his desk for final review before it goes upstairs for review by Terry Williams, before it gets to Greg for signature. I'm going to try to get it whisked thru, but once it leaves this floor, I can only do so much nagging or grovelling.

I'll rush it as best I can.

[Jack & I were at Kelly Ashey's funeral this morning]

7/11/2005

Lisa ☺

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

From: Vielhauer, Trina

Sent: Friday, July 08, 2005 1:17 PM

To: Light, Lisa; Beason, Doug

Cc: Gibson, Victoria

Subject: FCS denial

Do we have a signed FCS denial?

7/11/2005

Gibson, Victoria

From: Light, Lisa
Sent: Friday, July 08, 2005 1:20 PM
To: Vielhauer, Trina; Beason, Doug
Cc: Gibson, Victoria
Subject: RE: FCS denial

Nope. I made Jack's revisions and now it is back on his desk for final review before it goes upstairs for review by Terry Williams, before it gets to Greg for signature. I'm going to try to get it whisked thru, but once it leaves this floor, I can only do so much nagging or grovelling.

I'll rush it as best I can.

[Jack & I were at Kelly Ashey's funeral this morning]

Lisa ☺

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

From: Vielhauer, Trina
Sent: Friday, July 08, 2005 1:17 PM
To: Light, Lisa; Beason, Doug
Cc: Gibson, Victoria
Subject: FCS denial

Do we have a signed FCS denial?

Gibson, Victoria

From: Vielhauer, Trina
Sent: Thursday, July 07, 2005 12:53 PM
To: Light, Lisa; Beason, Doug; McGuire, Chris
Cc: Gibson, Victoria
Subject: RE: For your review: Denial on FCS

Great. Thank you! If you can get us a copy, we'll send it down to SWD.

From: Light, Lisa
Sent: Thursday, July 07, 2005 12:47 PM
To: Beason, Doug; Vielhauer, Trina; McGuire, Chris
Cc: Gibson, Victoria
Subject: RE: For your review: Denial on FCS

On Jack's desk - it will be signed shortly, and will go out this afternoon.

Lisa ☺

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

From: Beason, Doug
Sent: Thursday, July 07, 2005 12:46 PM
To: Vielhauer, Trina; McGuire, Chris; Light, Lisa
Cc: Gibson, Victoria
Subject: RE: For your review: Denial on FCS

Please let me know where we are. Thanks.

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

From: Vielhauer, Trina
Sent: Thu 7/7/2005 9:47 AM
To: McGuire, Chris; Light, Lisa
Cc: Beason, Doug; Gibson, Victoria
Subject: FW: For your review: Denial on FCS

Has this gone out yet? Thanks! If so, could you send us a copy?

From: Beason, Doug
Sent: Friday, July 01, 2005 12:44 PM
To: Vielhauer, Trina
Subject: RE: For your review: Denial on FCS

Trina, I have already drafted an order. I'm out of town all of next week but the order should be signed as early as Monday (Jack is out of town but Chris McGuire should be able to sign it).

<<FloridaCrushStone.doc>>

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

From: Vielhauer, Trina

Sent: Thursday, June 30, 2005 5:04 PM

To: Light, Lisa; Beason, Doug

Subject: FW: For your review: Denial on FCS

A draft of the FCS extension of time denial. Not sure of the wording so let me know if we need to change anything.

Thanks!

Trina

From: Gibson, Victoria

Sent: Thursday, June 30, 2005 2:11 PM

To: Vielhauer, Trina

Subject: For your review: Denial on FCS

<< File: DeniedFloridaCrushedStone.doc >>

Vickie

Victoria Gibson, Administrative Secretary for

Trina Vielhauer, Chief

DEP/Bureau of Air Regulation

victoria.gibson@dep.state.fl.us <<mailto:victoria.gibson@dep.state.fl.us>>

850-921-9504 fax 850-921-9533

Gibson, Victoria

From: Vielhauer, Trina
Sent: Thursday, July 07, 2005 10:15 AM
To: Light, Lisa
Cc: Gibson, Victoria
Subject: RE: For your review: Denial on FCS

Great. Thanks. That's an important one to SWD and DARM.

From: Light, Lisa
Sent: Thursday, July 07, 2005 10:09 AM
To: Vielhauer, Trina
Subject: RE: For your review: Denial on FCS

The office was closed monday, I was out tuesday, and spent yesterday catching up (plus Jack & Chris were both out). I'm working on it right now. Will go out TODAY. Promise.

Lisa ☺

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

From: Vielhauer, Trina
Sent: Thursday, July 07, 2005 9:47 AM
To: McGuire, Chris; Light, Lisa
Cc: Beason, Doug; Gibson, Victoria
Subject: FW: For your review: Denial on FCS

Has this gone out yet? Thanks! If so, could you send us a copy?

From: Beason, Doug
Sent: Friday, July 01, 2005 12:44 PM
To: Vielhauer, Trina
Subject: RE: For your review: Denial on FCS

Trina, I have already drafted an order. I'm out of town all of next week but the order should be signed as early as Monday (Jack is out of town but Chris McGuire should be able to sign it).

<< File: FloridaCrushStone.doc >>

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

From: Vielhauer, Trina
Sent: Thursday, June 30, 2005 5:04 PM
To: Light, Lisa; Beason, Doug
Subject: FW: For your review: Denial on FCS

A draft of the FCS extension of time denial. Not sure of the wording so let me know if we need to change anything.

Thanks!

Trina

From: Gibson, Victoria
Sent: Thursday, June 30, 2005 2:11 PM
To: Vielhauer, Trina
Subject: For your review: Denial on FCS

<< File: DeniedFloridaCrushedStone.doc >>

Vickie

Victoria Gibson, Administrative Secretary for
Trina Vielhauer, Chief
DEP/Bureau of Air Regulation
victoria.gibson@dep.state.fl.us <<mailto:victoria.gibson@dep.state.fl.us>>
<<<mailto:victoria.gibson@dep.state.fl.us>>>
850-921-9504 fax 850-921-9533

Gibson, Victoria

From: Vielhauer, Trina
Sent: Friday, July 01, 2005 3:10 PM
To: Gibson, Victoria
Subject: FW: Florida Crushed Stone

Attachments: FloridaCrushStone.doc

From: Beason, Doug
Sent: Friday, July 01, 2005 3:06 PM
To: Light, Lisa; Merritt, Betsy
Cc: Vielhauer, Trina
Subject: Florida Crushed Stone

Lisa, could you please add the certificate of service and any other boilerplate we may need to the attached order. I'll be out of town next week but I would appreciate it if we could get this out the door either Monday or Tuesday. Thanks.



FloridaCrushStone.doc (31 KB)

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

FLORIDA CRUSHED STONE COMPANY
Brooksville Cement Plant

Petitioner,
vs.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Respondent.

DRAFT

OGC File No. 05-0899
FDEP File No. 0530021-007-AV

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

This cause has come before the Florida Department of Environmental Protection (Department) on receipt of a request made by Petitioner, Florida Crushed Stone Company, to grant an extension of time to file a petition for administrative proceeding to allow more time to resolve issues of concern for its facility in Hernando County, Florida. Because the request fails to show good cause for the extension of time,

IT IS ORDERED:

The request for an extension of time to file a petition for administrative proceeding is **DENIED**. Petitioner shall have until **July 14, 2005** to file a petition for administrative hearing. The petition must be filed (received) in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, facsimile 850-245-2303, by **5:00pm on July 14, 2005**.

DONE and ORDERED this _____ day of July, 2005 in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

JACK CHISOLM, Deputy General Counsel
3900 Commonwealth Boulevard, M.S. 35
Tallahassee, Florida 32399-3000

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

CLERK

DATE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via
__ U. S. Mail __ facsimile __ ONLY, this ____ day of July, 2005, to:

Segundo J. Fernandez
Oertel, Fernandez, Cole & Bryant, P.A.
Post Office Box 1110
Tallahassee, FL 32302

facsimile: 850-521-0720

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

W. Douglas Beason, Assistant General Counsel
STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION
3900 Commonwealth Boulevard - Mail Station 35
Tallahassee, FL 32399-3000
850-245-2242 facsimile 850-245-2302

With an internal courtesy copy to:

Trina L. Vielhauer
Chief
Bureau of Air Regulation

via fax only - 850-921-9533

Gibson, Victoria

From: Gibson, Victoria
Sent: Thursday, June 30, 2005 2:11 PM
To: Vielhauer, Trina
Subject: For your review: Denial on FCS

Attachments: DeniedFloridaCrushedStone.doc



DeniedFloridaCrush
edStone.doc ...

Vickie

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

Gibson, Victoria

From: Vielhauer, Trina
Sent: Tuesday, June 28, 2005 8:55 AM
To: Smolen, Joel; Bradley, Christopher; DeAngelo, Gregory
Cc: Gibson, Victoria
Subject: FW: Florida Crushed Stone

From: Vielhauer, Trina
Sent: Tuesday, June 28, 2005 8:54 AM
To: Getzoff, Deborah; Cleary, James; Cooke, Michael
Cc: Beason, Doug
Subject: FW: Florida Crushed Stone

Deborah, Jim and Mike,

I would like to deny this request; however, I'd like to be sure you all are on board with that approach. I have not yet heard a response from anyone [Doug- maybe you've heard directly?]. This is now the second request for extension of time to petition on what we don't even consider to be agency action.

Thanks,

Trina

From: Vielhauer, Trina
Sent: Monday, June 20, 2005 5:10 PM
To: Beason, Doug
Cc: Getzoff, Deborah; Cooke, Michael; Cleary, James; DeAngelo, Gregory; Smolen, Joel; Bradley, Christopher; Gibson, Victoria
Subject: Florida Crushed Stone

FYI-

We just received another request for an extension of time on the Florida Crushed Stone MACT testing issue. [you may recall this is the challenge based upon Joel's email and voicemail indicating we would require the 30 month test by the end of May 2005]

Just letting everyone know, this is still out there and they've now renewed their request.

We did not act upon the last extension of time they filed. However, since we don't think there is even agency action- should we go ahead and deny this one [Mike, Deborah and Jim?]

Thanks,

Trina

12:45 pm



Florida Department of Environmental Protection

Jeb Bush
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Colleen M. Castille
Secretary

F A X T R A N S M I T T A L S H E E T

DATE: June 21, 2005

TO: James Cleary

PHONE: _____

FAX: sc 512-1037

FROM: Vickie Gibson

PHONE: sc 291-9504

Division of Air Resources Management

FAX: **850.922.6979**

RE: Florida Crushed Stone

CC: _____

Total number of pages including cover sheet: 5

Message

Copy for your files of the latest request for extension of time.

If there are any problems with this fax transmittal, please call the above phone number.

"Protect, Conserve, and Manage Florida's Environmental and Natural Resources"

Printed on recycled paper

12:43pm



Florida Department of Environmental Protection

Jeb Bush
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Colleen M. Castille
Secretary

F A X T R A N S M I T T A L S H E E T

DATE: 6/21/05

TO: Ms. Deborah Getzoff, Director
Southwest District

PHONE: _____

FAX: sc 512-1037

FROM: Vickie Gibson

PHONE: sc 291-9504

Division of Air Resources Management

FAX: **850.922.6979**

RE: Florida Crushed Stone

CC: _____

Total number of pages including cover sheet: 5

Message

Copy for your file of the latest request for extension of time.

If there are any problems with this fax transmittal, please call the above phone number.

"Protect, Conserve, and Manage Florida's Environmental and Natural Resources"

Printed on recycled paper



12:22pm

Florida Department of Environmental Protection

Jeb Bush
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Colleen M. Castille
Secretary

F A X T R A N S M I T T A L S H E E T

DATE: 6/21/05

TO: Joel Smolen and Chris Bradley

PHONE: _____

FAX: sc 512-1073

FROM: Vickie Gibson

PHONE: sc 291-9504

Division of Air Resources Management

FAX: **850.922.6979**

RE: Florida Crushed Stone

CC: _____

Total number of pages including cover sheet: 5

Message

Copy for your files of the latest request for extension of time.

If there are any problems with this fax transmittal, please call the above phone number.

"Protect, Conserve, and Manage Florida's Environmental and Natural Resources"

Printed on recycled paper

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN RE: FLORIDA CRUSHED STONE COMPANY,
A WHOLLY-OWNED SUBSIDIARY OF RINKER
MATERIALS CORPORATION; BROOKSVILLE
CEMENT PLANT; 40 CFR 63, SUBPART LLL
TESTING.

RECEIVED

JUN 20 2005

FDEP File No. 0530021-007-AV

BUREAU OF AIR REGULATION

Permittee.

**REQUEST FOR EXTENSION OF TIME TO FILE A SECTION
120.57(1), FLORIDA STATUTES, PETITION FOR FORMAL
ADMINISTRATIVE PROCEEDINGS**

Permittee, Florida Crushed Stone Company, a wholly-owned subsidiary of Rinker Materials Corporation, by and through its undersigned counsel, hereby files this its Request for Extension of Time to File a Petition for Formal Administrative Proceedings pursuant to Sections 120.569 and 120.57(1), Florida Statutes, and states:

On April 15, 2005, the permittee, through its agent, John Koogler, Ph.D., P.E., submitted to the Department a request for confirmation that the August of 2004 compliance test of Dioxin/Furan emissions (which test reestablishes temperature monitoring limits for the following 30-month period) pursuant to 40 CFR 63, Subpart LLL, was properly noticed and performed. See attached. This request for confirmation noted in detail the chronology of the testing notifications and communications between Florida Crushed Stone and the Florida Department of Environmental Protection ("Department"), and included copies of letters and emails.

In response, on or about Monday, April 25, the Department made its determination to reject Florida Crushed Stone's August of 2004 compliance test of Dioxin/Furan emissions performed pursuant to 40 CFR 63, Subpart LLL. The permittee, through its agent, John Koogler, Ph.D., P.E., received the Department's determination by email on Monday, April 25, 2005, see attached.

Extensions of time in which to file Petitions for Hearing are allowed under Chapter 120, Florida Statutes, and Rules 28-106.111(3) and 62-110.106(4), Florida Administrative Code. This request for a further extension of time is timely filed within the time period previously sought by permittee's May 6, 2005, extension request.

Subsequent to permittee's May 6, 2005, request for extension of time to file a petition, the applicant and the Department engaged in discussions and meetings regarding air compliance issues, including a meeting on May 31, 2005, in Tallahassee with the Tallahassee FDEP Bureau of Air Resources and the Tampa FDEP District staff. Later, on June 10, 2005, the applicant's agent, John Koogler, Ph.D., P.E. wrote the Department and provided a proposal to resolve all remaining issues. However, as of the date of this request, no response or acknowledgment from the Department has been received, either verbally or in writing. As such, and in an abundance of caution, the applicant seeks a further thirty (30) day extension of time in order to meet with the Department to review and resolve any issues related to the August 2004 compliance test.

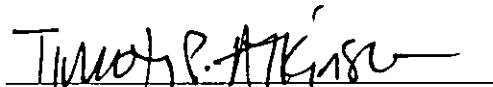
Pursuant to Rule 28-106.111(3), Florida Administrative Code, the undersigned certifies that he has attempted to consult with Doug Beason, Assistant General Counsel, FDEP, who previously stated that the Department declined to take a position on the previous (May 6, 2005) request for an extension of time to file a petition for a formal administrative

hearing in this matter.

Consequently, the applicant seeks additional time to file a Petition for Formal Administrative Proceeding up to and including July 20, 2005.

In an overabundance of caution, if for any reason this request is not granted or is otherwise disregarded, Florida Crushed Stone Company would specifically request, by means of this pleading, a formal administrative proceeding pursuant to Section 120.569 and 120.57(1), Florida Statutes, as Florida Crushed Stone Company specifically disputes that the the August of 2004 compliance test of Dioxin/Furan emissions (which test reestablishes temperature monitoring limits for the following 30-month period) pursuant to 40 CFR 63, Subpart LLL, was not properly noticed or performed.

Respectfully Submitted,



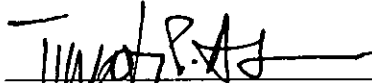
Segundo J. Fernandez
Florida Bar No. 218391
Timothy P. Atkinson
Florida Bar No. 982260

OERTEL, FERNANDEZ, COLE &
BRYANT, P.A.
301 South Bronough Street, Suite 500
Post Office Box 1110
Tallahassee, Florida 32302

Attorneys for Permittee, Florida Crushed Stone
Company, a Wholly-Owned Subsidiary of Rinker
Materials Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and a copy of the foregoing document was filed via HAND DELIVERY to Kathy Carter, Agency Clerk of the Florida Department of Environmental Protection, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399 and a copy was HAND DELIVERED to Trina Vielhauer, Florida Department of Environmental Protection, Air Division, 2600 Blairstone Road, MS-5500, Tallahassee, Florida 32399, and Doug Beason, Assistant General Counsel, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399, on this 20th day of June 2005.



ATTORNEY

F:\TPA\PLDS\FCS Rinker motion for extension of time to file petition 6.20.05 2658-1.wpd

Gibson, Victoria

From: Gibson, Victoria
Sent: Tuesday, June 21, 2005 12:48 PM
To: Vielhauer, Trina
Subject: RE: Florida Crushed Stone

Hi,

Hope your day is going smoothly.....

hard copies of just the latest request to Greg and Mike Cooke

fax copies of just the latest request to everyone else

Vickie

From: Vielhauer, Trina
Sent: Monday, June 20, 2005 5:10 PM
To: Beason, Doug
Cc: Getzoff, Deborah; Cooke, Michael; Cleary, James; DeAngelo, Gregory; Smolen, Joel; Bradley, Christopher; Gibson, Victoria
Subject: Florida Crushed Stone

FYI-

We just received another request for an extension of time on the Florida Crushed Stone MACT testing issue. [you may recall this is the challenge based upon Joel's email and voicemail indicating we would require the 30 month test by the end of May 2005]

Just letting everyone know, this is still out there and they've now renewed their request.

We did not act upon the last extension of time they filed. However, since we don't think there is even agency action- should we go ahead and deny this one [Mike, Deborah and Jim?]

Thanks,

Trina

Gibson, Victoria

From: Gibson, Victoria
Sent: Tuesday, June 21, 2005 11:03 AM
To: Light, Lisa
Subject: RE: FCS Req. for Ext.

Yes, we did receive a hard copy.

Thanks.

Vickie

From: Light, Lisa
Sent: Tuesday, June 21, 2005 11:01 AM
To: Gibson, Victoria
Subject: FCS Req. for Ext.

I see by the certificate of service on the latest Florida Crushed Stone that Trina received a copy by hand delivery yesterday, so I'm not sending one by fax.

Lisa ☺

Gibson, Victoria

From: Vielhauer, Trina
Sent: Monday, June 20, 2005 5:10 PM
To: Beason, Doug
Cc: Getzoff, Deborah; Cooke, Michael; Cleary, James; DeAngelo, Gregory; Smolen, Joel; Bradley, Christopher; Gibson, Victoria
Subject: Florida Crushed Stone

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Thanks,

Trina

6/21/2005

Gibson, Victoria

From: Vielhauer, Trina
Sent: Friday, May 13, 2005 10:54 AM
To: Gibson, Victoria
Subject: FW: extension request

FYI.

From: Carter, Kathy
Sent: Friday, May 13, 2005 10:49 AM
To: Vielhauer, Trina
Subject: RE: extension request

Trina

Don't have anything on extension 010 logged in.

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

From: Vielhauer, Trina
Sent: Friday, May 13, 2005 9:45 AM
To: Gibson, Victoria; Light, Lisa
Cc: Carter, Kathy
Subject: RE: extension request

I need an answer to this ASAP as I have the permit on Mike's desk right now.

From: Gibson, Victoria
Sent: Friday, May 13, 2005 9:37 AM
To: Light, Lisa
Cc: Carter, Kathy; Vielhauer, Trina
Subject: RE: extension request
Importance: High

Okay, thanks. But did you see anything on 0530021-010-AC Fla. Crushed Stone?

Vickie

From: Light, Lisa
Sent: Friday, May 13, 2005 9:18 AM
To: Gibson, Victoria
Cc: Vielhauer, Trina; Beason, Doug
Subject: FW: extension request

YIKES!!!!!!

I can't believe it....

Sorry about that. I looked, but didn't find anything.

Lisa ☺

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

From: Carter, Kathy

Sent: Thursday, May 12, 2005 4:43 PM
To: Mitchell, Bruce; Light, Lisa; Chisolm, Jack
Subject: extension request

OGC rec'd. a request for extension of time re: Florida Crushed Stone, DEP File No. 0530021-007-AV. This was received on 5/6/05. I apologize for the delay but I have been out of the office until today and it was not logged in due to LCT problems by my backup.

Lisa

Please let whoever needs to know about this. It will be in your mailbox.

Kathy

Office of General Counsel
Agency Clerk
245-2212
Kathy.Carter@dep.state.fl.us

Gibson, Victoria

From: Gibson, Victoria
Sent: Thursday, May 12, 2005 9:01 AM
To: Light, Lisa
Subject: Trina would like to know if Any Comments Received or Petitions for FCS

Importance: High

Hi,

Has OGC received any comments or petitions on Florida Crushed Stone 0530021-010-AC?

P.S. I also left this same message on your phone.

Vickie

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

Gibson, Victoria

From: Bull, Robert
Sent: Thursday, May 12, 2005 5:38 AM
To: Vielhauer, Trina
Cc: Koerner, Jeff; Pennington, Jim; Gibson, Victoria
Subject: RE: FCS- minor AC

Trina,

I have a final package completed for review. If we need to make any corrections, Jim has access to my file on the O drive if we need to make any changes before I get back. I have not received any comments from FCS on the AC.

From: Vielhauer, Trina
Sent: Wednesday, May 11, 2005 4:06 PM
To: Bull, Robert
Cc: Koerner, Jeff; Pennington, Jim; Gibson, Victoria
Subject: FCS- minor AC

I want to be sure that minor AC for FCS goes final and is out before the PSD permit goes out. I believe they indicated they published on 4/25 [Permit 0530021-010-AC]. Vickie, can you check with OGC to make sure they didn't receive a petition or comments? I think it was a 14 day petition and comment period so it should be good to go even late this week...or early next week since Bobby is going to be out.

9 AM - Lisa - message
9:01 - " - email

Gibson, Victoria

From: Vielhauer, Trina
Sent: Friday, May 06, 2005 3:35 PM
To: Gibson, Victoria; Koerner, Jeff; Bull, Robert
Subject: RE: Florida Crushed Stone

Don't do anything on that one. This relates to the email from SWD.

From: Gibson, Victoria
Sent: Friday, May 06, 2005 3:21 PM
To: Vielhauer, Trina; Koerner, Jeff; Bull, Robert
Subject: Florida Crushed Stone
Importance: High

Just received a hand delivered copy of the request for extension of time on Florida Crushed Stone 0530021-007-AV. Through and including June 20th.

Vickie

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

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN RE: FLORIDA CRUSHED STONE COMPANY,
A WHOLLY-OWNED SUBSIDIARY OF RINKER
MATERIALS CORPORATION; BROOKSVILLE
CEMENT PLANT; 40 CFR 63, SUBPART LLL
TESTING.

RECEIVED

MAY 06 2005

FDEP File No. 0530021-007-AV

BUREAU OF AIR REGULATION

Permittee.

**REQUEST FOR EXTENSION OF TIME TO FILE A SECTION
120.57(1), FLORIDA STATUTES, PETITION FOR FORMAL
ADMINISTRATIVE PROCEEDINGS**

Permittee, Florida Crushed Stone Company, a wholly-owned subsidiary of Rinker Materials Corporation, by and through its undersigned counsel, hereby files this its Request for Extension of Time to File a Petition for Formal Administrative Proceedings pursuant to Sections 120.569 and 120.57(1), Florida Statutes, and states:

On April 15, 2005, the permittee, through its agent, John Koogler, Ph.D., P.E., submitted to the Department a request for confirmation that the August of 2004 compliance test of Dioxin/Furan emissions (which test reestablishes temperature monitoring limits for the following 30-month period) pursuant to 40 CFR 63, Subpart LLL, was properly noticed and performed. See attached. This request for confirmation noted in detail the chronology of the testing notifications and communications between Florida Crushed Stone and the Florida Department of Environmental Protection ("Department"), and included copies of letters and emails.

In response, on or about Monday, April 25, the Department made its determination to reject Florida Crushed Stone's August of 2004 compliance test of Dioxin/Furan emissions performed pursuant to 40 CFR 63, Subpart LLL. The permittee, through its agent, John Koogler, Ph.D., P.E., received the Department's determination by email on Monday, April 25, 2005, see attached.

Extensions of time in which to file Petitions for Hearing are allowed under Chapter 120, Florida Statutes, and Rules 28-106.111(3) and 62-110.106(4), Florida Administrative Code. This request for extension of time is timely filed within fourteen days following the Department's determination and the permittee's receipt of the determination on Monday, April 25, 2005.

The applicant seeks a forty-five (45) day extension of time in order to meet with the Department to review and resolve any issues related to the August 2004 compliance test.

Pursuant to Rule 28-106.111(3), Florida Administrative Code, the undersigned certifies that he has consulted with Doug Beason, Assistant General Counsel, FDEP, who stated that the Department has declined to take a position on this request for an extension of time to file a petition for a formal administrative hearing.

Consequently, the applicant seeks additional time to file a Petition for Hearing up to and including June 20, 2005.

In an overabundance of caution, if for any reason this request is not granted or is otherwise disregarded, Florida Crushed Stone Company would specifically request, by means of this pleading, a formal administrative proceeding pursuant to Section 120.569 and 120.57(1), Florida Statutes, as Florida Crushed Stone Company specifically disputes that the the August of 2004 compliance test of Dioxin/Furan emissions (which test reestablishes

temperature monitoring limits for the following 30-month period) pursuant to 40 CFR 63, Subpart LLL, was not properly noticed or performed.

Respectfully Submitted,



Segundo J. Fernandez
Florida Bar No. 218391
Timothy P. Atkinson
Florida Bar No. 982260

OERTEL, FERNANDEZ, COLE &
BRYANT, P.A.
301 South Bronough Street, Suite 500
Post Office Box 1110
Tallahassee, Florida 32302

Attorneys for Permittee, Florida Crushed Stone
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Materials Corporation

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ATTORNEY

F:\TPA\PLDS\FCS Rinker motion for extension of time to file petition 2658-1.wpd

Chronology of Activities

OGC Number:	PS	0899	61	AV	District:	SOUTHWEST	County:	SUWANNEE
Style of Case:	FLORIDA CRUSHED STONE COMPANY V DEP							
Program Area:	AIR TITLE V				Mode:	ADMINISTRATIVE		
Lead Attorney:	DOUG	D	BEASON		Status:	CLOSED		
Forum Name:					Forum Case Number:			
Permit Appl:	0530021-007-AV				Final Order Number:			

Date *	Code	Activity Description
05/06/2005	AA	ASSIGNED TO LEAD ATTORNEY JACK J CHISOLM
05/06/2005	ACO	ADMIN. CASE OPENED IN OGC
05/06/2005	REX1	RECEIVED FIRST REQUEST FOR EXTENSION OF TIME
06/20/2005	REX2	RECEIVED SECOND REQUEST FOR EXTENSION OF TIME
07/12/2005		ORDER DISMISSING WITH LEAVE TO AMEND
07/12/2005		ORDER DENYING REQUEST FOR EXTENTION OF TIME
07/26/2005	AR	RE-ASSIGNED TO LEAD ATTORNEY DOUG D BEASON
08/19/2005	CC	CASE CLOSED IN OGC