

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

In The Matter Of:)	
)	
BLUE CIRCLE CEMENT)	
)	CONSENT ORDER NO. <u>98-115-CAP</u>
Calera, Shelby County, Alabama)	
)	

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, §§22-22A-1 through 22-22A-16, Code of Alabama (1975), as amended, the Alabama Air Pollution Control Act, §§22-28-1 through 22-28-23, Code of Alabama (1975), as amended, and the ADEM Administrative Code of Regulations ("ADEM Admin. Code R.") promulgated pursuant thereto, and without the adjudication of any issues of fact or law and upon the consent of the parties hereto, the Alabama Department of Environmental Management (hereinafter, "the Department") makes the following FINDINGS OF FACT:

1. Blue Circle Cement (hereinafter "Blue Circle") operates a lime and cement manufacturing plant (Air Facility ID No. 411-0004) located at 8039 Highway 25 West, Shelby County, Alabama

2. The Alabama Department of Environmental Management is a duly constituted agency of the State of Alabama pursuant to §§ 22-22A-1 through 22-22A-16, Code of Alabama 1975, as amended.

3. Pursuant to § 22-22A-4(n), Code of Alabama 1975, as amended, the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. 7401 through 7671q, as amended. In addition, the Department is authorized to administer and

enforce the provisions of the Alabama Air Pollution Control Act, §§ 22-28-1 through 22-28-23, Code of Alabama 1975, as amended.

4. On June 4, 1997, the Department issued to Blue Circle Air Permit No. 411-0004-X040 for the construction and operation of a limestone crushing, screening, and conveying system, subject to certain terms, conditions and limitations.

5. Proviso 7 of Air Permit No. 411-0004-X040 states:

All air pollution control devices and capture systems for which this permit is issued shall be maintained and operated at all times in a manner so as to minimize the emissions of air contaminants. Procedures for ensuring that the above equipment is properly operated and maintained so as to minimize the emissions of air contaminants shall be established.

6. Proviso 18 of Air Permit No. 411-0004-X040 states:

The following types of equipment associated with this system are subject to the Federal New Source Performance Standards (NSPS) for Nonmetallic Mineral Processing Plants as listed in 40 CFR 60, Subpart OOO:

Crushers
Screening Operations
Bucket Elevators
Belt Conveyors
Storage Bins

Among other requirements, this subpart limits particulate matter stack emissions to 0.05 grams per dry standard cubic meter and 7% opacity. This subpart also limits fugitive emissions to 10% opacity.

7. ADEM Admin. Code R. 335-3-14-.01(a) states:

Any person building, erecting, altering, or replacing any article, machine, equipment, or other contrivance, the use of which may cause the issuance of or an increase in the issuance of air contaminants or the use of which may eliminate or reduce or control the issuance of air contaminants, shall submit an application for an Air Permit at least 10 days prior to construction.

8. During an inspection of Blue Circle on January 13, 1998, inspectors from the Department observed the following:

(a) Emissions of 100% opacity, as determined by a 6-minute average, at the point where the primary crusher (Air Permit No. 411-0004-X040) discharges stone onto conveyor belt #1. These emissions were in excess of the applicable 10% opacity standard described in Finding of Fact 6.

(b) The baghouse that controls the emissions generated by the crusher and by the stone dropping onto the conveyor belt was not operating properly.

(c) Excess emissions during the loading of lime kiln dust (LKD) from the lime kiln dust tank to an open dump truck via a gravity chute. There is no dust control during this loading.

9. Blue Circle did not have an Air Permit for the tank listed in Finding 8(c) at the time of the January 13, 1998, inspection. Blue Circle has submitted to ADEM an Air Permit application, dated June 22, 1998, for this equipment.

10. On March 2, 1998, the Department issued a Notice of Violation to Blue Circle citing violations of Provisos 7 and 18 of Air Permit No. 411-0004 and ADEM Admin. Code R. 335-3-14-.01.

11. Blue Circle responded to the Notice of Violation on March 13, 1998.

12. ADEM Admin. Code R. 335-3-4-.01(1)(a) and (b) state the following respectively:

Except as provided in subparagraphs (b), (c), (d), or (e) of this paragraph, no person shall discharge into the atmosphere from any source of emission, particulate of an opacity greater than that designated as twenty percent (20%) opacity, as determined by a six (6) minute average.

During one six (6) minute period, a person may discharge into the atmosphere from any source of emission, a particulate of an opacity not greater than that designated as forty percent (40%) opacity.

13. During an inspection of Blue Circle on March 25, 1998, inspectors observed visible emissions of 36% opacity and 46% opacity, as determined by a six-minute average, emanating from the baghouse that controls the emissions from the No. 6 Lime Kiln (Air Permit No. 411-0004-Z004).

14. On April 13, 1998, the Department issued a Notice of Violation to Blue Circle citing violations of ADEM Admin. Code R. 335-3-4-.01.(1)(a) and (b).

15. Blue Circle responded to this Notice of Violation on April 23, 1998.

16. Based on correspondence from Blue Circle dated May 26, 1998, Lime Kilns 6 and 7 (covered by Air Permits 411-0004-Z004 and Z005, respectively) were shut down before June 1, 1998. Based on a telephone conversation with Blue Circle on June 17, 1998, Lime Kiln 5 was shut down June 17, 1998, after an inspection by Department personnel. The motor control drives for these three kilns were completely removed by Blue Circle on July 1, 1998. The Air Permits for the operation of the three kilns were returned to the Department under the cover letter date June 18, 1998.

17. During an inspection of Blue Circle on May 27, 1998, inspectors observed the following:

(a) Fugitive emissions were observed from plant grounds and roads due to vehicular traffic.

(b) Visible emissions were observed from the screw conveyor which transports baghouse dust from the baghouses associated with the No. 3 and No. 4 Cement Kilns (covered by Air Permit Nos. 411-0004-Z001 and Z002) to the dust bin.

(c) Emissions were observed above and around a railcar that was being loaded at the railcar loadout spout permitted under Air Permit No. 411-0004-X035.

18. The units referenced in items (b) and (c) of Finding of Fact 17 are subject to 40 CFR 60, Subpart F. During the inspection of May 27, 1998, no visible emissions observation could be performed and no violations of the emissions standards in 40 CFR 60, Subpart F were established.

19. During an inspection of Blue Circle on June 17, 1998, inspectors observed visible emissions of 25% opacity and 44% opacity, as determined by a six-minute average, emanating from the baghouse that controls the emissions from the No. 5 Lime Kiln permitted under Air Permit No. 411-0004-Z003.

20. On June 23, 1998, the Department issued a Notice of Violation to Blue Circle citing violations of ADEM Admin. Code R. 335-3-4-.01(a) and (b).

21. Blue Circle responded to this Notice of Violation on July 9, 1998.

22. Blue Circle is currently using NALCO-POLO foam on a trial basis to control particulate matter generated by the limestone crushing system permitted under Air Permit No. 411-0004-X040.

23. Blue Circle neither admits nor denies the Findings contained in this consent order. However, in an effort to cooperate with the Department and to resolve the allegations cited above, Blue Circle consents to the terms of this Order.

24. The Department agrees to this Consent Order upon a determination that the terms are in the best interests of the citizens of Alabama in resolving the alleged violations cited hereinabove.

ORDER

Based upon the foregoing FINDINGS and pursuant to §§ 22-22A-5(10), 22-22A-5(12), 22-22A-5(18), 22-28-10(2) and 22-28-18, Code of Alabama 1975, as amended, and with the consent of Blue Circle it is hereby ORDERED:

A. That there is assessed a civil penalty against Blue Circle in the amount of Seventy Thousand Dollars (\$70,000) to be paid to the Alabama Department of Environmental Management within thirty (30) days of issuance of this Order.

B. That Blue Circle shall comply with all requirements of ADEM Administrative Code 335-3 and the applicable Air Permits that have been issued to Blue Circle.

C. That Blue Circle shall maintain and operate control devices to minimize the emissions from the Limestone Crushing, Screening, and Conveying System covered under Air Permit No. 411-0004-X040.

D. That within 30 days of the issuance of this Order, Blue Circle shall submit to the Department correspondence stating the results of the trial use of the NALCO-POLO foam. If the foam is not sufficient for long-term dust control to ensure compliance with the applicable regulations and Air Permits, Blue Circle shall install a water spray dust suppression system for the Limestone Crushing, Screening, and Conveying System. ADEM and Blue Circle shall determine an appropriate implementation schedule for installation of the water spray dust suppression system, if necessary. An Air Permit application for the water spray dust suppression system will be submitted to ADEM in a timely fashion, as determined by ADEM, if necessary.

Blue Circle shall not discontinue the use of the foam until the water spray dust suppression system is operational.

E. That within 30 days of issuance of this Order, Blue Circle shall submit to the Department a monitoring plan that would assure proper operation of the control devices utilized to minimize emissions from the Limestone Crushing, Screening, and Conveying System (Air Permit No. 411-0004-X040). Said plan shall be implemented by Blue Circle once approved by the Department.

F. That immediately upon issuance of this Order, Blue Circle shall cease the practice of dumping finely divided materials, except pebble lime, into open top dump trucks.

G. That within 30 days of issuance of this Order, Blue Circle shall submit to the Department a plan detailing methods to minimize dust emissions created during the loading of pebble lime into open top trucks. Said plan shall be implemented by Blue Circle once approved by the Department.

H. That within 30 days of issuance of this Order, Blue Circle shall submit to the Department a plan detailing methods to be utilized to minimize emissions during the loading of trucks with materials from storage bins at the plant. Said plan shall be implemented by Blue Circle once approved by the Department.

I. That this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented and to legally bind such party.

J. That subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in or referenced in this Order.

K. That Blue Circle is not relieved from any liability if it fails to comply with any provision of the Consent Order.

L. That for purposes of this Order only, Blue Circle agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction, including, but not limited to, Montgomery County Circuit Court. Blue Circle also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, Blue Circle shall be limited to the defenses of Force Majeure, compliance with this Agreement and physical impossibility.

M. That this Order does not preclude the Department from taking other enforcement actions based on these facts regarding violations of other regulatory programs. Should additional facts and circumstances be discovered in the future concerning Blue Circle, which would constitute possible violations not addressed in this Order, or if the violations noted herein continue, then such future violations shall be addressed in Orders or litigation initiated by the Department, or such other enforcement action as may be appropriate, and Blue Circle shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order.

N. That by agreement of the parties, this Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and Blue Circle does hereby waive any hearing on the terms and conditions of same.

ORDERED and ISSUED this 10th day of September, 1998.

Dale Mathews

(Signature)

DALE MATHEWS, OPERATIONS MANAGER

(Please Print Name and Title of Authorized Officer)

Blue Circle Cement

James W. Warr

James W. Warr, Director

Alabama Department of

Environmental Management