

February 26, 1999

CERTIFIED MAIL P 343 639 715
RETURN RECEIPT REQUESTED

In the Matter of an Application for Permit by:

Mr. Scott Quaas
Environmental Manager
455 Fairway Drive
Deerfield Beach, Florida 33441

File No. 0250020-008-AC
Miami-Dade County
Project: New Dry Process Plant

INTENT TO ISSUE

Dear Mr. Quaas:

The Miami-Dade County Department Environmental Resources Management (DERM) gives notice of its intent to issue a permit (copy attached) for the proposed project as detailed in the application specified above, for the reasons stated below. A copy of the draft permit is attached.

The DERM will issue the permit with the attached conditions unless a response received in accordance with the following procedures results in a different decision or significant change of terms or conditions.

The DERM will accept written comments concerning the proposed permit issuance action for a period of 14 (fourteen) days from the date of publication of "PUBLIC NOTICE OF INTENT TO ISSUE CONSTRUCTION PERMIT." Written comments should be provided to the Air Facilities Section of the DERM, 33 SW 2nd Avenue, Suite 900, Miami, Florida 33130-1540. Any written comments filed shall be made available for public inspection. If written comments received result in a significant change in the proposed agency action, the DERM shall revise the proposed permit and require, if applicable, another Public Notice.

The Florida Department of Environmental Protection (FDEP) has permitting jurisdiction under Section 403.087, Florida Statutes (F.S.). However, in accordance with Section 403.182, F.S., the FDEP recognizes the DERM as the approved local air pollution control program of Miami-Dade County. Through a Specific Operating Agreement, the FDEP delegated to the DERM the authority to issue or deny permits for this type of air pollution source located in Miami-Dade County.

The applicant, Scott Quaas, applied on June 30, 1998, to the DERM for an air construction permit to convert its cement plant from the wet process to the dry process with preheater/calcliner/kiln, cooler, coal mill and raw mill. This facility is located at 11000 N.W. 121 Way in Miami, Miami-Dade County, Florida.

This permit is for the construction of a dry process portland cement plant with preheater/calcliner/kiln, cooler, coal mill and raw mill to replace existing kilns and coolers system, capable of producing up to 160 TPH, and approximately 1,240,000 tons per year (TPY) of clinker. A new finish mill will be constructed in addition to the existing mills.

Pollution control equipment consist of a common fabric filter system (baghouse) for particulate emissions from the kiln and cooler; absorption of sulfur compounds and metals into the product; combustion controls for volatile organic compounds (VOC) and carbon monoxide (CO); indirect firing, multiple burn points and other combustion controls for NOx; and baghouses for particulate emissions from other process emission units.

The DERM has permitting jurisdiction under **Section 403.087, Florida Statutes (F.S.)**, to issue or deny permits for air pollution sources. The project is not exempt from permitting procedures. The DERM has determined that an air pollution construction permit is required for the proposed work, and that the applicant's request for such a permit is acceptable.

The DERM intends to issue this permit based on **Florida Administrative Code (F.A.C.) Rules 62-4, and 62-204 through 62-297**, and the belief reasonable assurances have been provided to indicate the proposed project will not adversely impact air quality, and that the specific conditions in the draft permit limit the potential emissions of air pollutants to the amounts described above.

Pursuant to Section 403.815, F.S., and DEP Rule 62-103.150, F.A.C., you (the applicant) are required to publish at your own expense the enclosed Notice of Intent to Issue Permit. The notice shall be published one time only within 30 days in the legal ad section of a newspaper of general circulation in the area affected. For the purpose of this rule, "publication in a newspaper of general circulation in the area affected" means publication in a newspaper meeting the requirements of **Sections 50.011 and 50.031, F.S.**, in the county where the activity is to take place. Where there is more than one newspaper of general circulation in the county, the newspaper used must be one with significant circulation in the area that may be affected by the permit. If you are uncertain that a newspaper meets these requirements, please contact the Air Facilities Section of the DERM at the address listed below. The applicant shall provide proof of publication to the Air Facilities Section of the DERM, in person at 33 SW 2nd Avenue, Suite 900, Miami, Florida 33130-1540, or by mail to the DERM, 33 SW 2nd Avenue, Suite 900, Miami, Florida 33130-1540, within seven days of publication. The DERM will accept as proof of publication only the original notarized affidavit provided to the applicant by the newspaper. Failure to publish the notice and provide proof of publication within the allotted time may result in the denial of the permit.

The complete project file, including the application, all supporting information, and draft permit (exclusive of confidential records under **Section 403.111, F.S.**) is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Air Facilities Section of the DERM, 33 SW 2nd Avenue, Suite 900, Miami, Florida 33130-1540.

The DERM will issue the permit with the attached conditions unless a timely petition for an administrative hearing is filed pursuant to **sections 120.569 and 120.57 F.S.**, before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the proposed permitting decision may petition for an administrative proceeding (hearing) under **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 Code Enforcement Section of the DERM, 33 SW 2nd Avenue, Miami, Florida 33130-1540. Petitions filed by the permit applicant or any of the parties listed below must be filed within fourteen days of receipt of this notice of intent. Petitions filed by any persons other than those entitled to written notice under **section 120.60(3)** of the Florida Statutes must be filed within fourteen days of publication of the public notice or within fourteen days of receipt of this notice of intent, whichever occurs first. Under section 120.60(3), however, any person who asked the DERM for notice of agency action may file a petition within fourteen days of receipt of that notice, regardless of the date of publication. A petitioner shall 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 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 F.S.**, 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 28-106.205 of the Florida Administrative Code**.

A petition that disputes the material facts on which the DERM's action is based must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner, the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the

course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of how and when petitioner received notice of the agency action or proposed action;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and

(f) A demand for relief.

A petition that does not dispute the material facts upon which the DERM's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by rule 28-106.301

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

Mediation is not available in this proceeding.

In addition to the above, a person subject to regulation has a right to apply to the FDEP for a variance from or waiver of the requirements of particular rules, on certain conditions, under **section 120.542, F.S.** 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 the action proposed in this notice of intent.

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 FDEP 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), F.S.**, and that the purpose of the underlying statute will be or has been achieved by other means by the petitioner.

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 any person under the Clean Air Act unless and until the Administrator separately approves any variance or waiver in accordance with the procedures of the federal program.

Executed in Miami-Dade County, Florida.

DEPARTMENT OF ENVIRONMENTAL
RESOURCES MANAGEMENT

Ewart L. Anderson, P.E. Date
Air Facilities Section
Air Quality Management Division

ELA/mk

attachment

cc: David Buff, P.E., Golder Associates, Inc.
Isadore Goldman, P.E., Florida Department of Environment, West Palm Beach

FILING AND ACKNOWLEDGMENT: FILED, on this date, pursuant to § 120.52(7), F.S., with the designated DERM Clerk, receipt of which is hereby acknowledged.

Clerk

Date

MIAMI-DADE COUNTY
DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT
NOTICE OF INTENT TO ISSUE PERMIT

The Miami-Dade County Department of Environmental Resources Management gives notice of its intent to issue a permit to Scott Quaas of Tarmac America, Inc. for an air pollution source to convert its cement plant from the wet process to the dry process with preheater/calcliner/kiln, cooler, coal mill and raw mill. This facility is located at 11000 N.W. 121 Way in Miami, Miami-Dade County, Florida. The DERM's file number in this matter is 0250020-008-AC. The DERM intends to issue this permit based on **Florida Administrative Code (F.A.C.) Rules 62-4, and 62-204 through 62-297**, and the belief that reasonable assurances have been provided to indicate the proposed project will not adversely impact air quality.

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- (b) The name, address, and telephone number of the petitioner, the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of how and when petitioner received notice of the agency action or proposed action;
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The complete project file, including the application, all supporting information, and draft permit (exclusive of confidential records under **Section 403.111, F.S.**) is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Air Facilities Section of the DERM's, 33 SW 2nd Avenue, Suite 900, Miami, Florida 33130-1540.