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STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

DISTRICT ROUTING SLIP

To: Carlos Rivero-de-Aguilar

DATE: 5/14/97

CC To:

	PENSACOLA	NORTHWEST DISTRICT	
	Panama City	Northwest District Branch Office	
	Tallahassee	Northwest District Branch Office	
	Sopchoppy	Northwest District Satellite Office	
	TAMPA	SOUTHWEST DISTRICT	
	Punta Gorda	Southwest District Branch Office	
	Bartow	Southwest District Satellite Office	
	ORLANDO	CENTRAL DISTRICT	
	Melbourne	Central District Satellite Office	
	JACKSONVILLE	NORTHEAST DISTRICT	
	Gainesville	Northeast District Branch Office	
	FORT MYERS	SOUTH DISTRICT	
	Marathon	South District Branch Office	
	WEST PALM BEACH	SOUTHEAST DISTRICT	
	Port St. Lucie	Southeast District Branch Office	

Reply Optional
Date Due: _____

Reply Required
Date Due: _____

Info Only

Comments:

Re: Rinker Materials Corp.

File No. 5013-300512

From: Margare Monahan

Tel: SC 291-9682

for Jeffrey Brown, OGC

SC 291-9625

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

LOUIS MOLINA,
Petitioner,

vs.

OGC Case No. 97-805

RINKER MATERIALS CORPORATION
and the STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Respondent.

ORDER DISMISSING PETITION WITH LEAVE TO AMEND

On April 21, 1997, the Florida Department of Environmental Protection (Department) received a letter that could be considered as a request for administrative hearing from Petitioner Louis Molina. See Exhibit 1. The Petitioner challenged the Department's decision to issue a permit (Permit No. S013-300512), to construct and operate a solid waste management facility in Dade County. Florida Administrative Code Rule 62-103.155(2) and the notice provided to Petitioner explain what must be included in a petition for a formal administrative proceeding. Petitioner's letter petition does not comply with rule 62-103.155(2) and therefore does not contain sufficient information to determine whether a formal administrative proceeding should be held. Specifically, the request does not include:

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(a) A statement of how and when each Petitioner received notice of the Department's action or proposed action;

(b) A statement of the material facts (i.e., those facts upon which the Department's action or proposed action is based) disputed by Petitioner, if any;

(c) A statement of the facts that Petitioner contends warrant reversal or modification of the Department's action or proposed action; or

(d) A statement of which rules or statutes Petitioner contends require reversal or modification of the Department's action or proposed action.

Without this information, Petitioner's letter petition must be dismissed as required by Florida Administrative Code Rule 62-103.155. Therefore, IT IS ORDERED:

The petition for hearing filed by Louis Molina is DISMISSED. Such dismissal is without prejudice to Louis Molina to amend his petition to provide the information listed above. The amended 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, within 15 days from the date set forth in the certificate of service on the last page of this order. This order constitutes final agency action of the Department unless a timely amended petition is filed in conformance with this order.

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JAN 11 1970
OFFICE OF GENERAL COUNSEL
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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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 30 days from the date this order is filed with the clerk of the Department.

DONE AND ORDERED this 13th of May 1997 in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


F. PERRY ODOM
General Counsel

3900 Commonwealth Boulevard
Mail Station 35
Tallahassee, FL 32399-3000
Telephone: (904) 488-1554

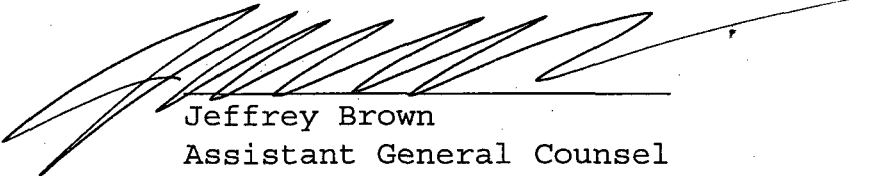
FILING AND ACKNOWLEDGMENT FILED, on this date, pursuant to S.120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.


CLERK

5/14/97
DATE

CERTIFICATE OF SERVICE

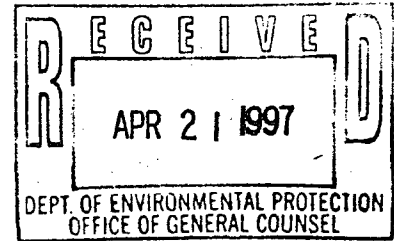
I CERTIFY that a true copy of the foregoing was mailed to Louis Molina, 10731 S.W. 117th Place, Miami, Florida 33196; to Peter Breton, P.O. Box 3588, West Palm Beach, Florida 33402-3888; to Geoff Smith, 204 S. Monroe Street, Tallahassee, Florida 32301 and to Michael D. Vardeman, Cement Division, Environmental Manager, Rinker Materials Corporation, 1200 N.W. 137th Avenue, Miami, Florida 33182 on this 11 day of May 1997.



Jeffrey Brown
Assistant General Counsel

3900 Commonwealth Boulevard
Mail Station 35
Tallahassee, FL 32399-3000
Telephone: (904) 488-9730

EXHIBIT "1"



April 17, 1997

Agency Clerk - Kathy Carter
Department of Environmental Protection
Office of General Counsel

RE: Issuance of Permit #6013-300512

Dear Ms. Carter:

It is my understanding that Rinker Materials has applied for a permit modification for their incinerator in Dade County which has me very concerned. I have two children that go to school less than five miles from their facility and I am worried about the effect on the air quality in the area.

I have heard that their permit requires that they test their emissions only once per year. I feel these emissions should be checked on a regular basis and without their knowing about the test being done ahead of time.

I think that all the material they bring in for treatment should be checked to make sure it will not be harmful to the air quality once it is burned. The material should also be tested after it is burned to make sure it is safe for the environment.

The facility is located in a very populated area and I am very concerned about how it will affect my children and other people.

I would like to know that my concerns have been addressed before any additional permits are issued.

Sincerely,

A handwritten signature in dark ink, appearing to read "Louis Molina".

Louis Molina
10731 S. W. 117th Place
Miami, FL 33196