



FLORIDA DEPARTMENT OF Environmental Protection

Southwest District Office
13051 North Telecom Parkway #101
Temple Terrace, Florida 33637-0926

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

March 12, 2021

Edgar Claudio Angeles Garza, Vice President
CEMEX

1501 Belvedere Rd
West Palm Beach, FL 33406
Edgar.angeles@cemex.com

SUBJECT: Department of Environmental Protection v. CEMEX Construction
Materials Florida, LLC
OGC File No.: 21-0259
CEMEX Brooksville South Cement Plant
Facility ID: 0530021

Mr. Garza:

The State of Florida Department of Environmental Protection ("Department") finds that CEMEX Construction Materials Florida, LLC ("Respondent") operated the abovementioned facility in a manner that did not meet the operation and/or monitoring requirements of a TV Facility, which is in violation of Chapters 62-210, 62-212, 62-701, and 62-296, Florida Administrative Code (F.A.C). Specifically, the Respondent conducted operations with the following violations present; (1) Alternative Fuel Material (Tire Fluff) stored within 1 foot of the edge of the Additive Storage Building (ASB); (2) Both water spray/dust suppression systems removed from each Clinker Recovery System on Lines 1 and 2 with no alternative dust mitigation agent or system observed in its place; (3) Excess particulate emissions noted from multiple emission points including the L22 Tunnel near Line 1, DB-100/running backside of the cooler on Line 2, the Access Road located East of Line 2 as well as an ongoing leak noted on the Finish Mill Bucket Elevator (EU054). Before sending this letter, the Department requested that the Respondent undertake certain actions to resolve the violations. These actions have since been completed. However, due to the nature of the violations, the Respondent remains subject to civil penalties. The Respondent is also responsible for costs incurred by the Department during the investigation of this matter.

The Department's Offer

Based on the violations described above, the Department is seeking \$14,000.00 in civil penalties and \$1,000.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$15,000.00. The civil penalties are apportioned as follows: \$6,000 for violation of chapter 403.121(4)(b); \$4,000.00 for (4) violations of chapter 403.121(5); and \$4,000 for violation of chapter 403.121(3)(e), Florida Statutes (F.S.).

Respondent's Acceptance

If you wish to accept this offer and fully resolve the enforcement matter pending against the Respondent, please sign this letter and return it to the Department at the Southwest District by **April 9, 2021**. The Department will then countersign it and file it with a designated clerk of the Department. Once the document is filed with the designated clerk, it will constitute a final order of the Department pursuant to Section 120.52(7), F.S. and will be effective unless a request for an administrative hearing is filed by a third party in accordance with Chapter 120, F.S. and the attached Notice of Rights.

By accepting this offer you, Edgar Claudio Angeles Garza:

- (1) certify that you are authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of Respondent;
- (2) acknowledge and waive Respondent's right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this offer, once final;
- (3) acknowledge and waive Respondent's right to an appeal pursuant to Section 120.68, F.S.

The Department acknowledges that the Respondent's acceptance of this offer does not constitute an admission of liability for the violation(s) referenced above.

Respondent's Performance

After signing and returning this document to the Department,

- (1) **Respondent must pay \$15,000.00 in full by May 7, 2021.**
- (2) Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/>

It will take a number of days after this order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

The Department may enforce the terms of this document, once final, and seek to collect monies owed pursuant to Sections 120.69 and 403.121, F.S.

Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondent nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this letter is clerked and becomes a final order of the Department, as explained above, the attached Notice of Rights will apply to parties, other than the Respondent, whose interests will be substantially affected.

Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

Please be aware that if the Respondent declines to respond to the Department's offer, the Department will assume that the Respondent is not interested in resolving the matter and will proceed accordingly.

If you have any questions, please contact Michael Lynch at (813)-470-5746 or at Michael.Lynch@FloridaDEP.gov.

Sincerely,

Mary E. Yeargan, P.G.
District Director
Southwest District

FOR THE RESPONDENT:

I, _____ [Edgar Claudio Angeles Garza], **HEREBY
ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: _____
[Signature]

Date: _____

Title: _____
[Type or Print]

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this ____ day of _____, 2021, in _____
County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Mary E. Yeargan, P.G.
District Director
Southwest District

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department
Clerk, receipt of which is hereby acknowledged.

Clerk

Date

Attachments: Notice of Rights

Final clerked copy furnished to:

Kelley Boatwright, DEP-SWD, Kelley.M.Boatwright@FloridaDEP.gov

Michael Lynch, DEP-SWD, Michael.Lynch@FloridaDEP.gov

Kaitlyn Newsome, DEP-SWD, Kaitlyn.Newsome@FloridaDEP.gov

Steve Morgan, FDEP-SWD, Steve.Morgan@FloridaDEP.gov

Erica Peck, FDEP-SWD, Erica.Peck@FloridaDEP.gov

Steven Tafuni, DEP - SWD, Steven.Tafuni@FloridaDEP.gov

Ann Seiler, DEP-Tallahassee, Ann.Seiler@FloridaDEP.gov

Greg Bridges, CEMEX, gregm.bridge@cemex.com

Zahid Paz, CEMEX, zahidiran.rangel@cemex.com

NOTICE OF RIGHTS

Persons who are not parties to this Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Order means that the Department's final action may be different from the position it has taken in the Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this Order;
- b) The name, address, and telephone number of each 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;
- c) An explanation of how the petitioner's substantial interests will be affected by the Order;
- d) A statement of when and how the petitioner received notice of the Order;
- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at the address indicated above. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under Sections 120.569 and 120.57, Florida Statutes. Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.