

**BEFORE THE HEARING EXAMINER FOR THE BROWARD COUNTY
ENVIRONMENTAL PROTECTION AND GROWTH MANAGEMENT DEPARTMENT
IN AND FOR BROWARD COUNTY, FLORIDA**

BROWARD COUNTY,

Petitioner,

vs.

**NOTICE OF VIOLATION
NOV19-0004**

LEHIGH HANSON CEMENT SOUTH LLC,

Respondent.

_____ /

JOINT MOTION FOR AGREED FINAL ORDER

BROWARD COUNTY ("County") and LEHIGH HANSON CEMENT SOUTH LLC ("Respondent" as the successor-in-interest to original Respondent CONTINENTAL FLORIDA MATERIALS, INC.) (County and Respondent are collectively referred to as the "Parties"), hereby file this Joint Motion for Agreed Final Order in the above-styled case pursuant to Subsection 27-21(d) of the Broward County Code of Ordinances ("Code") and state as follows:

- 1. This cause had been set for a hearing before a Hearing Examiner on August 27, 2020, to determine whether the Respondent violated Section 27-175(h) of the Code, which states:**

"... No person shall cause, let, permit, suffer, or allow the emissions of particulate matter, from any source whatsoever, including but not limited to vehicular movement, transportation of materials, construction, alteration, demolition or wrecking, or industrial related activities such as loading, unloading, storing, handling, surface coating, or surface preparation without taking reasonable precautions to prevent such emission, as described in Subsection 27-177(b) of this article."

- 2. Notice of Violation NOV19-0004 alleged that at 2600 Eisenhower Blvd. Fort Lauderdale FL 33316, Respondent caused, permitted, suffered, or allowed ship unloading operations to generate unconfined particulate emissions without taking reasonable precautions to prevent such emissions in violation of Air Permit 0111012-006-AF, Section 3, Facility Wide Condition 5, Unconfined Emissions of Particulate Matter.**

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3. In furtherance of possible resolution of this action without the need for a hearing, the Parties have agreed to the terms of the proposed Agreed Final Order, attached as Exhibit A. The Parties acknowledge that they have had the opportunity to seek and receive whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations which attach by entry of the proposed Agreed Final Order.

WHEREFORE, the Parties request that the Hearing Examiner enter the proposed Agreed Final Order and promptly render it in the files of the County.

Respectfully submitted by the Parties on this _____ day of _____, 20____.

**RESPONDENT
LEHIGH HANSON CEMENT SOUTH LLC**

By: 
(Signature)
Print Name: Philip Detwiler
Title: VP/GM Cement Sales SE
Company: Lehigh Hanson Cement South

PETITIONER

Andrew J. Meyers
Broward County Attorney
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Counsel for Broward County

Exhibit A

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Respondent.

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AGREED FINAL ORDER

THIS CAUSE having come before the undersigned Hearing Examiner for the Broward County Environmental Protection and Growth Management Department ("Department") on the joint motion of BROWARD COUNTY ("County") and LEHIGH HANSON CEMENT SOUTH LLC ("Respondent" as the successor-in-interest to original Respondent CONTINENTAL FLORIDA MATERIALS, INC.) (County and Respondent are collectively referred to as the "Parties"), and having been advised in the premises, the Parties' Joint Motion for Agreed Final Order is hereby GRANTED and the following is hereby ORDERED:

Respondent shall pay a civil penalty of \$56,500 and administrative costs of \$300 for a total of \$56,800 within thirty (30) days from the date that this Agreed Final Order is rendered in the County's files.

Corrective Actions:

Respondent has implemented several measures to reduce the generation of unconfined particulate emissions created from the unloading of material at Port Everglades. These measures include: 1) daily monitoring of unloading operations with routine inspections of unloading equipment and completed and reviewed inspection reports; 2) training and clear communication that unloading operations will be stopped immediately in the event of equipment malfunction results in increased emissions; 3) pavement of areas to minimize dust emissions; 4) use of dust collectors and tarps to minimize fugitive dust emissions on the material transfer belt conveyor; 5) vessel unloading controls that allow

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ships to be turned after unloading one half (½) of the ship hold to allow access to both sides of the hold in order to minimize fugitive dust emissions; and 6) Use of water cannons/fogging systems to minimize dust emissions. Respondent shall maintain the use of these measures in a manner sufficient to reasonably prevent fugitive emission of particulate matter unless Broward County Environmental Protection and Growth Management Department staff confirm in writing that one or more of these measures is no longer necessary due to replacement of equipment or other changes in Respondent's facility or practices that make such measures unnecessary or impractical.

The Parties agree that these amounts and corrective actions are reasonable and shall not contest them in any subsequent action, except that the County reserves the right to enforce the Agreed Final Order. Any extensions to the time frames identified in this Agreed Final Order must be approved by the County in writing.

The Parties have agreed to waive their rights to an administrative hearing in this action as set forth in Section 27-32 of the Code, except as to an action for enforcement of this Agreed Final Order.

Entry of this Agreed Final Order does not relieve Respondent of its need to comply with all applicable federal, state, or local laws; regulations; or ordinances. Respondent recognize their responsibility to take all reasonable measures necessary to prevent future violations of Chapter 27 of the Code. County hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit the future violation of applicable statutes or regulations or to alleviate an immediate serious danger to the public health, safety, or welfare.

Respondent acknowledges and agrees that failure to comply with this Agreement may result in the denial, suspension, or revocation of any license, permit, or approval pending or held by Respondent that is issued by the Department, pursuant to the Code.

County does not waive the provisions of Subsections 27-4(20), 27-55(d)(7), and 27-63(b)(6) of the Code regarding habitual violators; Subsection 27-22(a)(5) of the Code regarding history of noncompliance; and Subsection 27-38(d) of the Code regarding habitual citation violators. This Agreed Final Order shall be considered a settlement agreement for the purpose specified in Subsection 27-4(20) of the Code.

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The Parties acknowledge that they have had the opportunity to seek and receive whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations that attach by entry of this Agreed Final Order. The terms and language agreed to express the Parties' mutual intent and this Agreed Final Order shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other because of such party's preparation of this Agreed Final Order.

DONE and ORDERED this _____ day of _____, 20__.

**Renee Clark, Esq.
Hearing Examiner**