

Department of Environmental Protection

Lawton Chiles
Governor

Southwest District
3804 Coconut Palm Drive
Tampa, Florida 33619

Virginia B. Wetherell
Secretary

NOTICE OF PERMIT REISSUANCE

CERTIFIED MAIL

Mr. Dennis Kenney, P.G.
Director of Technical Services
Florida Crushed Stone Co.
1616 South 14th Street
Leesburg, FL 34748

Dear Mr. Kenney:

Re: Air Pollution Construction Permit Reissuance Request
for the St. Catherine Mine Limestone Processing Plant,
Reference Permit No.: AC60-275105
ARMS Processing No.: 1190017-003-AC

On November 19, 1996, the Department received a request for the reissuance of the above referenced permit. As requested, the permit is reissued with the following change:

CHANGE EXPIRATION DATE FROM: 10/01/96

CHANGE EXPIRATION DATE TO: 11/30/97

Since a public notice was published for the original issuance of this permit and the conditions of the reissued permit have not changed, further public notice is not required.

Procedures for administrative hearing, mediation, and variance/waiver are described below.

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Administrative Hearing

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative hearing in accordance with sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. Petitions filed by the permit applicant or any of the parties listed below must be filed within fourteen days of receipt of this permit. A petitioner must mail a copy of the petition to the applicant at the address indicated above, at the time of filing.

The failure of any person to file a petition (or a request for mediation, as discussed below) within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57 of the Florida Statutes, or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-5.207 of the Florida Administrative Code.

A petition must contain the following:

- (a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Department Permit File Number, and the county in which the project is proposed;
- (b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action;
- (d) A statement of the material facts disputed by the petitioner, if any;
- (e) A statement of the facts that the petitioner contends warrant reversal or modification of the Department's action or proposed action;
- (f) A statement identifying the rules or statutes that the petitioner contends require reversal or modification of the Department's action or proposed action; and

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- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take with respect to the permit.

Because the administrative action or proposed action addressed in this hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice of intent. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation

A person whose substantial interests are affected by the Department's permitting decision, may elect to pursue mediation by asking all parties to the proceeding to agree to such mediation and by filing with the Department a request for mediation and the written agreement of all such parties to mediate the dispute. The request and agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, by the same deadline as set forth above for the filing of a petition.

A request for mediation must contain the following information:

- (a) The name, address, and telephone number of the person requesting mediation and that person's representative, if any;
- (b) A statement of the preliminary agency action;
- (c) A statement of the relief sought; and
- (d) Either an explanation of how the requester's substantial interests will be affected by the action or proposed action addressed in this permit or a statement clearly identifying the petition for hearing that the requester has already filed, and incorporating it by reference.

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The agreement to mediate must include the following:

- (a) The names, addresses, and telephone numbers of any persons who may attend the mediation;
- (b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;
- (c) The agreed allocation of the costs and fees associated with the mediation;
- (d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;
- (e) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;
- (f) The name of each party's representative who shall have authority to settle or recommend settlement; and
- (g) The signatures of all parties or their authorized representatives.

As provided in section 120.573 of the Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by sections 120.569 and 120.57 for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under sections 120.569 and 120.57 remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

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Variance/Waiver

In addition to the above, a person subject to regulation has a right to apply for a variance from or waiver of the requirements of particular rules, on certain conditions, under section 120.542 of the Florida Statutes. The relief provided by this state statute applies only to state rules, not statutes, and not to any federal regulatory requirements. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have in relation to this permit.

The application for a variance or waiver is made by filing a petition with the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. The petition must specify the following information:

- (a) The name, address, and telephone number of the petitioner;
- (b) The name, address, and telephone number of the attorney or qualified representative of the petitioner, if any;
- (c) Each rule or portion of a rule from which a variance or waiver is requested;
- (d) The citation to the statute underlying (implemented by) the rule identified in (c) above;
- (e) The type of action requested;
- (f) The specific facts that would justify a variance or waiver for the petitioner;
- (g) The reason why the variance or waiver would serve the purposes of the underlying statute (implemented by the rule); and
- (h) A statement whether the variance or waiver is permanent or temporary and, if temporary, a statement of the dates showing the duration of the variance or waiver requested.

The Department will grant a variance or waiver when the petition demonstrates both that the application of the rule would create a substantial hardship or violate principles of fairness, as each of those terms is defined in section 120.542(2) of the Florida Statutes, and that the purpose of the underlying statute will be or has been achieved by other means by the petitioner.

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Persons subject to regulation pursuant to any federally delegated or approved air program should be aware that Florida is specifically not authorized to issue variances or waivers from any requirements of any such federally delegated or approved program. The requirements of the program remain fully enforceable by the Administrator of EPA and by the person under the Clean Air Act unless and until Administrator separately approves any variance or waiver in accordance with the procedures of the federal program.

* * * * *

This permit is final and effective on the date filed with the Clerk of the Department unless a timely petition for an administrative hearing is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition and conforms to Rule 62-103.070, F.A.C., or a party requests mediation as an alternative remedy before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. Upon timely filing of a petition or a request for an extension of time to file the petition or a request for mediation, this permit will not be effective until further Order of the Department.

When the Order (Permit) is final, any party to the Order has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate procedure, with the Clerk of the Department in the Office of General Counsel, Douglas Building, Mail Station 35, 3900 Commonwealth Boulevard, 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 30 days from the date the Final Order is filed with the Clerk of the Department.

P 079 948 416

Steven C. Cullen, P.E.
Koogler & Associates
4014 NW 13th Street
Gainesville, FL 32609

PS Form 3800, June 1985

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| Postage | \$ |
| Certified Fee | |
| Special Delivery Fee | |
| Restricted Delivery Fee | |
| Return Receipt showing to whom and Date Delivered | |
| Return Receipt showing to whom, Date and Address of Delivery | |
| TOTAL Postage and Fees | \$ |
| Postmark or Date | |

P 079 948 415

Mr. Dennis Kenney, P.G.
Dir. of Technical Services
Florida Crushed Stone Co.
1616 South 14th Street
Leesburg, FL 34748


PS Form 3800, June 1985

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| Return Receipt showing to whom, Date, and Address of Delivery | |
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| Postmark or Date | |

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Executed in Tampa, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


W.C. Thomas, P.E.
District Air Administrator
Southwest District

cc: Steve C. Cullen, P.E., Koogler & Associates

CERTIFICATE OF SERVICE


The undersigned duly designated deputy clerk hereby certifies that this permit and all copies were mailed by certified mail before the close of business on 12/16/96 to the listed persons.

FILING AND ACKNOWLEDGMENT FILED, on this date, pursuant to Section 120.52(7), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Carol S. Moore 12/16/96
Clerk Date

MEMORANDUM

TO: Jerry Kissel, P.E. District Air Engineer

FROM: Eric Peterson, Air Permit Engineer 

DATE: December 9, 1996

SUBJECT: Florida Crushed Stone Co./St. Catherine Mine
Reissuance of Expired Construction Permit
Project: Limestone Processing Plant
County: Sumter
Permit No.: AC60-275105
ARMS Ref. No.: 1190017-003-AC

From the information below, I recommend the Notice of Permit Reissuance for Florida Crushed Stone Co. be signed.

On November 19, 1996, the Department received a request from Florida Crushed Stone Co. to reissue their construction permit for the St. Catherine Mine limestone processing plant. The original permit expired on 10/01/96. Reissuance of this permit will allow the permittee to complete required VE testing, reporting, and application for operating permit.

• The expiration date of the original permit is changed to 11/30/97. No other changes were made. Since a public notice was published for the original issuance of this permit and the conditions of the reissued permit have not changed, further public notice was not required.