

CLARK COUNTY
DEPARTMENT OF AIR QUALITY MANAGEMENT
500 South Grand Central Parkway, Las Vegas, Nevada 89106
Part 70 Operating Permit
Number A00154
Issued in accordance with the
Clark County Air Quality Regulations (AQR)

ISSUED TO: ROYAL CEMENT COMPANY, INC.

FACILITY ADDRESS

P O Box 380
Logandale, Nevada 89021

FACILITY LOCATION:

5501 North Moapa Valley Blvd.
Logandale, Nevada

PART 70 OPERATING PERMIT BASED ON:

Royal Cement Part 70 Operating Permit Application, dated August 24, 1995, amended October 1, 1999, revised July 17, 2002 and the current Section 16 Operating Permit with Conditions for facility issued on July 7, 1994.

NATURE OF BUSINESS:

Portland Cement Manufacturing SIC Code - 3241

RESPONSIBLE OFFICIAL:

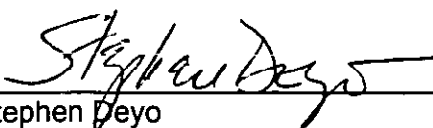
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**Part 70 Operating Permit Issuance Date: December 6, 2002 Part 70 Operating Permit
Expiration Date: December 6, 2007**

ISSUED BY: CLARK COUNTY DEPARTMENT OF AIR QUALITY MANAGEMENT



Mike Sword P. E., C.E.M.
Engineering Manager, DAQM



Stephen Deyo
Permitting Supervisor, DAQM

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PART I: STANDARD CONDITIONS

ALL CONDITIONS IN THIS PERMIT ARE FEDERALLY ENFORCEABLE UNLESS EXPLICITLY DENOTED OTHERWISE. *[Authority: AQR § 19.4.2, (Rev., 05/24/01)]*

- A-1. In the event of any changes in control or ownership of the facility, all conditions in this permit shall be binding on all subsequent owners and operators, upon execution of an administrative permit amendment. *[Authority: AQR § 19.5.4.1d., (Rev., 05/24/01)]*
- A-2. This operating permit has a fixed term not to exceed five (5) years. The Part 70 permit issuance date is the beginning of the permit term. *[Authority: AQR § 19.4.1.2, (Rev., 05/24/01)]*
- A-3. If any term or condition of this permit becomes invalid as a result of a challenge to a portion of this permit, the other terms and conditions of this permit shall not be affected and shall remain valid. *[Authority: AQR § 19.4.1.5, (Rev., 05/24/01)]*
- A-4. The permittee shall comply with all the terms and conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Air Act (Act) and is grounds for enforcement action; for permit termination, suspension, reopening, or amendment; or for denial of a permit renewal application. *[Authority: AQR § 19.4.1.6a., (Rev., 05/24/01)]*
- A-5. The permittee shall not use as a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the terms and conditions of this permit. *[Authority: AQR § 19.4.1.6b., (Rev., 05/24/01)]*
- A-6. The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for the permit modification, revocation, reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition. *[Authority: AQR § 19.4.1.6c., (Rev., 05/24/01)]*
- A-7. The permit does not convey any property rights of any sort, or any exclusive privilege. *[Authority: AQR § 19.4.1.6d., (Rev., 05/24/01)]*
- A-8. The permittee shall furnish to the Control Officer, within a reasonable time, any information that the Control Officer may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Control Officer copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the Administrator along with a claim of confidentiality. *[Authority: AQR § 19.4.1.6e., (Rev., 05/24/01)]*
- A-9. Requirements for compliance certification with terms and conditions contained in the operating permit, including emission limitations, standards, or work practices, are as follows:
 - a. compliance certifications shall be submitted annually in writing to the DAQM Compliance Supervisor and the Administrator at USEPA Region 9 by the permittee. A compliance certification is due on January 30 of each year;
 - b. compliance shall be determined in accordance with the requirements detailed in AQR § 19.4.1.3 (Rev., 05/24/01), record of periodic monitoring, or any creditable evidence; and
 - c. the compliance certification shall include:

- i. identification of each term or condition of the permit that is the basis of the certification,
 - ii. the source's compliance status and whether compliance was continuous or intermittent,
 - iii. methods used in determining the compliance status of the source currently and over the reporting period consistent with Subsection 19.4.1.3, and
 - iv. other specific information required by the Control Officer to determine the compliance status of the source. *[Authority: AQR § 19.4.3.5 (Rev., 05/24/01)]*
- A-10. The permittee shall not make "Modification" to the existing facility prior to receiving an Authority to Construct Certificate (ATC) from the Control Officer. *[Authority: AQR § 12.1.1.1, (Rev., 04/23/98)]*
- A-11. Any request for a Part 70 permit modification must comply with the requirements of AQR Section 12, AQR Section 15 and AQR Subsection 19.5.5. *[Authority: AQR § 19.4.1.8 (Rev., 05/24/01) AQR § 15.6 (Rev. 09/03/81) and AQR § 19.5.5.1, (Rev., 05/24/01)]*
- A-12. Application for permit renewal shall be deemed timely if a complete application is submitted not less than six and not more than 18 months prior to the date of permit expiration. *[Authority: AQR § 19.3.1.1c., (Rev., 05/24/01)]*
- A-13. Duty to supplement or correct application. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. *[Authority: AQR § 19.3.2, (Rev., 05/24/01)]*
- A-14. An emergency, as defined in Section 0 of the AQR (Rev., 04/23/99), can constitute an affirmative defense to actions brought for noncompliance with a technology based standard provided the properly signed contemporaneous operating logs or other relevant evidence demonstrate:
- a. an emergency occurred and that the permittee can identify the cause(s) of the emergency;
 - b. the permitted facility was properly operated during claimed emergency;
 - c. the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit during the period of the emergency; and
 - d. the permittee submitted notice of the emergency to the Control Officer within one (1) hour of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. *[Authority: AQR § 19.4.7.1, (Rev., 05/24/01)]*
- A-15. In any enforcement proceeding, the permittee has the burden of proof in seeking to establish the occurrence of an emergency. *[Authority: AQR § 19.4.7.2, (Rev., 05/24/01)]*
- A-16. The permittee may request confidential treatment of any records in accordance with Subsection 19.3.1.3 of the Department of Air Quality (DAQM) regulations. Emission data, standards or limitations, [all terms as defined in 40 CFR 2.301a.] or other information as

specified in 40CFR 2.301 shall not be considered eligible for confidential treatment. The Administrator and the Control Officer shall each retain the authority to determine whether information is eligible for confidential treatment on a case-by-case basis. *[Authority: AQR § 19.3.1.3, (Rev., 05/24/01) and 40CFR § 2.301]*

- A-17. Permit fees, including annual emission fee, shall be determined pursuant to Section 18 of the AQR (Rev., 04-27-97). Failure to pay Part 70 permit fees may result in citations or suspensions or revocation of the Part 70 Permit. *[Authority: AQR § 19.4.1.7, (Rev., 05/24/01)]*
- A-18. The permittee shall allow the Control Officer or an authorized representative, upon presentation of credentials:
- a. entry upon the permittee's premises where the Part 70 source is located or emissions-related activity is conducted or where records must be kept under the conditions of the permit;
 - b. access to inspect and copy, at reasonable times, any records that must be kept under conditions of the permit;
 - c. to inspect, at reasonable times, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and
 - d. to sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or applicable requirements. *[Authority: AQR §§ 4.3 (Rev., 12/19/96) & 19.4.3.2, (Rev., 05/24/01)]*
- A-19. The Control Officer at any time may require from any person, such information or analyses as will disclose the nature, extent, quantity or degree of air contaminants which are or may be discharged by such source, and type or nature of control equipment in use, and may require that such disclosures be certified by a professional engineer registered in the state. In addition to such report, the Control Officer may designate an authorized agent to make an independent study and report as to the nature, extent, quantity or degree of any air contaminants which are or may be discharged from source. An authorized agent so designated is authorized to inspect any article, machine, equipment, or other contrivance necessary to make the inspection and report. *[Authority: AQR § 4.4, (Rev., 12/19/96)]*
- A-20. The Control Officer may require any person responsible for emission of air contaminants to test or have tests performed to determine the emission of air contaminants from any source, whenever the Control Officer has reason to believe that an emission in excess of that allowed by the DAQM regulations is occurring. The Control Officer may specify testing methods to be used in accordance with good professional practice. The Control Officer may observe the testing. All tests shall be conducted by reputable, qualified personnel. The Control Officer shall be given a copy of the test results in writing and signed by the person responsible for the tests. *[Authority: AQR § 4.5, (Rev., 12/19/96)]*
- A-21. The Control Officer may conduct tests of emissions of air contaminants from any source. Upon request of the Control Officer, the person responsible for the source to be tested shall provide necessary holes in stacks or ducts and such other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants. *[Authority: AQR § 4.6, (Rev., 12/19/96)]*
- A-22. It is unlawful for any person:

- a. to hinder, obstruct, delay, resist, interfere with, or attempt to interfere with, the Control Officer, or any individual to whom authority has been duly delegated for the performance of any duty by the AQR;
 - b. to refuse to permit the Control Officer or any individual to whom such authority has been delegated, to administer or perform any function provided for herein, by refusing him/her at any reasonable time entrance to property or premises, except a private residence, containing equipment or open fire, discharging, or suspected and believed to be discharging, smoke, dust, gas, vapor, or odor into the open air; and
 - c. to fail to disclose information when requested under oath or otherwise, to the Control Officer or any individual to whom such authority has been delegated.
[Authority: AQR §§ 5.1, 5.1.1, 5.1.2, and 5.1.3 (Adopted prior to 06/28/79)]
- A-23. All persons owning, operating, or in control of any equipment or property who shall cause, permit, or participate in, any violation of the AQR shall be individually and collectively liable to any penalty or punishment imposed by and under the AQR. *[Authority: AQR § 8.1, (Rev., 12/28/78)]*
- A-24. It shall be a defense to any prosecution instituted against any employee of a person owning, operating, or conducting any business, industry, or operation that the acts complained of were done and performed pursuant to the orders and directions of such owner or operator, or his agent or representative, conducting such business, industry or operation. *[Authority: AQR § 8.2, (Rev., 12/28/78)]*
- A-25. Any person who violates any provision of this operating permit, including, but not limited to, any application requirement; any permit condition; any fee or filing requirement; any duty to allow or carry out inspection, entry or monitoring activities or any requirements by the Health District is guilty of a civil offense and shall pay civil penalty levied by the Hearing Board of not more than \$10,000. Each day of violation constitutes a separate offense. *[Authority: AQR § 9.1, (Rev., 11/16/00)]*
- A-26. Any person aggrieved by an order issued pursuant to condition A-25 is entitled to review as provided in Chapter 233B of Nevada Revised Statutes (NRS). *[Authority: AQR § 9.12, (Rev., 11/16/00)]*
- A-27. The permittee shall not build, erect, install or use any article, machine, equipment or other contrivance, the use of which, without resulting in a reduction in the total release of air contaminants to the atmosphere, reduces or conceals an emission which would otherwise constitute a violation of the AQR. This condition shall not apply to cases in NRS Nevada Revised Statutes or of AQR Section 40. *[Authority: AQR § 80.1, (Rev., 12/28/78) & 40 CFR § 60.12]*
- A-28. Any application form, report, or compliance certification submitted pursuant to this operating permit shall contain certification of truth, accuracy, and completeness by a responsible official. This certification and any other certification required shall state, "Based on the information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete." This statement shall be followed by the signature and printed name of the responsible official certifying compliance and the date of signature. *[Authority: AQR § 19.3.4, (Rev., 05/24/01)]*
- A-29. Permit expiration terminates the permittee's right to operate unless a timely and complete renewal application has been submitted consistent with AQR Subsection 19.5.2 and Subsection 19.3.1.1d. in which case the permit shall not expire and all terms and

conditions of the permit shall remain in effect until the renewal permit has been issued or denied. [Authority: AQR § 19.5.3.2, (Rev., 05/24/01)]

A-30. This permit can be reopened for any of the following conditions:

- a. additional applicable requirements under the Act become applicable with a remaining permit term of three (3) or more years. Such a reopening shall be completed within eighteen (18) months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions have been extended;
- b. additional requirements under the Acid Rain Program, including nitrogen dioxide requirements, that become applicable to an affected source;
- c. the Control Officer or EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit;
- d. the Control Officer or EPA determines that the permit must be revised or revoked to assure compliance with the applicable requirements; and
- e. in addition to a. through d. above, the Control Officer may reopen a permit of his own accord or in response to a written request from any person if he/she determines that there are grounds for reopening and such grounds arose entirely after the deadline set forth in AQR § 7.10.2.3. [Authority: AQR § 19.5.6.1, (Rev., 05/24/01)]

A-31. Proceedings to reopen and issue a permit shall follow the same procedure that apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. [Authority: AQR § 19.5.6.2, (Rev., 05/24/01)]

A-32. Any person operating any article, machine, equipment, or other contrivance for which registration is required by the AQR, shall permit the Control Officer, or his agent to install and maintain sampling and testing facilities as are reasonable and necessary for measurement of emissions of air contaminants. Where existing facilities for sampling or testing are inadequate, the Control Officer may, in writing, require the registrant to provide and maintain access to, such facilities as are reasonably necessary for sampling and testing purposes by the Control Officer, or his/her authorized agent, in order to secure information that will disclose the nature, extent, quantity, or degree of air contaminants discharged into the atmosphere from the article, machine, equipment, or other contrivance described in the Registration form or records. [Authority: AQR § 24.1, (Adopted prior to 06/28/79)]

A-33. Minor permit modifications shall be subject to the following requirements pursuant to Section 12:

- a. Growth allowance in Prevention of Significant Deterioration (PSD) Areas; and
- b. Public notice requirements. [Authority: AQR § 19.5.5.3c., (Rev., 05/24/01)]

A-34. An Application for minor permit modification shall meet the requirements of Subsection 19.3.3 and shall include the following:

- a. a description of the change, the emissions resulting from the change; and any new applicable requirements that will apply if the change occurs;

- b. the permittee's suggested draft permit conditions;
- c. certification by a responsible official, consistent with Subsection 19.3.4, that the proposed modification meets the criteria for use of minor permit modification procedures; and
- d. three (3) copies of completed forms for the Control Officer to submit to the EPA and affected States. *[Authority: AQR § 19.5.5.3e., (Rev., 05/24/01)]*

A-35. A request for a major Part 70 permit modification {(19.5.5.2a., (Rev., 05/24/01))} shall meet the following requirements of Section 19:

- a. submit a Part 70 permit application pursuant to Subsection 19.3;
- b. undergo public participation pursuant to Subsection 19.5.8; and
- c. undergo review by EPA and affected states pursuant to Subsection 19.6. *[Authority: AQR§ 19.5.5.5a., (Rev., 05/24/01)]*

A-36. Administrative Permit amendment is defined as a permit revision that:

- a. corrects typographical errors;
- b. changes the name, address and/or phone number of any person identified in the Part 70 permit or similar minor administrative changes at the source;
- c. requires more frequent monitoring or reporting by the permittee;
- d. allows for a change in ownership or operational control of a source where the Control Officer determines that no other change in the permit is necessary, provided the Control Officer receives a copy of a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittee; and
- e. allows any other type of change which the EPA determines as part of the approved Part 70 program that is similar to administrative permit amendments listed in Subsection 19.5.4.1, Paragraphs (a-d). *[Authority: AQR § 19.5.4.1, (Rev., 05/24/01)]*

PART II: EMISSION UNITS

The stationary source covered by this Part 70 Operating Permit (OP) is defined to consist of the emission units and associated appurtenances summarized in Table2-A-1. [Authority: AQR §§ 19.2.1 and 19.3.3.3, (Rev. 05/24/01)]

Table II-A-1: Emission Units and PM₁₀ PTE

EU #	DESCRIPTION	SCC No.	Prod. ton/hr	Prod. ton/yr	Emission Factor	Control Eff. %	PTE lb/hr	PTE ton/yr
A	RAW MATERIAL PREP			293,000				
A01	Limestone Mining/Quarrying	30502008	600	293,000	0.08 lb/ton	81.50	8.88	2.17
A02	Bulk Materials Stockpile - 2 acres	30500708	NA	NA	1.66 lb/acre-day	-----	0.14	0.61
A03	Dump Hopper	30500625	600	293,000	0.01 lb/ton	0.00	6.00	1.47
A04	Hammer Mill w/ baghouse	30500613	600	293,000	0.13 lb/ton (after control)	-----	78.00	19.05
A05	Belt Conveyor	30500624	600	293,000	0.01 lb/ton	0.00	6.00	1.47
A06	Belt Conveyor w/ baghouse	30500624	600	293,000	0.01 lb/ton	99.00	0.06	0.01
A07	Ty Rock Vibrating Screen w/ baghouse	30500611	600	293,000	0.08 lb/ton	99.00	0.48	0.12
A08	Radial Stacker	30500612	600	293,000	0.04 lb/ton	81.50	4.44	1.08
A09	Limestone Stockpile- 1 acres	30500608	NA	NA	1.66 lb/acre-day	-----	0.07	0.30
A10	Gypsum Stockpile-1 acres	30500608	NA	NA	1.66 lb/acre-day	-----	0.07	0.30
A11	Coal Stockpile-1 acres	30500608	NA	NA	1.66 lb/acre-day	-----	0.07	0.30
A12	Clinker Stockpile-1 acres	30500615	NA	NA	1.66 lb/acre-day	-----	0.07	0.30
A13	Iron Ore/Millscale Stockpile 1 acres	30500608	NA	NA	1.66 lb/acre-day	-----	0.07	0.30
	SUB-TOTAL (A01-A13)						104.35	27.48
	B Numbers Not Used							

EU #	DESCRIPTION	SCC No.	Prod. ton/hr	Prod. ton/yr	Emission Factor	Control Eff. %	PTE lb/hr	PTE ton/yr
C01	No. 1 Silo, Koin Feed w/ baghouse	30500612	35	266,000	0.15 lb/ton	99.00	0.05	0.20
C02	No. 2 Silo, Koin Feed w/ baghouse	30500612	35	266,000	0.15 lb/ton	99.00	0.05	0.20
C03	Weigh Belt	30500628	35	266,000	0.01 lb/ton	99.00	<0.01	0.01
C04	No. 3 Silo Gypsum w/ baghouse	30500612	1.75	12,800	0.15 lb/ton	99.00	<0.01	0.01
C05	Weigh Belt	30500628	1.75	12,800	0.01 lb/ton	99.00	<0.01	<0.01
C06	No. 4 Silo Limestone /baghouse	30500612	45	293,000	0.15 lb/ton	99.00	0.07	0.22
C07	No. 5 Silo Limestone /baghouse	30500612	45	293,000	0.15 lb/ton	99.00	0.07	0.22
C08	Weigh Belt (2 units)	30500628	45	293,000	0.01 lb/ton	99.00	<0.01	0.01
C09	No. 6 Silo Iron Ore/Millscale	30500612	2	17,000	0.15 lb/ton	99.00	<0.01	0.01
C10	Weigh Belt	30500628	2	17,000	0.01 lb/ton	99.00	<0.01	<0.01
C11	No. 7 Silo Bottom Ash /baghouse	30500612	13.75	120,450	0.15 lb/ton	99.00	0.02	0.09
C12	Weigh Belt	30500628	13.75	120,450	0.01 lb/ton	99.00	<0.01	0.01
C11	Dump Hopper (Raw Mill)	30500628	150	333,756	0.15 lb/ton	99.00	0.23	0.25
C12	Belt conveyor	30500627	150	333,756	0.01 lb/ton	99.00	0.02	0.02
C13	Dump Hopper (Finish Mill)	30500628	150	268,800	0.15 lb/ton	99.00	0.23	0.20
C14	Belt Conveyor	30500627	150	268,800	0.01 lb/ton	99.00	0.02	0.01
C15	Bucket Elevator (Coal)	30500612	150	60,000	0.01 lb/ton	----	1.50	0.30
C16	Coal Dump Hopper	30500618	150	60,000	0.01 lb/ton	-----	1.50	0.30
	SUB-TOTAL (C01-C16)						3.83	2.08
D	RAW MILL							
D01	Bucket Elevator w/ baghouse	30500618	55	333,756	0.01 lb/ton	99.00	0.01	0.02
D02	Air Separator w/ baghouse	30500626	55	333,756	0.032(after control)	---	1.76	5.34
D03	Raw Mill (Ball Mill) w/ baghouse	30500699	55	333,756	0.012(after control)	-----	0.66	2.00
D04	Airslide	30500612	55	333,756	0.019(after control)	-----	1.05	3.17
D05	Conveyor Belts to Raw Mill	30500612	55	333,756	0.019(after control)	-----	1.05	3.17
	SUB-TOTAL (D01-D05)						4.53	13.70
E	COAL MILL-Dust Collector & fan							
E01	Rotary Feeder	30500624	7	60,000	0.0031(after control)	----	0.02	0.09
E02	Coal Mill	30500613	7	60,000	0.012(after control)	-----	0.08	0.36
E03	Coal Mill Weigh Belt	30500628	7	60,000	0.019(after control)	-----	0.13	0.57
	SUB-TOTAL (E01-E03)						0.23	1.02
F	CLINKER COOLING							
F01	Clinker Cooler w/ baghouse	30500614	24.6	215,272	0.13 (after control)	-----	3.20	14.00
F02	Screw Conveyor (3 units)	30500612	24.6	215,272	0.000029(after control)	-----	<0.01	<0.01

EU #	DESCRIPTION	SCC No.	Prod. ton/hr	Prod. ton/yr	Emission Factor	PTE lb/hr	PTE ton/yr
I	COMBUSTION UNIT						
101	Rotary Kiln (11' Dia. X 375') with Electrostatic Precipitator	30500606	38.10	333,756			
	PM ₁₀				0.1945 (after control)	7.41	32.46
	NOx				125 lbs/hr	125	480.0
	CO				8.30 lb/hr	8.30	32.00
	SO ₂				0.6741 lb/ton cement	16.6	63.90
	VOC				0.028 lb/ton cement	1.07	5.48
	HAPs				various	2.28	6.55
	TCS				various	4.83	13.21
	TOTAL PM₁₀					127.90	104.90

PART III: SPECIAL CONDITIONS

The special conditions applicable to this facility were derived from locally applicable Clark County Air Quality Regulations (AQR), State Implementation Plan (SIP) approved AQR, applicable New Source Performance Standards (NSPS) including 40 CFR 60 Subpart A, Subpart F and Subpart OOO, applicable NESHAPS, including 40 CFR 63 Subpart LLL and permits issued by Clark County Department of Air Quality Management (DAQM) New Source Review (NSR). The most recent permit issued by DAQM is a July 7, 1994 Section 16 Operating Permit with Agreement to Conditions.

A. EMISSION LIMITATIONS

A-1. Total actual and allowable emissions per year from the entire facility shall not exceed the calculated Potential to Emit (PTE) listed in Table 3-A-1 and 3-A-2.
 [Authority: Section 16 Operating Permit with Agreement to Conditions A-154 (07/07/94)]

Table 3-A-1: Facility PTE

	PM ₁₀	CO	NO _x	SO ₂	HAPs	TCS	VOC	Pb
lbs/hour	120.49	8.30	125.0	16.6	2.28	4.83	1.07	0.006
tons/year	104.90	32.0	480.0	63.9	6.55	13.25	5.48	0.022

Table 3-A-2: Tons Per Year Estimated Hazardous Air Pollutant Emissions (HAPs), VOC and TCS Based upon Kiln Throughput of 333,756 tons per year and AP-42 Factors

Pollutant	HAP	VOC	TCS
Ammonia			1.04
Ammonium			11.40
Benzene	0.52	0.52	
Carbon disulfide	0.02		
Chloride	0.35		
Dibutyl phthalate	0.01	0.01	
Dichloro Methane	0.08	0.08	
Formaldehyde	0.05	0.05	
Hydrogen Chloride	5.09		
Lead	0.12		
Manganese	0.09		
Mercury	0.04		
Methylene Chloride	0.06	0.06	
Methyl Ethyl Ketone	0.01	0.01	
Naphthalene	0.02	0.02	
Nickel	0.03		
Nitric Acid			0.77
Phenol	0.02	0.02	
Toluene	0.02	0.02	
Xylene, mixed isomers	0.02	0.02	
Organic Compounds		4.67	
	6.55	5.48	13.21

- A-2. Nitrogen Oxides (NO_x) emissions calculated as NO₂ from the rotary kiln stack shall not exceed 5.3 pounds per ton of cement produced, nor shall NO_x emissions exceed 125 pounds per hour as measured by the NO_x CEMS. *[Authority: Section 16 Operating Permit with Agreement to Conditions A-154 Condition D-8 (07/07/94) and Part 70 Compliance Plan]*
- A-3. Sulfur dioxide (SO₂) emissions from the rotary kiln stack shall not exceed 0.7 pounds per ton of cement produced. *[Authority: Section 16 Operating Permit with Agreement to Conditions A-154 Condition D-9 (07/07/94)]*
- A-4. The PM₁₀ emission rate from the kiln stack shall not exceed 0.3 pounds per ton of kiln feed. *[Authority: Section 16 Operating Permit with Agreement to Conditions A-154, Condition D-2 (07/07/94)]*
- A-5. The opacity of emissions from the kiln stack shall not exceed 10 percent for more than three minutes in any 60 minute period. The stack opacity monitoring and alarm system must be in operation at all times the kiln is in operation. *[Authority: Section 16 Operating Permit with Agreement to Conditions A-154 (07/07/94)]*
- A-6. At no time shall the kiln discharge gases contain dioxins and furans in excess of:
- a) 0.20 ng per dscm corrected to seven percent oxygen; or
 - b) 0.40 ng per dscm when the average of the performance test run average temperatures at the inlet to the particulate matter control device is 204 degrees Celsius or less. *[Authority: 40 CFR 63 (Subpart LLL) § 63.1343 (3)]*
- A-7. The owner/operator of a kiln or raw mill subject to a dioxins/furans emissions limitation under §63.1343 must operate the kiln or raw mill such that the temperature of the gas at the inlet to the particulate matter control device does not exceed the applicable temperature limit, which is the average of the performance test run average temperatures. *[Authority: 40 CFR 63 (Subpart LLL) § 63.1344]*
- A-8. PM₁₀ emissions from the clinker cooler exhaust stack shall not exceed 0.10 pound per ton of kiln feed. *[Authority: Section 16 Operating Permit with Agreement to Conditions A-154 Condition D-4 (07/07/94)]*
- A-9. The opacity of emissions from the clinker cooler stack shall not exceed 10 percent for more than three minutes in any 60 minute period. The stack opacity monitoring and alarm system must be in operation at all times the clinker cooler is in operation. *[Authority: Section 16 Operating Permit with Agreement to Conditions A-154 Condition D-5 (07/07/94)]*

B OPERATIONAL AND PRODUCTION LIMITATIONS

- B-1. The amount of limestone mined, crushed and screened shall be limited to 6,400 tons per day, and 293,000 tons per year. *[Authority: Section 16 Operating Permit with Agreement to Conditions A-154 Condition C-1 (07/07/94)]*
- B-2. The raw material feed to the kiln shall be limited to 38.1 tons per hour. *[Authority: Section 16 Operating Permit with Agreement to Conditions A-154 Condition C-2 (07/07/94)]*
- B-3. The facility may operate 24 hours per day, 7 days per week, 52 weeks per year, 8,760 hours per year. *[Authority: Implied as no restrictions in Section 16 Operating Permit with Agreement to Conditions A-154 (07/07/94)]*
- B-4. The emergency generator may operate up to 200 hours per year for testing and maintenance purposes only. Emergency use as defined in AQR Section 0 is excluded from emission reporting or limitations. Only low sulfur diesel fuel, containing 0.05 percent sulfur or less by weight, shall be used in this unit. *[Authority: AQR Section 29.1 (12/16/93) and Section 12, local enforcement only. Not included in original OP; treated as insignificant under Part 70]*
- B-5. The sulfur content of the coal used for firing the kiln shall not exceed 0.8 percent by weight. The chloride content of the coal shall not exceed 0.25 percent by weight. *[Authority: Section 16 Operating Permit with Agreement to Conditions A-154, Condition D-7 (07/07/94)]*

C Compliance Monitoring Plan

- C-1. A Continuous Opacity Monitoring System (COMS) with alarm shall be installed and set to ten percent opacity at the clinker cooler exhaust and the kiln exhaust stacks and shall be used at all times during process operations. *[Authority: Section 16 Operating Permit with Agreement to Conditions A-154, Condition D-2 (07/07/94) and Authority to construct A550 Condition 13 (08/09/85)]*
- C-2. The COMS charts shall be submitted with the monthly report to DAQM. *[Authority: AQR § 4.4 (05/24/01) and § 19.4.1.3(3) (05/24/01)]*
- C-3. To demonstrate continuous, direct compliance with the hourly and annual emission limitations for the rotary kiln for NO_x and for SO₂ as specified in Part II, Table 3-A-1 and Part III, Table 3-A-2, the owner/operator shall install, calibrate, maintain, operate, and certify Continuous Emissions Monitoring Systems (CEMS) for NO_x and SO₂ on the kiln stack in accordance with 40 CFR 75, Appendix B and 40 CFR 60.13, both adopted by DAQM as local CEMS operational requirements. Each system shall include an automated data acquisition and handling system. Each CEMS shall monitor and record at least the following data:
 - a. exhaust gas concentration of NO_x and SO₂;
 - b. exhaust gas flow rate;
 - c. hours of operation;
 - d. three-hour rolling averages for both NO_x, and SO₂ concentrations;

- e. hourly and quarterly accumulated mass emissions of NO_x, and SO₂; and
- f. hours of downtime of the CEMS.

[Authority: AQR § 19.4.1.3-all and 40 CFR 70.6 (3)c (11/05/01)]

- C-4. The NO_x CEMS shall have an alarm set point of 120 pounds per hour to signal the mandatory start of urea injection. Urea injection shall commence when the NO_x CEMS reading reaches 120 pounds per hour, and shall be injected according to Royal Cement's proprietary formula, but at no time may NO_x emissions exceed 125 pounds per hour.
- C-5. At least once per calendar year a composite sample of the coal taken from the plant shall be tested for sulfur and chloride content at the owner/operator's expense. If different suppliers of coal are utilized during the calendar year, a test must be made of each supplier's coal for sulfur and chloride content. If the sulfur content exceeds 0.8 percent or if the chloride content exceeds 0.25 percent, the owner/operator shall immediately notify the Department of Air Quality Management. *[Authority: AQR Section 19.4.1.3-all, 40 CFR 70.6 (3)c (11/05/01) and Section 16 Operating Permit with Agreement to Conditions A-154, Condition D-7 (07/07/94)]*
- C-6. To demonstrate compliance with the hourly and annual emission limitations for VOC and PM₁₀, specified in Part III, Tables 3-A-1 and 3-A-2 of this permit, the owner/operator shall calculate emissions based upon throughput and emission rates from the last performance test of the specific unit. *[Authority: §19.4.1.3 (Rev. 05/24/01) of AQR and 40 CFR §70.6]*
- C-7. For each calendar quarter, each CEMS shall not have total "out-of-control" periods, as defined in 40 CFR 75, Appendix B, greater than two percent of the time that the kiln is in operation. *[Authority: §19.4.1.3 (Rev. 05/24/01) of AQR and 40 CFR §70.6]*
- C-8. Required periodic audit procedures and QA/QC procedures for CEMS shall conform to the provisions of 40 CFR 60.
- C-9. Relative Accuracy Test Audits (RATA) of the NO_x and SO₂ CEMS shall be conducted at least annually as required in 40 CFR 60 and 40 CFR 75, adopted by DAQM as operational requirements for CEMS.
- C-10. Any emissions greater than the NO_x and SO₂ emissions limits in Tables 3-A-1 and 3-A-2 and as determined by the NO_x and SO₂ CEMS shall be considered a violation of the emission limits of this permit and may result in enforcement action. However, compliant CEMS data does not preclude the use of other credible evidence in determining or showing compliance. *[Authority: §19.4.1.3 (Rev. 05/24/01) of AQR, and 40 CFR §70.6]*
- C-11. Particulate emissions from all conveyors, transfer points and silos not discharging to stockpiles shall be controlled by enclosure and/or covering and connected to fabric filter baghouses. Fugitive dust emissions from any grinding mill, screening equipment, conveyor, transfer point, bagging equipment or storage bin shall not exhibit greater than 10 percent opacity for a period or periods aggregating more than three minutes in any 60 minute period. *[Authority: Section 16 Operating Permit with Agreement to Conditions A-154 Condition D-11 (07/07/94)].*

- C-12. Stockpiles, mining activity and all transfer points to stockpiles must be controlled to a minimum of 81.5 percent using water, palliatives or mechanical controls. *[Authority: Section 16 Operating Permit with Agreement to Conditions A-154 Condition D-11 (07/07/94)].*
- C-13. At least once each week for a minimum period of 30 minutes, a Method 9 trained (not necessarily EPA Method 9 certified) individual shall visually survey the plant for any sources of visible fugitive emissions that leave the plant site boundaries. If sources of visible emissions are identified, the owner/operator shall immediately take corrective actions to minimize the fugitive emissions and within 24 hours shall conduct or have conducted an EPA Method 9 test. The owner/operator shall maintain records of the fugitive emissions surveys, any exceedances of opacity limits, cause and corrective action taken including the results of the required Method 9 test.

D ONSITE AMBIENT MONITORING

This facility currently conducts onsite ambient air monitoring for NO₂, SO₂ and PM₁₀. DAQM has determined the following two conditions shall apply to Royal Cement, Inc. as federally enforceable conditions in this Part 70 Operating Permit pursuant to §19.4.3.1 and the requirement to insure compliance with emission limitations.

- D-1. Following the recertification of the COMs by DAQM, Royal Cement may permanently discontinue the operation of the PM₁₀ onsite ambient air monitor.
- D-2. Following the certification of the NO_x and SO₂ CEMs to be installed on the kiln stack, Royal Cement may permanently discontinue operation of the onsite ambient air monitors for NO₂ and SO₂.

E RECORD KEEPING

- E-1. All records and logs required by this document, including requirements specified in 40 CFR 60 Subpart A, Subpart F and Subpart OOO shall be kept by the owner/operator and made available to DAQM for inspection immediately upon request.
- E-2. All records and logs, or a copy thereof, shall be kept on site for a minimum of five (5) years from the date the measurement or data was entered. *[Authority: §19.4.1.3 (Rev. 05/24/01) of AQR]*
- E-3. All records and logs shall contain, at minimum, the following information;
- a. hourly and daily operating time records of all emission units;
 - b. daily, monthly, and annual limestone mined, crushed and screened, in tons
 - c. daily, monthly, and annual raw materials processed in the clinker cooler and rotary kiln, in tons;
 - d. daily, monthly, and annual production of Portland cement, in tons;
 - e. daily, monthly, and annual usage of coal, in tons;
 - f. results of moisture content analysis;
 - g. results of Chloride (Cl) content of coal ;
 - h. results of Sulfur (S) content of coal;
 - i. daily, monthly, and annual usage of diesel fuel oil, in gallons for the standby diesel power generator;

- j. maintenance records including records of actions taken during periods of malfunction;
- k. quality assurance and quality control requirements for the on-site ambient air quality monitoring (until these units are removed as allowed in Section D of this permit);
- l. results of performance tests;
- m. the magnitude and duration of excess emissions, notifications, monitoring system performance, malfunctions, corrective actions taken, etc., as required by 40 CFR 60.7;
- n. CEMS audit results or accuracy checks, corrective actions, etc., as required by 40 CFR 60, and the CEMS Quality Assurance Plan;
- o. certificates of Representation for the designated representative and the alternate designated representative that meet all requirements of 40 CFR 72.24;
- p. all CEMS information required by 40 CFR 75 adopted by DAQM for operational requirements of CEMS, including a CEMS monitoring plan, as well as time, duration, nature, and probable cause of any CEMS downtime and corrective actions taken; and

strip charts from the COMS. *[Authority: §19.4.1.3 (Rev. 05/24/01) of AQR, and 40 CFR §70.6]*

- E-4. Records and data required by this certificate to be maintained by the owner/operator may, at the owner/operator's expense, be audited at any time by a third party selected by the Control Officer. *[Authority: §19.4.1.3 (Rev. 05/24/01) of AQR]*
- E-5. All records and logs, or a copy thereof, shall be kept on site for a minimum of five years from the date the measurement was taken or data was entered and shall be made available to DAQM upon request. *[Authority: §19.4.1.3 (Rev. 05/24/01) of AQR]*
- E-6. The Control Officer reserves the right to require additional requirements concerning records and record keeping for this source. *[Authority: §19.4.1.3 (Rev. 05/24/01) of AQR]*

F REPORTING

- F-1. Monthly reports to DAQM shall contain:
 - a. all CEMS information required by 40 CFR 75, adopted by DAQM for operational requirements, including a CEMS monitoring plan, as well as time, duration, nature, and probable cause of any CEMS downtime and corrective actions taken;
 - b. COMS strip charts;
 - c. amount of urea injected during past month;
 - d. facility throughput, reported as raw material mined, kiln throughput and amount of cement produced;
 - e. hours of operation for all raw material processing equipment;
 - f. hours of operation for kiln and clinker cooler;
 - g. hours of operation, if any, of generator;
 - h. amount of coal burned; and

- i. amount of diesel fuel burned in generator.

[Authority: §19.4.1.3 (Rev. 05/24/01) of AQR, and 40 CFR §70.6]

F-2. In addition, the quarterly report for the final calendar quarter shall also include:

- a. annual summations of each of the items in F-1c through F-1i;
- b. annual calculation of actual emissions of all air pollutants in tons per year from all emission units; and
- c. a statement certifying compliance with all applicable requirements as described in Conditions 28 of Part I, Standard Conditions of the Part 70 OP.

[Authority: §19.4.1.3 (Rev. 05/24/01) of AQR]

F-3. Reporting of all information specified in item F-1 shall be done monthly, and be submitted to the Compliance Supervisor, DAQM, within 30 days after the end of the reporting month. If the due date falls on a Saturday, Sunday, or legal holiday, then the submittal is due on the next regularly scheduled business day. *[Authority: AQR § 19.4.3, (Rev. 05/24/01)]*

F-4. Any upset/breakdown or malfunction which causes emissions of regulated air pollutants in excess of any limits set by regulation or by this permit shall be reported to the Control Officer within one hour of the onset of such event. A written log shall be maintained of causes and corrective measures taken of each event. *[Authority: AQR Section 26]*

F-5. 40 CFR § 60.7 NOTIFICATION AND RECORD KEEPING. Administrator means Compliance Supervisor, DAQM AND Region IX EPA Enforcement Division, San Francisco, CA.

- (a) Any owner or operator subject to the provisions of this part shall furnish the Administrator written notification of the date construction (or reconstruction as defined under § 60.15) of an affected facility is commenced postmarked no later than 30 days after such date.
- (b) A notification of the actual date of initial startup of an affected facility postmarked within 15 days after such date.
- (c) A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in § 60.14(e). This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The Administrator may request additional relevant information subsequent to this notice.
- (d) A notification of the date upon which demonstration of the continuous monitoring system performance commences in accordance with § 60.13(c). Notification shall be postmarked not less than 30 days prior to such date.
- (e) A notification of the anticipated date for conducting the opacity observations required by § 60.11(e)(1) of this part. The notification shall be postmarked not less than 30 days prior to such date.
- (f) A notification that continuous opacity monitoring system data results will be used to determine compliance with the applicable opacity standard during a performance test required by § 60.8 in lieu of Method 9 observation data as allowed by § 60.11(e)(5) of this part. This notification shall be postmarked not less than 30 days prior to the date of the performance test.

G PERFORMANCE TESTING

- G-1. Performance testing is subject to 40 CFR 60 Subpart A and DAQM's Guidelines on Performance Testing, as revised.
- G-2. Following initial performance testing, subsequent performance tests at the kiln and clinker cooler exhaust stacks for VOCs, PM₁₀ (EPA Method 5), CO, dioxan/furans and opacity (EPA Method 9), shall be conducted annually as a method of ascertaining compliance with the emission limitations listed in parts two and three of this Part 70 Operating Permit.
- G-3. Following initial performance testing, subsequent performance tests on the crusher, screen, and baghouses for PM₁₀ emissions shall be conducted annually as a method

of ascertaining compliance with the emission limitations listed in Parts two and three of this Part 70 Operating Permit.

- G-4. The owner/operator shall submit for approval a performance testing protocol which contains test, reporting, and notification schedules; test protocols; and anticipated test dates to the DAQM Compliance Reporting Supervisor and to the Enforcement Office of the US EPA, Region IX, at least 45 days and not more than 90 days prior to the anticipated date of the performance test. *[Authority: 40 CFR 60 Subpart A; NSR Section 16 Operating Permit with Agreement to Conditions A-154 Condition E-1 (07/07/94)]*
- G-5. The Control Officer will consider approving the owner/operator's requests for alternative performance test methods if proposed in writing in performance test protocols. *[Authority: NSR Section 16 Operating Permit with Agreement to Conditions A-154 Condition E-1 (07/07/94)]*
- G-6. Pursuant to Section 4.5 of the AQR (Rev.05/24/01), additional or more frequent performance testing may be required by the Control Officer.

H ADDITIONAL ADMINISTRATIVE CONDITIONS

- H-1. The owner/operator shall meet applicable requirements that become effective during the term of this permit in a timely manner. *[Authority: AQR § 19.3.3.8 c. and § 19.4.3.3, (Rev. 05/24/01)]*
- H-2. Pursuant to Section 43 of the AQR, this facility shall be operated in a manner such that odors will not cause a nuisance, (locally enforceable only). *[Authority: NSR - ATC/OP Mod. 5, Permit Condition I-11, (02/27/02)]*
- H-3. The owner/operator shall comply with the emergency plan in the event of an air quality emergency as required by AQR §70.

PART IV: ANNUAL FEE REQUIREMENTS

- A-1. Permit fees, including annual emission fee, shall be determined pursuant to Section 18 of the AQR Permit and Technical Service Fees, and shall be invoiced in January of each year. Failure to pay Part 70 Operating Permit fees may result in citations, suspensions or revocation of the Part 70 Operating Permit. *[Authority: AQR § 19.4.1.7, (Rev. 05/24/01)]*
- A-2. The owner/operator shall pay an annual Part 70 emission fee. *[Authority: AQR § 19.4.1.7,(Rev. 05/24/01)and § 18.6.1, (Rev. 12/14/00)]*
- A-3. Fees are assessed on each emission unit pursuant to the definition - "Emission Unit" in Section 0 of the AQR. *[Authority: AQR § 18.2, (Rev. 05/24/01) and § 0 (Rev. 05/24/01)]*
- A-4. The Annual Part 70 emission fee shall be based on the total number of tons of actual annual emissions for all regulated air pollutants (rounded off to the nearest whole number). *[Authority: AQR § 18.6.2, (Rev. 05/24/01)]*

A-5. Actual annual emissions shall mean the following:

- a. Measured emissions for any emission monitored by a continuous emissions monitoring system (CEMS) over the previous calendar year, or
- b. Estimated emissions for any emission calculated based on annual facility production over the previous calendar year. *[Authority: AQR § 18.6.2.1, (Rev. 05/24/01)]*

A-6. Effective each January 20, all operating permits and emission unit fee rates shall be adjusted according to the relative percent change from the previous calendar year in the Urban Consumer Price Index (CPI-U), which is published by the U. S. Department of Labor, Bureau of Labor Statistics. *[Authority: AQR § 18.2.9, (Rev. 12/14/00)]*

A-7. Any delinquency on the payment of any applicable fees beyond 45 days shall result in issuance of a Notice of Violation (NOV) which may impose additional penalties. *[Authority: AQR § 18.14.2c, (Rev. 12/14/00)]*

A-8. Delinquency on the payment of any annual applicable fee(s) beyond 90 days shall be subject to permit revocation proceedings. *[Authority: AQR § 18.14.2d, (Rev. 12/14/00)]*

A-9. Failure to pay any other applicable fees shall result in enforcement action including permit revocation. *[Authority: AQR § 18.14.3, (Rev. 12/14/00)]*

A-10. Fees shall be determined pursuant to Section 18 of the AQR. Annual emission fees shall be based on the PTE in tons of each regulated air pollutant emitted from the Part 70 source. *[Authority: AQR § 19.7.1, (Rev. 05/24/01)]*

This concludes the Part 70 Operating Permit for Source 154 ROYAL CEMENT, INC.

FINAL ACTION REPORT PART 70 PERMIT

Royal Cement, Inc. Permit Number 154

Public Notice Review-Journal September 8, 2002

Public Comment: September 9, 2002 through October 9, 2002

Comments Received:

EPA, Region IX

National Park Service

Nevada Environmental Coalition

Public Hearing: October 29, 2002

Issuance date: December 20, 2002 Expiration date: December 20, 2007

Copies of electronic comments received and responses to all comments are part of this final action report. All responders shall receive an electronic copy of this report, the final Part 70 Operating Permit and the final TSD.

COMMENTS AND DAQM RESPONSES

EPA Region IX Comments

Proposed Title V Permit for Royal Cement Company

1. EPA disagrees with DAQM's statement on page 11 of the TSD that Royal Cement is not subject to the New Source Performance Standard (NSPS) for Portland Cement Plants (40 CFR 60, Subpart F). EPA has an outstanding finding of an NSPS violation at Royal Cement. To date, Royal Cement has not submitted any documentation to substantiate a claim that the company has not triggered NSPS due to its reconstruction of the kiln.

Despite DAQM's assertion that the NSPS is not an applicable requirement, the permit does contain NSPS opacity and particulate matter emission limits. However, the latter are expressed in terms of PM-10 instead of "particulate matter" as the NSPS requires. The permit also omits the NSPS requirement that EPA Method 5 be used to determine particulate matter concentration in the kiln and clinker cooler gases. The inclusion of PM-10 instead of particulate matter, combined with the lack of a Method 5 performance testing requirement, results in emission limits that are potentially less stringent than the NSPS requires. Thus in order to correctly incorporate NSPS requirements, DAQM must add a requirement for performance testing with Method 5.

RESPONSE: Method 5 requirement added to Condition II-G-2, page 20 of permit.

The permit does not incorporate any of the NSPS General Provisions that apply to the facility. The final permit must include conditions that contain these requirements.

RESPONSE: 40 CFR 60 Subpart A was reviewed very closely with the permit. DAQM added requirements under Reporting and Recordkeeping. Staff feels all other requirements are included in the permit even if subsumed authority from another regulation or existing permit.

2. EPA has some concerns about the opacity monitoring in conditions C-11 and C-12. Both of these conditions state that "Compliance shall be determined by an onsite Method 9 VE trained individual." Section 113(a) of the Clean Air Act gives EPA the authority to bring enforcement actions "on the basis of any information available to the Administrator" (emphasis added). Credible evidence includes (but is not limited to) reference test methods and other evidence that is comparable to information generated by reference test methods, including engineering calculations, indirect emission estimates, continuous emissions monitor data, and parametric monitoring data. Since any credible evidence can be used to show a violation of or, conversely, demonstrate compliance with an emissions limit, it is important that permit language not exclude the use of any data that may provide credible evidence. DAQM should revise this language so that it does not imply that compliance will be determined exclusively by one particular method.

RESPONSE: Conditions C-11 and C-12 were reworded as follows:

C-11. Particulate emissions from all conveyors, transfer points and silos not discharging to stockpiles shall be controlled by enclosure and/or covering and connected to fabric filter baghouses. Fugitive dust emissions from any grinding mill, screening equipment, conveyor, transfer point, bagging equipment or storage bin shall not exhibit greater than 10 percent opacity for a period or periods aggregating more than three minutes in any 60 minute period. *[Authority: Section 16 Operating Permit with Agreement to Conditions A-154 Condition D-11 (07/07/94)].*

C-12. Stockpiles, mining activity and all transfer points to stockpiles must be controlled to a minimum of 81.5 percent using water, palliatives or mechanical controls. *[Authority: Section 16 Operating Permit with Agreement to Conditions A-154 Condition D-11 (07/07/94)].*

3. The opacity monitoring in Conditions C-11 and C-12 is not practically enforceable. The permit does not specify a monitoring frequency, and in addition it is not clear if the permit is requiring the source to conduct Method 9 testing, or only that personnel certified in Method 9 conduct visible emissions surveys. DAQM should specify the monitoring frequency, and clarify whether Method 9 testing is required. If Method 9 testing is not required, DAQM must make the permit more specific with respect to what data must be recorded in a log by the observer, and what actions are necessary if visible emissions are observed (e.g. corrective action, Method 9 triggered under certain conditions etc.)

RESPONSE: Condition C-13 was added to address this concern.

C-13. At least once each week for a minimum period of 30 minutes, a Method 9 trained (not necessarily EPA Method 9 certified) individual shall visually survey the plant for any sources of visible fugitive emissions that leave the plant site boundaries. If sources of visible emissions are identified, the owner/operator shall immediately take corrective actions to minimize the fugitive emissions and within 24 hours shall conduct or have conducted an EPA Method 9 test. The

owner/operator shall maintain records of the fugitive emissions surveys, any exceedances of opacity, cause and corrective action taken including the results of the required Method 9 test.

4. There are two requirements from the National Emission Standards for Hazardous Air Pollutants (NESHAP) from the Portland Cement Manufacturing Industry (40 CFR 63, Subpart LLL) that must be added to the permit. The permit has the Subpart LLL dioxin and furans limit of 0.20 ng per dscm, but lacks the limit of 0.40 ng per dscm that applies when the average of the performance test run average temperatures at the inlet to the particulate matter control device is 204 degrees Celsius or less (§63.1343(d)(2)). In addition, Subpart LLL contains an operating limit that requires the kiln to be operated such that the temperature of the gas at the inlet to the kiln particulate matter control device does not exceed the applicable temperature limit established during performance testing (§63.1344(a) and (b), §63.1349(b)(3)(iv)).

RESPONSE: The two additional requirements have been added in Condition A-6 and A-7.

A-6. At no time shall the kiln discharge gases contain dioxins and furans in excess of:

- a) 0.20 ng per dscm corrected to seven percent oxygen; or
- b) 0.40 ng per dscm when the average of the performance test run average temperatures at the inlet to the particulate matter control device is 204 degrees Celsius or less. [*Authority: 40 CFR 63 (Subpart LLL) § 63.1343 (3)*]

A-7. The owner/operator of a kiln or raw mill subject to a dioxins/furans emissions limitation under §63.1343 must operate the kiln or raw mill such that the temperature of the gas at the inlet to the particulate matter control device does not exceed the applicable temperature limit, which is the average of the performance test run average temperatures. [*Authority: 40 CFR 63 (Subpart LLL) § 63.1344*]

5. EPA appreciates the monitoring summary on page 25 of the TSD. However, the title "Compliance Assurance Monitoring Compliance Plan" is misleading because the title implies that the monitoring derives from the CAM (Compliance Assurance Monitoring) rule at 40 CFR 64. We recommend changing the title to avoid confusion.

The TSD does not address CAM applicability. CAM applies to some emission units with control devices on a pollutant-specific basis. In most cases, including Royal Cement, if CAM applies to an emission unit for a particular pollutant(s), the rule applies at the time the title V permit is renewed. EPA expects permitting authorities to address CAM applicability in supporting documents when proposing a title V permit. We recommend that DAQM clarify CAM applicability at Royal Cement in the final TSD, and in TSDs for all future title V initial permits or significant modifications.

RESPONSE: The word assurance was removed from the title to avoid confusion. CAM for this facility applies at permit renewal in 2007.

National Park Service

From: <Don_Shepherd@nps.gov>
To: Lucinda Parker <PARKER@ccgwwgate.co.clark.nv.us>
Date: 9/18/02 3:16PM
Subject: Re: Royal Cement Title V permit

Lucinda,

Good work--believe it or not, we have no comment on this one!

Don Shepherd
National Park Service
Air Resources Division
12795 W. Alameda Pkwy.
Lakewood, CO 80228
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Response to Robert Hall , Nevada Environmental Coalition

December 6, 2002

Robert Hall
President, NEC
10720 Button Willow Drive
Las Vegas, NV 89134

Dear Mr. Hall:

Thank you for your comments concerning the proposed Part 70 operating permit for Royal Cement, Inc. They have been added to the administrative file for this source.

Changes to proposed OP as a result of comments received

You correctly objected to the omission of authority for several conditions. The required authorities for each condition have been added and can be found on pages 15-19 of the Part 70 OP.

You also correctly identified the omission of Section 70 Emergency Procedures in the draft OP. The source submitted an emergency plan, which summarized, states upon the declaration of air quality emergency as defined in Section 70, the source

will cease operations until the emergency is over. This has been added to the Part 70 OP under Other Requirements.

The language in condition IV. A-9 has been revised to read "permit" rather than "emit".

Discussion of other concerns

We have read your comments in their entirety, and while a majority of your comments are statements of opinion, differing interpretations of regulations or discussion of information unrelated to this proposed Part 70 OP, you raised a few concerns needing further explanation.

The emission limits in Part II of the permit are derived from the listed production levels, hours of operation or miles driven, depending upon the emission unit. The throughputs, hours, controls etc as listed in those tables are enforceable, just as the PTEs are enforceable. These are the same hours, throughputs etc. as listed in the Section 16 OP and the earlier ATC issued in 1985. To use your example, VOC emissions are limited to 5.48 tons per year as listed in Table 3-A-2 based upon AP-42 factors (EPA default factors) and a kiln throughput limit of 333, 756 tons per year burning coal only. No other fuels are authorized in this permit. The kiln throughput is limited to 38.1 tons per hour and 8756 hours per year (333,756 tons per year).

While we appreciate your concerns of eliminating ambient air monitoring, DAQM has looked very closely at the requirements for periodic monitoring and staff has determined that true monitoring of the emission units, primarily the kiln, can be better and more accurately obtained through CEMS and COMS than through the ambient air monitors installed years ago at the edge of the property. Ambient air monitoring data does not prove an exceedance came from a particular emission unit. CEMS and COMS data does conclusively prove an exceedance of an emission limit came from a particular stack at a particular time. We feel COMS and CEMS are more accurate and appropriate for this source as a compliance tool, particularly in light of the source's past performance and the CAMS rule.

Again, we appreciate your participation in the Part 70 permitting process. The final Part 70 OP for Royal Cement will be forwarded to you upon its issuance.

In Public Service,
/s/

Lucinda Parker
Permitting
DAQM

CLARK COUNTY NEVADA DEPARTMENT OF
AIR QUALITY MANAGEMENT
and
UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

..... x

In the Matter of:

NEVADA ENVIRONMENTAL COALITION, INC.
A00154

SID

and ROBERT W. HALL Comments re:
Proposed issuance of a Title V (40 CFR Part 70)
Operating Permit for Royal Cement Company, Inc.
by the Clark County Department of Air Quality Management,
September 8, 2002, Certificate of Service.

..... x

NEVADA ENVIRONMENTAL COALITION, INC.
AND ROBERT W. HALL COMMENTS

INTRODUCTION

Petitioner Robert W. Hall ("Hall") as an individual, and in his capacity as president of the Nevada Environmental Coalition, Inc. ("NEC") (hereinafter "Petitioners"), hereby submit the following comments. This comment document is timely submitted in response to the public notice dated September 8, 2002 in the Las Vegas Review Journal regarding the proposed issuance of a Title V (40 CFR Part 70) Operating Permit to Royal Cement Co, Inc. (ROYAL CEMENT) and by the Department of Air Quality Management (DAQM). These comments are intended to provide the basis for an Environmental Protection Agency (EPA) objection of the proposed permit.

Petitioners request that this electronic/paper comment document be made a part of the administrative record for the approval or disapproval of a Title V Operating Permit for ROYAL CEMENT. This Petition is submitted to the EPA, the DAQM, and others shown on the service list, as comments in opposition to the issuance of a Part 70 Permit for ROYAL CEMENT. Petitioners request that this document be made a part of any subsequent local, state or federal administrative proceeding involving proposed Clean Air Act-related actions regarding ROYAL CEMENT.

This comment document is also a request for the Administrator to implement a Federal Implementation Program (FIP) pursuant to the non-discretionary requirements of 40 CFR §70.10 (a)(2). This comment document is submitted without prejudice to any right the petitioners may also have under any applicable law.

I. OBJECTIONS

The following is taken from the Federal Register notice regarding approval of the Clark County Part 70 Program. The excerpt generally answers the question, "What is the Operating Permit Program?"

According to the EPA,

“The CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.” (Emphasis added.)

The DAQM is attempting to issue a legally insufficient and lawfully impermissible Part 70 Operating Permit to Royal Cement. The information provided by the DAQM includes the following statement. “Part 70 OPERATING PERMIT BASED ON: Royal Cement Part 70 Operating Permit Application, dated August 24, 1995, amended October 1, 1999, revised July 17, 2002 and the current Section 16 Operating Permit with Conditions for facility issued on July 7, 1994.” These are the documents DAQM claims it has used in preparing the permit. None of these documents have undergone a public notice process.

According to DAQM Regulation 0, an “applicable requirement” means, among other things:

- a) Any standard or requirement included in an applicable State Implementation Plan (SIP) approved by the EPA...
- b) Any term or condition of any preconstruction permit.

The DAQM is attempting to bypass public involvement with the proposal to issue this Part 70 permit. DAQM is attempting to relax existing conditions, add previously unauthorized emissions, and skip the New Source Review (NSR) / Prevention of Significant Deterioration (PSD) programs in the Title V process. The Section 16 Operating Permit mentioned above is not a “preconstruction permit”, and it has not undergone public notice. The application for a part 70 permit has admittedly been “amended” and “revised”. We object that these amendments and revisions contain terms, limits, and conditions not previously contained in an Authority to Construct (ATC) that was issued pursuant to an EPA-approved SIP. Petitioners request all of their review rights regarding the sub-parts as well as the instant permit.

RECENT EVENTS

A relevant decision of the Ninth Circuit Court of Appeals

On August 29, 2001, the Ninth Circuit Court of Appeals vacated DAQM's previously federally-approved, air quality revisions to the state implementation plan (“SIP”) rules submitted in 1999. The appeals court vacated Section 0, definitions; Section 12, pre-construction review for new or modified sources; and Section 58, the emission offset credit sections. The court made it clear that the Environmental Protection Agency (“EPA”) had failed to justify their prior approval of the revisions to the SIP. The Clean Air Act (CAA §116) requires that amendments to SIP approved rules where cleaner air progress has not been demonstrated must be at least as stringent as the SIP sections the amendments replaced. In this instance, that means the rule sections that were approved by EPA in 1979, and amended in 1981/82. This also means that permits issued pursuant to less stringent local, shadow regulations do not take the place of a legitimate permit issued pursuant to an EPA approved SIP.

In 1979, the EPA approved State Implementation Plan (SIP) regulations contained a set of AQD rules by which Nevada and AQD promised to enforce the 1979 SIP rules and reach clean air attainment. One of the approved rule sections, section 15, is a very stringent rule. Rule 15 involves pre-construction review of new or modified sources. DAQM's air pollution problem at that time was serious enough to require a rule section 15 that was more stringent than minimum federal standards. This rule section 15 has been modified numerous times, but none of the Rule 15 amendments were ever successfully approved as an EPA, finally approved SIP rule. The DAQM references the most recent set of Section 15 Regulations as though they are approved SIP regulations. At the time DAQM publicly noticed the instant proposed permit, DAQM knew that it was using a set of "shadow" regulations that are not a part of the EPA approved SIP. DAQM not only has no lawful authority to change or substitute SIP regulations, while approving Part 70 applications. Any inclusion or reference to regulations other than the EPA approved SIP regulations is misrepresentation. The vast majority of the proposed permit conditions do not cite or reference EPA approved SIP rules as legal authority. The "current Section 16 Operating Permit" (the basis for the permit according to DAQM) was issued on the basis of bogus pre-construction regulations that were interposed for the purpose of misleading the public. The "shadow" regulations result in permits that are issued pursuant to the less stringent rules described below.

In 1987, DAQM adopted a locally approved and much less stringent Section 12. DAQM has used the unapproved, local rule section 12 to grant and issue pre-construction permits since 1987. The DAQM continues to ignore the EPA approved version of rule section 15. In the process DAQM evades the Clean Air Act in a manner that would result in the application of criminal penalties to a commercial source of air pollution if the facts were similar. Section 12 has since been amended numerous times. The rule was submitted to the EPA for SIP approval in 1999.

On April 23, 1998, the Clark County District Board of Health repealed the EPA approved SIP Section 15 as a local regulation in the process of approving the (soon to be) vacated sections 0, 12 and 58. The practical effect of these two events is that DAQM is not enforcing, can not enforce, and has not enforced the EPA approved rule section 15 SIP rules. The problem that DAQM has is that Rule section 15 is the only EPA approved SIP rule regarding new source review. Instead of Rule 15, DAQM has relied upon the less stringent, "shadow" rule Section 12 in order to issue preconstruction permits. That leaves DAQM without a regulatory means to issue, implement or enforce its EPA approved SIP. Part 70 defines applicable requirements to include SIP regulations.

From 1987, DAQM and its predecessor agencies, the Clark County Health District's Air Quality Division (AQD) and Air Pollution Control Division (APCD) have ignored the federally approved rule section 15 SIP rule without having approved SIP rules to replace rule section 15. Since 1987, APCD, AQD and DAQM have been living a lie with the EPA and the citizens of Clark County. DAQM has had a very strict, approved rule section 15 on paper that it had no intention of enforcing and AQD refused to enforce. AQD's and DAQM's very accommodating management team have used the locally approved rule section 12 in a scheme to knowingly and willfully evade enforcement of its EPA approved state implementation plan (SIP) and the Clean Air Act. Clark County Nevada became the fastest growing area of the United States by simply allowing air pollution sources to pollute as they pleased. DAQM represented to the public and the EPA that its rule section 12 was more stringent than its federally approved SIP rule section 15 while knowing that was a misrepresentation. The EPA failed or refused to approve rule section 12 as an approved SIP rule until 1999. That approval process was so egregious the Ninth Circuit court of appeals vacated the rule amendments the first chance they had. "To the extent that we disapprove the EPA's action, it is because we question whether the EPA properly assessed the adequacy of the revised new source review program to the task of meeting current attainment requirements." All the while, DAQM ignored its approved SIP and used the much less stringent local rules in a highly successful effort to evade the federal laws they were paid by the EPA to enforce.

When AQD sought approval for Air Pollution Control District Regulation ("APCDR") rule sections 0, 12 and 58 in 1999, the spin that AQD management used was that the proposed amendments were more stringent and met federal standards. AQD failed to disclose how much less stringent the proposed amendments were than the replaced and more stringent Section 15. If AQD had enforced Section 15, the county would now be closer to attainment of the NAAQS. The EPA wanted to believe, so they ignored the unambiguous requirements of section 116 of the CAA and approved rule sections 0, 12 and 58 while rescinding the 1979/81/82 rule section 15.

The date of EPA's proposed Part 70 approval was October 10, 2001, well after the date of the Ninth Circuit Court of Appeals August 29, 2001 decision to vacate the EPA approval of Sections 0, 12, & 58. The EPA failed to note this adverse appeals court event in its FR notice. The EPA erred in proposing approval of a program that does not rely upon a valid, approved, and enforceable SIP to issue permits. On the one hand, the EPA has proposed \$100,000,000 penalty findings and notices of violation ("NOVs"). On the other hand, the EPA let AQD and now DAQM to get away with knowing and willful evasions of the law.

Using the above as a basis, the following are our specific objections to the proposed Part 70 permit.

SPECIFIC OBJECTIONS TO THE PROPOSED PERMIT

Our comments will generally follow the numerical requirements of 40 CFR §70.

40 CFR §70.1 Program Overview

Section 70.1 prescribes the "Program Overview" of a Title V (Part 70) program; while Section 70.2 provides definitions. According to Section 70.1 (b), "All sources subject to these regulations shall have a permit to operate that assures compliance by the source with all applicable requirements."

According to 40 CFR §70.1 (c), "No permit, however, can be less stringent than necessary to meet all applicable requirements."

"Applicable Requirement" is defined within 40 CFR §70.2 and includes several specific requirements. One such requirement is "Any standard or other requirement provided for in the applicable **implementation plan approved or promulgated by EPA** through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in part 52 of this chapter."

An additional requirement within the definition of Applicable Requirement is "Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under title I, including parts C or D, of the Act".

Based on information and belief, the source has never received a permit that complied with the EPA approved SIP or that was issued pursuant to an EPA approved SIP. Clearly, "the current Section 16 Operating Permit" is not a "preconstruction permit", did not undergo public notice, and would have been based upon the less stringent, shadow regulations of Section 12 in use by the APCD in 1994. We object to every condition in the proposed permit that cites the source's Section 16 Operating Permit as the legal authority for the condition. These objections cover the following conditions, including Part III A-1 through A-5 inclusive, A-7 through A-8, B-1 through B-3 inclusive, B5, C-11, C-12, G-4, and G-5.

As indicated above, DAQM's predecessor agency AQD rescinded its own EPA approved SIP rule section 15. The appeals court vacated the 1999 proposed SIP regulation additions/amendments. Consequently, DAQM does not have the lawful authority to issue "preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under title I." DAQM's local rules contain many regulations that are less stringent than its previous approved SIP and federal requirements. DAQM has failed to submit the side-by-side comparison that provides evidence to the contrary. The burden is on DAQM to provide evidence that the permit should be issued.

The definition for Applicable requirement also includes "Any standard or other requirement under section 111 or the Act, including section 111 (d)"; and "Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under Section 112 (r)(7) of the Act".

DAQM cannot issue permits that comply with any approved SIP that includes section 111 requirements because DAQM does not have the required SIP regulation and has long ignored the 1979/81/82 rules in any event. Furthermore, DAQM does not have any authority whatsoever to administer or enforce the section 112(r) requirements of the Act, since the responsible agency for section 112(r) is the Nevada Department of Environmental Protection (NDEP).

SUMMARY OF SECTION 70.1 OBJECTIONS

DAQM does not have rules that have been approved by the EPA to meet the Title I requirements of the 1990 Clean Air Act Amendments. Additionally, the District Board of Health has previously repealed the previous EPA-approved Section 15. Clark County cannot and will not enforce regulations that it has already repealed. Proposed SIP rules must be noticed to the public as proposed SIP rules. They cannot be lawfully slipped into the SIP without public notice and compliance with the Administrative Procedures Act ("APA"), NRS 233B. It is legally insufficient to attempt a back door approval of local rules as cover for the fact that there is an approved Nevada SIP with an EPA approved section 15 among a set of rules that starts with definitions.

ADDITIONAL OBJECTIONS TO PERMIT CONDITIONS

According to proposed permit condition A-11, "Any request for a part 70 permit modification must comply with the requirements of AQR Section 12, AQR Section 15 and AQR Subsection 19.5.5." This is yet another example of DAQM's evasion of the intent of the Part 70 Program. As we have pointed out, the DAQM is not referencing the EPA approved SIP Section 15, but rather, a less stringent subsequently issued Section 15 that has not passed EPA approval and is not a part of an EPA approved SIP. The EPA approved Section 15 can be found at <http://www.epa.gov/Region9/air/sips/>. We object to Condition A-11.

Petitioners protest the "Compliance Certification" condition found at A-9. Within the condition, is a "...certification with terms and conditions contained in the operating permit..." Obviously, this certification does not go far enough. Petitioners request that the certification be based upon compliance with "all applicable requirements" and not just a watered-down Part 70 permit that may have had a few requirements intentionally "overlooked" by DAQM management. We have expressed concern regarding DAQM management actions in the past. The instant proposed permit stands as proof that nothing has changed.

Petitioners object to the proposed permit Condition A-20 that states in part "... believe that an emission in excess of that allowed by the Air Quality Regulations is occurring." Since current DAQM regulations are less stringent than the EPA approved SIP, the more stringent standard should apply.

Petitioners object to proposed permit Condition A-16 that gives the local Control Officer authority to determine whether information is eligible for confidential treatment. That would be inconsistent with 40 CFR §2.301.

Petitioners object to every proposed permit condition that uses "Section 16 Operating Permit with Agreement to Conditions A-154 (07/07/94)" as the basis for the authority for the condition. That permit is not a "preconstruction permit" and was not issued pursuant to public notice. The DAQM's effort to streamline the process evaded the public participation intent of the CAA. By avoiding public notice, the public was left out of the opportunity to identify missing applicable SIP requirements mentioned above.

Petitioners object to Part II of the proposed permit. The listed authority of AQR §§19.2.1 and 19.3.3.3 is not the appropriate legal authority for authorizing emission units in stationary source. Only those emission units listed within a legally valid ATC can be transferred to a Part 70 permit. Otherwise, the stationary source must add emission units consistent with the NSR requirements of the SIP.

According to p 8 of the Technical Support Document (TSD), "... the 1994 permit did not specifically limit VOCs, HAPs or TCS emissions. " That interpretation is deceiving. The 1994 permit authorized 0 emissions of VOCs,

HAPs, or TCS is the correct interpretation. These emissions are limited to 0 tons per year. Therefore, by authorizing previously unauthorized emissions, Condition III.A-1 of the proposed permit is illegal since it is evading the NSR requirements of the SIP. Petitioner's object to this condition and the DAQM's blatant disregard for the truth and SIP compliance.

Petitioner's object to conditions III.C-1 through 5 inclusive, C-9, D-1 through 2, E-1 through 3 inclusive, F-1, G-1 through 3 inclusive as they do not list the legal authority for the condition. This violates DAQM regulation §19.4.1.1(a) which states "The permit shall specify and reference the origin and authority for each term or condition...."

Petitioner's object to the emission limits listed in Part II. They are non-quantifiable and do not have the corresponding level of controls listed as permit conditions. For example, EU H09 indicates that 90% control was used to minimize the potential to emit. Yet, the permit has no conditions that limit or control the activity or emissions on H09. The same can be said for EU H08. Supposedly, the DAQM believes the road is paved and will control 98% of the emissions. There are no conditions in the permit that specify the road must be swept, washed, or otherwise maintained. Consequently, a paved haul road that is allowed to accumulate years of track-out will not reduce the potential to emit by 98% as the DAQM suggests. The emission limits and production limits simply do not add up. For example, EU I01 shows an unauthorized VOC potential to emit limit of 5.48 tons per year. That magic figure is based upon an even more magical emission factor of 0.028 lb/ton cement. At the same time, the permit does not limit the amount of cement production. Consequently, the 5.48 tpy limit for VOCs is unenforceable as is the SO2 limit. SO2 emissions would be expected as a result of the burning of coal or oil. However, there are no conditions that limit the amount of coal or oil in the permit.

Petitioner's object to the last half of both conditions III.C-11 and C-12. The DAQM has added new language to the permit that has not been previously authorized.

The NEC strongly objects to part III.D of the proposed permit. The DAQM can not use the Part 70 process to discontinue SIP requirements for ambient air monitoring. Stack monitoring and ambient air monitoring are totally independent. This is an important example of how the DAQM manipulates regulations and permits in order to relax strict air pollution requirements. DAQM makes weak permits conditions even weaker. The NEC strongly objects to the discontinuation of ambient air monitoring as would be allowed under conditions III.D-1 and 2.

Petitioner's object to condition E-3.p and F-1.a regarding 40 CFR 75 requirements. If the source was subject to the Acid Rain program these requirements should be listed completely. Otherwise, the acid rain CEMS is not a requirement.

Petitioner's object to all the methods outlined in the proposed permit for compliance assurance and periodic monitoring (Section III.C). There are no tests required in the permit to quantify and measure emissions of particulate. Condition C-11 and 12 try to allow the source to measure compliance via opacity. There are no known correlations between opacity and particulate emissions. Emissions must be quantified.

Petitioner's object to the proposed permit condition IV.A-9 as we believe "emit" should be "permit".

Petitioner's object to the lack of a Compliance Plan (an applicable requirement) in the proposed permit. No mention has been made of all the applicable requirements that the source is not in compliance with.

Petitioner's object to the deletion of AQR §70 as a requirement of the permit.

Petitioner's object to the lack of an explicit, side-by-side compliance demonstration with all requirements of EPA approved SIP Section 15, 40 CFR Part 60 (including applicable subparts A and other applicable New Source Performance Standards). Specifically, a streamlining demonstration and "permit shield" are missing from the literature

and proposed permit as supplied by DAQM.

All the requirements listed above are “applicable requirements”. “No permit, however, can be less stringent than necessary to meet all applicable requirements” (40 CFR §70(c)).

DAQM cannot lawfully issue a Pre-construction Permit or a valid Part 70 permit that “meets all applicable requirements.” For these reasons, and more that follow, the proposed permit must be denied. There is no legally sufficient basis to approve the permit since it was based upon local rules that were less stringent than SIP requirements. None of the pre-construction monitoring requirements of the SIP are mentioned or described or complied with in the instant permit.

40 CFR §70.5 Permit applications

The NEC believes that most, if not all stationary sources are honorable, law-abiding companies that are misled by DAQM regarding CAA responsibilities. The focus of this comment is on regulator malfeasance, and less so, the stationary source’s efforts to comply with complicated regulations. DAQM remains a dysfunctional, air pollution enforcement agency.

Regarding the requirement for compliance certification found at 40 CFR §70.5(c) (9) (i), “A certification of compliance with all applicable requirements by a responsible official consistent with paragraph (d) of this section and section 114 (a) (3) of the Act” is required.” Paragraph (d) of the section states the requirement that “This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete”.

Neither DAQM nor the Source has lawfully fulfilled the certification requirements. Neither the source nor the DAQM can comply with the certification requirement. DAQM does not have any idea what SIP or SIP regulations they are attempting to comply with. That responsibility lies with DAQM, the State of Nevada and the EPA. Without compliance with “all applicable requirements,” and without approved SIP rules, statements of compliance mislead.

SUMMARY OF SECTION 70.5 OBJECTIONS

We object to the notion that any source in DAQM can certify compliance with all applicable requirements short of a thorough compliance plan. The DAQM and its predecessor agencies have put businesses regulated by DAQM in a precarious legal (civil and criminal) situation that is now out of control. The only solution, short of civil lawsuits, is a federal operating permit program initiated sooner, rather than later.

40 CFR §70.6 Permit content

According to 40 CFR §70.6 (a) (1), each permit issued shall include “Emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance.” Subparagraph i and ii go on to point out that duplicate requirements and overlapping requirements must be reconciled. The DAQM permit evades many requirements and does not clearly provide the “streamlining” demonstration as prescribed by EPA white papers.

DAQM (and its predecessor agencies) has issued permits pursuant to APCR Section 12 since 1987. Section 12 contains regulations that are not federally enforceable, are not SIP approved, and are less stringent than approved SIP requirements. Consequently, all Part 70 permits that were issued by DAQM that are based on the Section 12 since 1987, are misleading to the public, unlawful, and do not comply with the requirement to “assure compliance with all applicable requirements at the time of permit issuance.”

Compliance requirements are missing from the permit. The proposed permit allows non-quantifiable means of measurement (emission factors) in place of performance tests that would quantify emissions.

SUMMARY OF SECTION 70.6 OBJECTIONS

DAQM does not have an approved SIP or authority to issue New Source Review (NSR) or PSD permits. NSR and PSD requirements are applicable requirements under the Act. New Source Performance Standards are additional applicable requirements. DAQM does not provide a clear demonstration, requirement by requirement, that all applicable requirements are addressed. DAQM/AQD has issued approximately 8 part 70 permits that do not comply with the requirement to "assure compliance with all applicable requirements." This instant action does not correct the deficiencies at DAQM.

40 CFR §70.7 Permit issuance, renewal, reopening, and revision.

According to 40 CFR §70.7 (a)(1)(iv), "The conditions of the permit must provide for compliance with all applicable requirements of this part."

Under the definition of "applicable requirement" in 40 CFR §70.2, requirements of an approved SIP are an applicable requirement. DAQM does not have an approved SIP that meets the 1990 amendments to the Clean Act ("CAA"). The DAQM does not even have a local Rule 15 after the Clark County Board of Health repealed the only approved rule Section 15 on April 23, 1998.

SUMMARY OF SECTION 70.7 OBJECTIONS

DAQM has not included references or citations to EPA approved SIP requirements.

40 CFR §70.8 Permit review by EPA and affected States.

According to 40 CFR §70.8 (c) (1), "The Administrator will object to the issuance of any proposed permit determined by the Administrator not to comply with applicable requirements or requirements under this part."

According to 40 CFR §70.8(c) (3) (ii), "Failure of the permitting authority to do any of the following also shall constitute grounds for an objection: (ii) Submit any information necessary to review adequately the proposed permit...."

Petitioner's object to the fact that EPA has not denied any of the part 70 permits that were issued by Clark County. All such permits were issued without compliance or legal reference to the EPA approved SIP.

SUMMARY OF SECTION 70.8 OBJECTIONS

We allege that the EPA is failing in its non-discretionary responsibility to object or deny permits that do not comply with "all applicable requirements". The instant permit does not comply with "all applicable requirements." The NEC requests that the EPA object to the issuance of the proposed part 70 permit.

40 CFR §70.9 Fee determination and certification.

According to 40 CFR §70.9(a), "The State program shall require that the owners or operators of part 70 sources pay annual fees, or the equivalent over some other period, that are sufficient to cover the permit program costs and shall ensure that any fee required by this section will be used solely for permit program costs." According to 40 CFR 70.9(b) (1) "The State program shall establish a fee schedule that results in the collection and retention of revenues sufficient to cover the permit program costs." The required fee schedule is directed at sources of air pollution, not the public.

The AQD and DAQM program has squandered approximately \$2.1 million by not timely issuing Part 70 permits within the required 3-year period. The fees are inadequate as demonstrated by the agency's issuance of only 8 permits. In the alternative, the fees are adequate, but the agency has squandered the money on unrelated items such as attorney fees to defend the agency from CAA §322 whistleblower cases that have helped advertise the DAQM management's malfeasance. Regardless, not all permits have been issued with the 3-year period included as required.

DAQM operates a failed program as demonstrated by the failure to issue legally sufficient permits in a timely manner. With more than a 100% turnover of part 70 permit writers since 1997, DAQM's part 70 program is legally and administratively deficient and insufficient.

SUMMARY OF SECTION 70.9 OBJECTIONS

DAQM would have collected more than enough money to issue all the part 70 permits, if the pre-construction permits were valid. Unfortunately DAQM does not have valid permits issued according to approved SIPs. DAQM's management has squandered an opportunity to collect approximately \$2.1 million. The program is recognized locally as a dismal, deliberate failure.

40 CFR §70.10 Federal oversight and sanctions.

DAQM and AQD have had almost 7 years to prepare an approvable part 70 permit. Petitioner's were provided with only 4 days to review the proposed permit after receipt of the documents that make up the administrative record. The idea was to make it as difficult as possible for the petitioners to comment. We have done our best despite DAQM imposed handicaps. Despite the lack of time, we have listed more than enough deficiencies to require an EPA objection. We have found deficiencies that render the permit fatally deficient. As a result of the deficiencies noted herein, petitioners' respectfully request that all of the requirements of 40 CFR §70.10 be implemented without delay.

40 CFR §70.10(c) provides the criteria for the Administrator to withdraw approval of State programs. One of those criteria is found at Section 70.10 c (1) (i) which states that the Administrator may withdraw approval "Where the permitting authority's legal authority no longer meets the requirements of this part...." The DAQM program meets the requirements of a program that justifies the Administrator's withdrawal of program approval.

SUMMARY OF SECTION 70.10 OBJECTIONS

Petitioner's object to the lack of EPA intervention based upon the requirements of Section 70.10. The NEC requests EPA action, including sanctions as prescribed by CAA Section 179(b) (2) without further delay.

SUPPLEMENTAL ISSUES

On January 23, 1997, the Clark County District Board of Health published Air Pollution Control Regulations. The regulations were preceded by a revision list. The revision lists includes revisions for Section 15 on June 28, 1979, September 3, 1981 and May 27, 1993. The actual Section 15 - Source Registration included with the published sections was not revised for SIP purposes after 1982. The January 23, 1997 version contains sub-sections that are not in previous versions of Rule 15. They include sub-sections 15.14.4.3.2, 15.14.4.3.3 and 15.14.4.3.4. Other EPA unapproved sections, with identical numbers, have been replaced by DAQM/AQD and have been used deceptively by DAQM to whitewash the true EPA approved SIP requirements.

On August 3, 1994, David P. Howekamp, Director, Air & Toxics Division, EPA sent a "copy of Clark's applicable State Implementation Proposed regulation amendments (SIP)" along with a cover letter to Michael Naylor, Director, DAQM Air Pollution Control District. The copy does not include sub-sections 15.14.4.3.2, 15.14.4.3.3 and 15.14.4.3.4. The copy included a Clark County Applicable State Implementation Plan proposed regulation amendments

Action Log that shows section 15 - Source Registration approved on 04/14/81, 46 FR 21766. It also shows sub-section 15.14 as having been approved 04/14/81, 46 FR 21766 and again on 06/21/82, 47 FR 26621.

In response to a request by the Nevada Environmental Coalition, Inc. (NEC), Andrew Steckel, Chief, Rulemaking Office, sent a copy of a DAQM Applicable State Implementation Proposed regulation amendments Action Log, Last Updated 01/27/99. The information for Section 15 includes the following approval dates and Federal Register (FR) citations.

15.1-15.6	06/21/82	47 FR 26621
15.6.1.4-15.6.1.5	08/27/81	46 FR 43142
15.6.1.6-15.6.2.5	06/21/82	47 FR 26621
15.6.2.6	08/27/81	46 FR 43142
15.6.3-15.6.3.5	06/21/82	47 FR 26621
15.6.4-15.6.5	08/27/81	46 FR 43142
15.6.6-15.12	06/21/82	47 FR 26621
15.3	Prevention of Significant Deterioration	
15.13.1-15.13.5	06/21/82	47 FR 26621
14.13.6	(Not assigned)	
15.13.7-15.13.15	06/21/82	47 FR 26621
15.14	08/27/81	46 FR 43142
15.14.1	06/21/82	47 FR 26621
15.14.1.1	08/27/81	46 FR 43142
15.14.1.2	06/21/82	47 FR 26621
15.14.2-15.14.3	08/27/81	46 FR 43142
15.14.3.1-15.14.4.1	06/21/82	47 FR 26621
15.14.4.2	08/27/81	46 FR 43142
15.14.4.3	06/21/82	47 FR 26621
15.14.4.3.1-15.14.4.3.5	08/27/81	46 FR 43142

The 01/27/99 updated list shows only two approval dates and two FR publications for the entire rule fifteen. The 1994 Howekamp document lists the 06/21/82 47 FR 26621 approval and a 04/14/81 46 FR 21766 approval but not the 08/27/81 46 FR 43142 approval listed in the Steckel 01/27/99 update. The June 28, 1979, September 3, 1981 and May 27, 1993 dates published by the APCD or AQD appear to be local attempts to rewrite a federally approved SIP regulation without the benefit of EPA approval. APCD and AQD did not use EPA approved SIP Section 15. They used a locally modified Section 15 until they had a better idea with the unapproved rule section 12. The mixing of EPA approved SIP rule sections with unapproved SIP rule sections was not wise, particularly while Sections 0, 12 & 58 plus the rescission of Section 15 were on appeal

DAQM's attempt to amend vacated rules is legally insufficient. The applicant cannot lawfully do that as long as important, approved SIP rules are vacated and other rule sections were modified without EPA approval.

THE SIGNIFICANCE OF THE KERR-McGEE FINDING AND NOTICE OF VIOLATION (NOV)

On September 27, 2001, the U.S. Environmental Protection Agency (EPA) issued a Finding and Notice of Violation (NOV) against Kerr-McGee Chemical L.L.C. ("KMC"), for violations at its inorganic chemical manufacturing facility in Henderson, Nevada. The NOV found violations of the Clean Air Act's New Source Review (NSR) program going back to May 1994. The penalties levied of \$25,000.00 to \$27,500 per day go back to 1994 for each violation and are subject to administrative mitigation. The EPA alleged that Kerr-McGee violated EPA approved Clean Air Act State Implementation Plan (SIP) rule sections from the 1979 SIP (amended in 1981/82). The NOV cited two instances where the Clark County Health District's Air Quality Division (the predecessor to DAQM) issued permits to Kerr-McGee in contradiction to the approved SIP regulations. The NOV acknowledges that local rules approved as part of the approved

SIP on May 11, 1999 were vacated and remanded in *Hall v. EPA*, No. 99-70853, 263 F.3d 926 superseded by 273 F.3d 1146 (9th Cir. 2001).

This NOV directly contradicts the Department of Air Quality Management's contention that it may issue NSR permits based on local or unapproved SIP rules. There is a strong message in the NOV that sources of air pollution that rely upon permits issued by authority of unapproved SIP regulations are at substantial risk. The NOV notes that the Clean Air Act provides for criminal penalties, imprisonment, or both for persons who knowingly violate any federal regulation or permit requirement more than 30 days after the date of issuance of a Notice of Violation. A copy of the Kerr-McGee NOV may be found on the NEC Web site at www.necnev.org.

The following is a partial list of Las Vegas Valley sources that received findings and notices of violation from the EPA. The fact that the EPA had to levy NOV's after APCD or AQD granted permits to these sources does not add to DAQM's enforcement credibility.

Royal Cement, CO, NOx

Nevada Cogeneration, #1 and #2, NOx

Titanium Metals (TIMET), SO2

Lasco Bathware, VOC

Wells Cargo, PM10

Las Vegas Paving, PM10

Nevada Ready Mix, PM10

Southern Nevada Paving, PM10

Capital Cabinets, VOC

J.R. Simplot Silica, SO2

CalnevPipeline, VOC

Chemical Lime Co. (Apex), PM10, SO2, NOx

Kerr-McGeeChemical, CO

Environmental Technologies of Nevada, Inc., PM10

Regulator negligence and malfeasance has left DAQM citizens without the protections ordinarily afforded by approved SIPs. The only way citizens have to ensure that actions within polluted areas will not degrade those areas is by legally sufficient SIPs that are not misleading. The lack of approved SIPs undercuts the National Environmental Policy Act ("NEPA") and the CAA's cumulative environmental impact or conformity provisions. There are no EPA approved proposed regulation amendments sufficient to achieve the NAAQS. No federal agency operating in Clark County has ever completed a legally sufficient transportation or general conformity determination. Even if conformity determinations were completed, they could not conform to CAA 1990 amendment SIPs that do not exist. Each DAQM certification of compliance with any SIP that DAQM has ever made is misleading to the EPA, other federal agencies and the citizens who live in or visit Clark County. The most important misrepresentation is that there is compliance anywhere when there is no cumulative environmental impact or Clean Air Act conformity determinations. We ask conformity to what? The EPA has allowed never-ending misrepresentations to continue beyond all statutory boundaries.

In full recognition of this regulatory void, valley promoters of air pollution sources have cynically championed projects that violate the NAAQS. Legally sufficient SIPs in Clark County's numerous nonattainment areas would have prevented violations of the NAAQS. No legally sufficient SIP would permit the current levels of air pollution emitted by county sources of air pollution. As but one more example, the APEX Valley has had numerous exceedances of ozone and PM₁₀. A legitimate regulatory effort would have declared the area non-attainment years ago. Clark County, with the added help of EPA, has allowed thousands of additional tons of air pollution to be added to a bogus emissions inventory, above and beyond the levels of pollution that resulted in violations of the NAAQS.

Relief sought

Petitioner requests that the instant application be denied. Petitioner requests that the EPA reverse the proposed full approval and replace the local program with a Federal Operating Permit program, as required by law.

Petitioner claims all of his rights including but not limited to those found in NEPA, the federal Administrative Procedures Act ("APA") and the Clean Air Act ("CAA").

Petitioner further requests full EPA compliance with the language, spirit and intent of the Clean Air Act §113, 42 U.S.C. § 7413, Federal Enforcement, and §116 Retention of State Authority. Over the last several years, Petitioner has provided both the EPA Administrator and the Region IX Administrator with credible information that DAQM's violations of the Clean Air Act "are so widespread that such violations appear to result from a failure of the State in which the proposed regulation amendments or permit program applies to enforce the proposed regulation amendments or permit program effectively." Approving a relaxed SIP contrary to CAA §116 would serve no purpose other than to aid and abet continuing civil and criminal violations of our country's environmental laws.

DAQM remains dysfunctional primarily because of its failure to attract and retain experienced personnel who have the ability to operate the division according to the language, spirit and intent of the Clean Air Act. Neither the EPA nor the NEC can do the task for them. Approving applications that clearly should not be approved is not a reasonable option.

Petitioner requests that the EPA implement a Federal Implementation Plan regulation amendments (FIP) pursuant to §110(c) (1), and apply Sanctions §110(m) pursuant to §179(a), supra, without further delay. That means now. That does not mean months or years from now. DAQM has met all of the requirements for a FIP many times over. The public health and safety is held hostage while bureaucrats procrastinate.

In making this request in our own interest, we honor those who have lost their lives or whose quality of life has declined as a proximate result of the acts of a few. We especially honor the memory of Elizabeth Gilmartin. May she rest in peace.

Respectfully submitted,

/s/ Robert W. Hall

Robert W. Hall, as an Individual and as President
Nevada Environmental Coalition, Inc.

10720 Button Willow Drive
Las Vegas, Nevada 89134

Dated: October 9, 2002

(702) 360-3118

From: <Don_Shepherd@nps.gov>
To: Lucinda Parker <PARKER@ccgwwgate.co.clark.nv.us>
Date: 9/18/02 3:16PM
Subject: Re: Royal Cement Title V permit

Lucinda,

Good work—believe it or not, we have no comment on this one!

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National Park Service
Air Resources Division
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Lakewood, CO 80228
Phone: 303-969-2075
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