

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

TARMAC OF FLORIDA, INC.,

Petitioner

vs.

DOAH CASE NO. 90-3852
OGC FILE NO. 90-0954

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION,

Respondent.

FINAL ORDER

On June 19, 1990, the State of Florida Department of Environmental Regulation ("Department") received a petition for administrative hearing from Petitioner, TARMAC OF FLORIDA, INC. The petition challenged the Department's decision to include specific conditions 3, 4, and 5 in Permit No. 13-169901 to convert their kiln no. 2 to coal firing at their facility in Medley in Dade County.

On September 28, 1990, the assigned Hearing Officer issued and Order Granting Consolidation of Edmund F. Benson v. Tarmac of Florida, Inc., & DER, OGC file no. 90-1364, DOAH file no. 90-5827 with the above-styled case. On November 21, 1990, after Petitioner failed to timely respond to the Order Granting Motion for More Definite Statement issued on September 26, 1990, the assigned Hearing Officer issued an Order which severed the Benson case from Tarmac of Florida, Inc. v. DER and closed that Division of Administrative Hearings file and relinquished jurisdiction back to the Department.

On December 3, 1990, after receiving a Stipulation for Dismissal, the assigned Hearing Officer issued an Order which closed the Division of Administrative Hearings file and relinquished jurisdiction back to the Department. (Exhibit 1) There being no further matters to consider,

IT IS ORDERED:

The petition is hereby dismissed and the Department's Southeast District Office is directed to issue Permit No. 13-169901 in accordance with the Stipulation. (Exhibit 2)

Any party to this 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, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; 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 this Order is filed with the clerk of the Department.

DONE AND ORDERED this 7 day of December, 1990, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

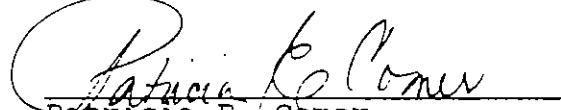


DALE TWACHTMANN
Secretary
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32399-2400

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing FINAL ORDER has been furnished by U.S. Mail to James S. Alves, Esq., Hopping Boyd Green & Sams, P.O. Box 6526, Tallahassee, FL 32314, on this 10th day of December 1990.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

A handwritten signature in cursive script, reading "Patricia E. Comer", is written over a horizontal line.

Patricia E. Comer
Assistant General Counsel

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32399-2400
Telephone: (904) 488-4805

2. The parties have agreed to a mutually acceptable resolution of the issues raised in Tarmac's Petition. The terms of this resolution are set forth below in subparagraphs a., b., c., d., and e.

a. The Department will alter the specific conditions set forth in PSD-FL-142 as follows:

3. Sulfur dioxide emissions from kiln No. 2 shall not exceed 1.2 lbs/MMBtu heat input from coal combustion, 7.8 lbs/ton of clinker produced, 195.0 lbs/hr, 768.7 tons/yr.

4. Sulfuric acid mist emissions from kiln No. 2 shall not exceed 0.036 lbs/MMBtu heat input from coal combustion, 0.23 lbs/ton of clinker produced, 5.86 lbs/hr, 23.06 tons/yr.

5. Nitrogen oxides emissions from kiln No. 2 shall not exceed 0.7 lbs/MMBtu heat input from coal combustion, 4.55 lbs/ton of clinker produced, 113.8 lbs/hr, 448.4 tons/yr.

* * *

11. Tarmac shall conduct a series of compliance tests for SO₂, H₂SO₄ mist, and NO_x emissions every two months for up to one year to allow representative sampling during different times of the year. The tests shall be performed in accordance with the compliance test methods specified in this permit. In the event that this series of tests results in SO₂ emissions in the range of 195 to 275 lbs/hr (up to 11 lbs/ton clinker, 1,084.1 TPY), NO_x emissions in the range of 113.8 to 169.3 lbs/hr (up to 6.77 lbs/ton clinker, 667.2 TPY), or H₂SO₄ mist emissions in the range of 5.86 to 8.25 lbs/hr (up to 0.23 lbs/ton clinker, 32.52 TPY), the Department, if requested by the Permittee, shall reevaluate BACT and consider upward adjustments of the emission limitations for the indicated constituents based on available data. During this testing and evaluation period, the Permittee shall make reasonable efforts to limit air emissions, and the

Department shall not initiate enforcement proceedings. Any upward adjustment of emission limitations pursuant to this paragraph shall be the subject of public notice in a local newspaper pursuant to Department rules. The Department's determination based on the data produced under this paragraph shall be a point of entry for purposes of Section 120.57, Florida Statutes.

b. Specific Condition No. 11, above, will be entirely new, and subsequent conditions shall be renumbered accordingly.

c. The Department will append to the Final BACT Determination accompanying PSD-FL-142 data reflecting the amount and percentage of SO₂ increment consumed in Class I and Class II areas in conjunction with the emission rates of 195 lbs/hr and 275 lbs/hr, respectively. This data is attached hereto as Attachment A.

d. The expiration date of PSD-FL-142 shall be June 30, 1992.

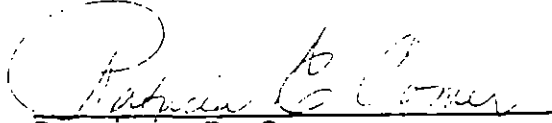
e. The referenced air permit, PSD-FL-142, shall be issued by the Department in final form, in accordance with subparagraphs a., b., c., and d., by no later than December 12, 1990.

WHEREFORE, Petitioner and Respondent respectfully request entry of an order incorporating this Stipulation for Dismissal and dismissing this case.

Respectfully submitted this _____ day of November, 1990.

DEPARTMENT OF ENVIRONMENTAL
REGULATION

HOPPING BOYD GREEN & SAMS



Patricia E. Comer
Assistant General Counsel
Twin Towers Office Building
2600 Blair Stone Road, #654
Tallahassee, FL 32399-2400
(904) 488-9730

James S. Alves
123 South Calhoun Street
Post Office Box 6526
Tallahassee, FL 32314
(904) 222-7500

Attorney for Respondent

Attorneys for Petitioner

Date November 26, 1990

Date _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Stipulation for Dismissal has been furnished by hand-delivery to Patricia E. Comer, Esquire, Department of Environmental Regulation, Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

Attorney

/kkm:TARMACdism

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

EDMUND F. BENSON,

Petitioner,

vs.

DOAH CASE NO. 90-5827

OGC CASE NO. 90-1364

TARMAC OF FLORIDA, INC.,
and STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION,

Respondents.

FINAL ORDER

On August 31, 1990, the State of Florida Department of Environmental Regulation ("Department") received a petition for administrative hearing from Petitioner, EDMUND F. BENSON. The petition challenged the Department's decision to issue Permit No. 13-169901 to TARMAC OF FLORIDA, INC., to convert their kiln no. 2 to coal firing at their facility in Medley in Dade County.

On September 28, 1990, the assigned Hearing Officer issued an Order Granting Consolidation of the above styled case with Tarmac of Florida, Inc. v. DER, OGC file no. 90-0954 and DOAH file no. 90-3852. On November 21, 1990, after Petitioner failed to timely respond to the Order Granting Motion for More Definite Statement issued on September 26, 1990, the assigned Hearing Officer issued an Order which severed the above styled case from Tarmac of Florida, Inc. v. DER and closed the Division of Administrative Hearings file and relinquished jurisdiction back to the Department. (Exhibit 1) There being no further matters to consider,

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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

TARMAC FLORIDA, INC.,

Petitioner,

v.

DEPARTMENT OF ENVIRONMENTAL
REGULATION,

Respondent.

Dept. of Environmental Reg.
Office of General Counsel

CASE NO. 90-3852

ORDER CLOSING FILE

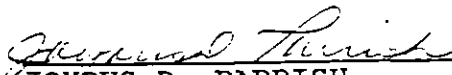
On November 26, 1990, the parties filed a Stipulation for Dismissal which represented that the parties have resolved the issues of the case and that hearing is, therefore, no longer necessary. That stipulation requests that their agreement be incorporated into the dismissal of this matter. Based upon the foregoing, it is

ORDERED:

1. Jurisdiction in this case is hereby relinquished to the Department for such further action as may be appropriate to complete the terms of the parties' stipulation.

2. The file of the Division of Administrative Hearings in the above-styled matter, Case no. 90-3852, is hereby CLOSED.

DONE AND ENTERED this 3 day of December, 1990, in Tallahassee, Leon County, Florida.


JOYOUS D. PARRISH
Hearing Officer
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550
(904)488-9675

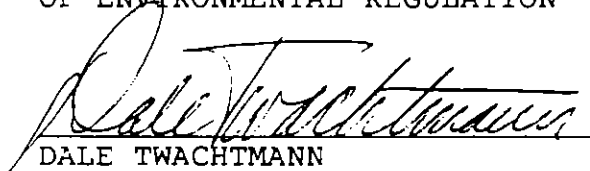
IT IS ORDERED:

The petition is hereby dismissed.

Any party to this 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, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; 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 this Order is filed with the clerk of the Department.

DONE AND ORDERED this 7 day of ~~November~~ ^{December}, 1990, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION



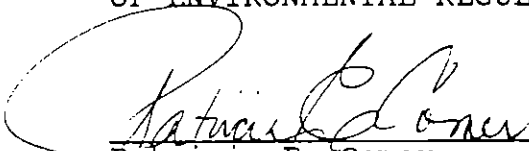
DALE TWACHTMANN
Secretary

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400
Telephone: (904)488-4805

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing FINAL ORDER has been furnished by U.S. Mail to Edmund F. Benson, 4001 Edmund F. Benson Blvd., Miami, FL 33178-2384, and to James S. Alves, Esq., Hopping Boyd Green & Sams, P.O. Box 6526, Tallahassee, FL 32314, on this 10th day of December, 1990.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION



Patricia E. Comer
Assistant General Counsel

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