



Gila River Indian Community Enforcement Case Study

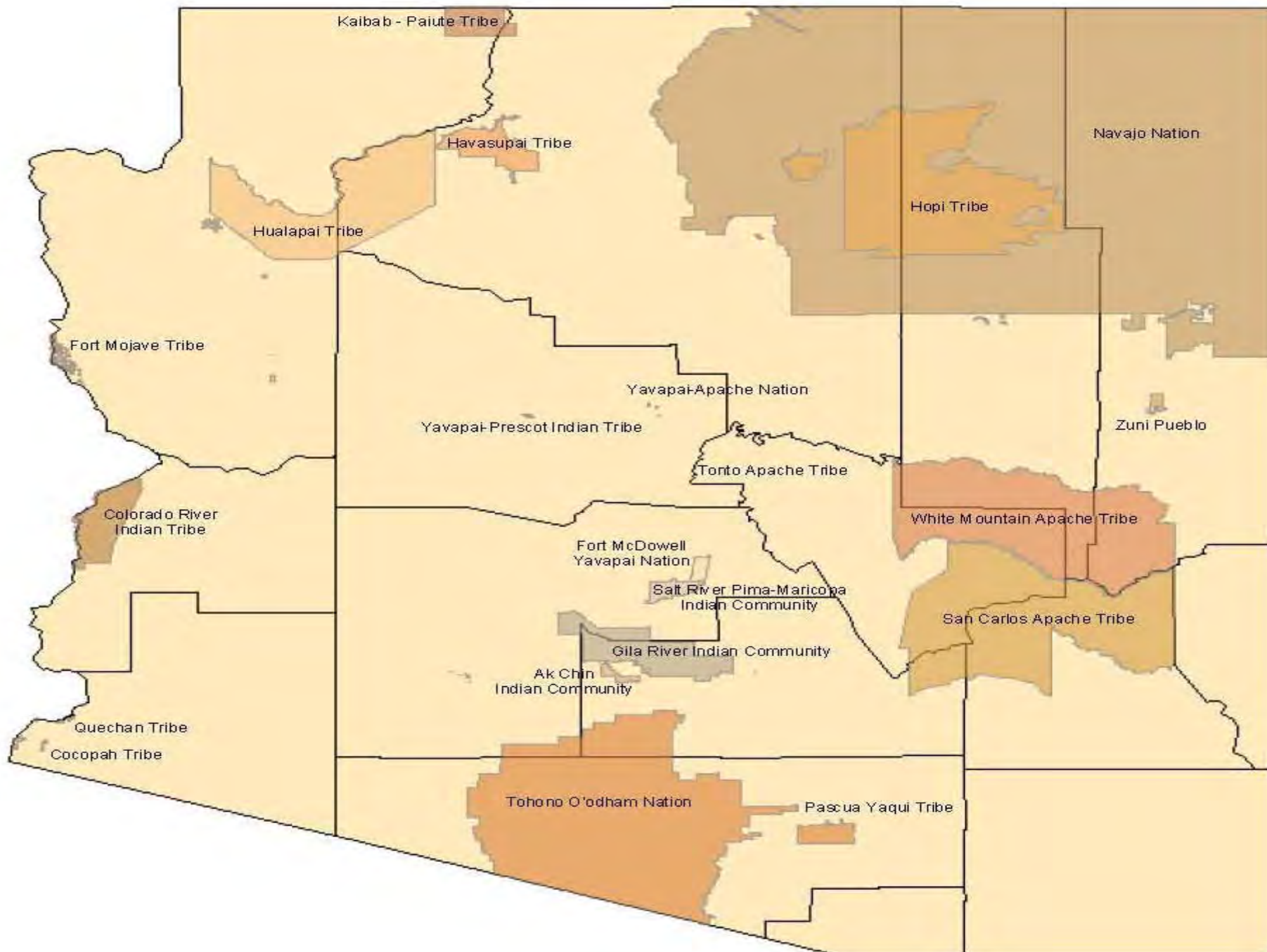
Will Antone III, Air Quality Specialist

Gila River Indian Community Background

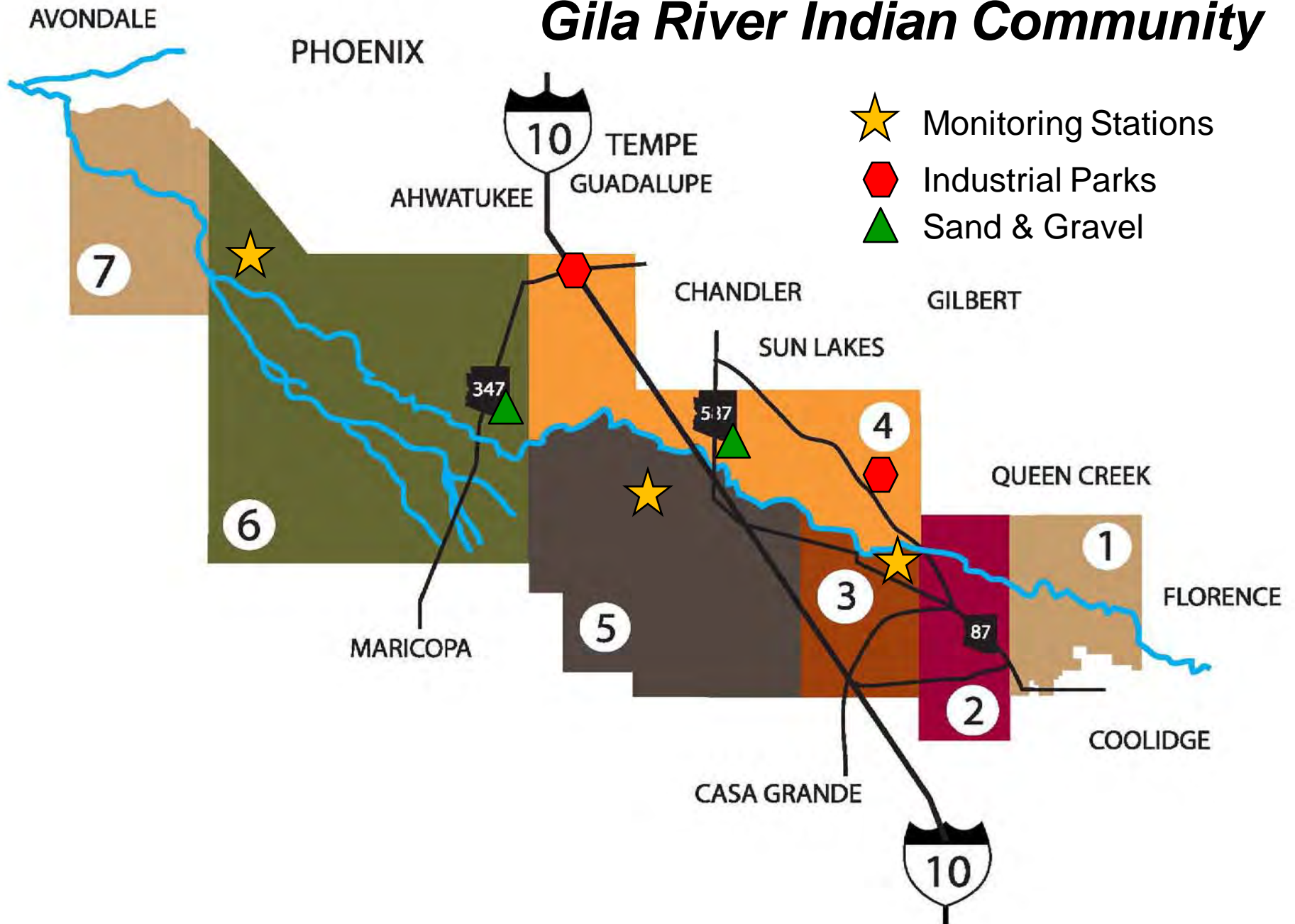
- Established in 1859 by Executive Order
- Consists of two (2) tribes
 - Akimel O'odham (Pimas) – Districts 1 thru 5
 - Pii-Pash (Maricopas) – Districts 6 & 7
- Landbase
 - 374,000 Acres
- Population
 - On reservation 15,000
 - Off reservation 5,000







Gila River Indian Community







Industry Background

- Two industrial parks, 50 businesses & industries
 - Pacific Scientific, Triumph, Local Motors, Superlite Block, Pimalco, Champion Homes, etc.
- Other GRIC-Area Sources
 - 40,000 agricultural acres
 - Acreage will increase to 146,000 over next 10 years
 - Interstate 10 bisects Community
 - (largest source of air pollution)



Built In Chandler, Arizona

AQMP Background

2006 GRIC
Adopts AQMP

2009 GRIC
Submits AQMP
supplemental
Packet to
USEPA

2007 GRIC
Submits AQMP
to USEPA for
Federal
Enforceability

2011 USEPA
approves AQMP

AQMP Elements

- Part I. General Provisions
- Part II. Permit Requirements
- Part III. Enforcement Ordinances
- Part IV. Administrative Appeals
- Part V. Area Source Emission Limits
 - Open Burning
 - Fugitive Dust
- Part VI. General Requirements
 - Visible Emissions
 - VOC Usage, Storage, Handling
 - Degreasing, Solvent Metal Cleaning
- Part VII. Source/Category Specific Emission Limits
 - Secondary Aluminum Processing
 - Aerospace Manufacturing and Rework Operations
 - Non-Metallic Mineral Mining and Processing



Overview of CEMEX Enforcement Action

- Received a complaint
- Conducted enforcement action against CEMEX (hot mix asphalt plant) for Visible Emissions violations
- Issued NOV (no response)
- Issued Order and Director sent letter to owner
- Levied \$15,000 fine
- Required Corrective Action Plan (CAP)

United Metro d.b.a CEMEX Asphalt Plant
Sacaton Plant



CEMEX Enforcement Action

- AQP received a complaint
- Conducted an inspection on both facilities
 - San Tan Plant, Maricopa Plant
- Observed visible emissions
- Conducted visible emissions readings on baghouse, passive baghouses and asphalt silo
- Emission Limitations
 - 7% Opacity Limitations for storage silo
 - 20% Opacity Limitations for baghouse

USEPA Method 9 Visible Emissions Observations



VISIBLE EMISSION OBSERVATION FORM									
Company Name <u>United Metro dba Cemex</u>					Observation Date <u>2/25/08</u>		Start Time <u>10:25</u>		End Time <u>10:47</u>
Location <u>2126 Tanner Rd</u>					Sec		Min		Comments
City <u>Sacaton</u> State <u>AZ</u> Zip <u>85247</u>					0 15 30 45				
Process Equipment <u>Hot Mix Asphalt Plant</u>					Operating Mode <u>Continuous</u>				
Control Equipment <u>Baghouse</u>					Operating Mode <u>Continuous</u>				
Describe Emission Point <u>Exhaust Stack of Baghouse (Square)</u>									
Height of Emission Point <u>Approx 25 ft</u>					Height Relative to Observer <u>Start 25 ft End 25 ft</u>				
Distance to Emission Point <u>Approx 100 ft</u>					Direction to Emission Point <u>Start NW End NW</u>				
Vertical Angle to Observation Pt. <u>Start</u> <u>End</u>					Direction to Observation Point <u>Start</u> <u>End</u>				
Describe Emissions									
Start <u>Lofting</u> End <u>Lofting</u>									
Emission Color <u>Black/gray</u>					If Water Droplet Plume (Circle) <u>Attached</u> <u>Detached</u> <u>N/A</u>				
Point In The Plume At Which Opacity Was Determined <u>Approx 35 ft above stack</u> <u>End 25 ft above stack</u>									
Describe Plume Background									
Start <u>Blue sky w/ white clouds</u> End <u>Blue sky w/ white clouds</u>					Sky Condition <u>Overcast</u> <u>Overcast</u>				
Background Color <u>Blue/white</u>					Wind Speed <u>Approx 5 mph</u> <u>End 5 mph</u>				
Wind Direction <u>Toward the SE</u>					RH Percent				
Ambient Temp <u>Start</u> <u>End</u>					Wet Bulb Temp				
<p>SOURCE LAYOUT SKETCH</p>									
Additional Information									
<p>Observer's Name (Print) <u>Daniel C. Blair</u></p> <p>Observer's Signature <u>Daniel C. Blair</u> Date <u>2/29/08</u></p> <p>Organization <u>GRIC DEQ</u></p> <p>Certified by <u>Mr. Ryan Brown</u> Date <u>10-25-07</u></p> <p>Continue on reverse side</p>									





CEMEX Enforcement Action

- Completed inspection report
- Internal meetings discussing enforcement action
 - Review of regulating authorities
 - Facility background and track record
 - Many factors
 - Decision on enforcement route in accordance with AQMP
- Issued three (3) NOVs
 - Offered an opportunity to meet to discuss corrective actions

Number: 08-001

GILA RIVER INDIAN COMMUNITY
DEPARTMENT OF ENVIRONMENTAL QUALITY
P.O. BOX 97 SACATON, AZ 85247
(520) 562-2234

NOTICE OF VIOLATION

May 20, 2008

The Gila River Indian Community, Department of Environmental Quality (DEQ) has determined that the owner and operator of the Hot Mix Asphalt Plant, United Metro Inc. dba Cemex is in violation of the Gila River Indian Community Code, Title 17, Chapter 9, Air Quality Management Plan, Part VII, Section 3.0, Subsection 3.2 (A).

I. NATURE OF VIOLATION

A. Citation of Authority:

The Gila River Air Quality Management Plan, Title 17, Chapter 9, Part VII, Section 3.0, Subsection 3.2 states that "No person shall cause, permit or allow to be discharged into the ambient air, emissions in excess of the following limitations:

- A. Visible emissions from any dryer exceeding (20) percent opacity.
- B. PM emissions from any dryer exceeding 0.04 gr/dscf (g/dscm).

B. Description of Violation:

United Metro Inc. dba Cemex currently operates a Hot Mix Asphalt Plant located within the borders of the Gila River Indian Community (GRIC) at 2126 North Tanner Road, Sacaton, Arizona 85247 (San Tan Plant). United Metro Inc. dba Cemex is the owner/operator of the Hot Mix Asphalt Plant and is the party responsible for compliance with all requirements of the GRIC Code, Title 17, Chapter 9, Air Quality Management Plan. On February 25, 2008 at 10:25 a.m. United Metro Inc. dba Cemex caused/allowed visible emissions in excess of the twenty (20) percent opacity limitation (see attached Visible Emission Observation Sheet) from the pollution control equipment (baghouse) attached to the pug mill/dryer. GRIC Air Quality staff observed a detached blue gray plume of emissions exiting the baghouse stack and positioned themselves in accordance with EPA Method 9 protocol. Visible emission readings were collected every fifteen (15) seconds for twenty two (22) minutes resulting in the highest six (6) minute average reading of thirty five (35) percent Opacity. This constitutes a violation of the Gila River Indian Community Code, Title 17, Chapter 9, Air Quality Management Plan, Part VII, Section 3.0, Subsection 3.2 (A).

OFFER TO MEET

To schedule a meeting to discuss the specific violation (s), contact Daniel Blair or Willard Antone III at (520) 562-2234.

Disposition of Violation

Daniel Blair, Compliance and Enforcement Mgr.
GRIC Department of Environmental Quality

INCHES OF WATER



MAGNEHELIC®

MAX. PRESSURE 15 PSIG

CAT. NO. 2010

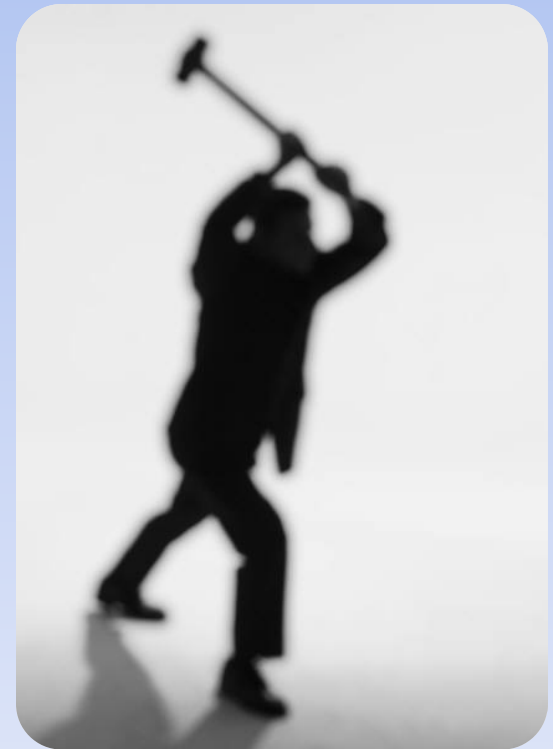
PAT. DIVISION INSTRUMENTS DIVISION, MICHIGAN CITY, IND. U.S.A. PAT. 2,397,318 3,862,416

CAUTION
PRESSURE
MAX. 15 PSIG
TEMPERATURE
MAX. 140°F

06/13/2008

CEMEX Enforcement Action

- GRIC received no response from CEMEX
- GRIC proceeded with an Order and \$15K in Administrative Penalties
 - \$5K per violation
- Letter to CEO of CEMEX





GILA RIVER INDIAN COMMUNITY

Department of Environmental Quality

Post Office Box 97
Sacaton, Arizona 85247
(520) 562-2234 • Fax (520) 562-2245



July 10, 2008

Gilberto Perez
President
CEMEX U.C. Operations
840 Gessner, Suite 1400
Houston, TX 77024

Re: June 20, 2008 Compliance Order Issued by the Gila River Indian Community to United Metro Inc. d.b.a. CEMEX

Dear Mr. Perez:

I am writing you in my capacity as Director of the Department of Environmental Quality for the Gila River Indian Community. The Community is located immediately South of Phoenix, Arizona and is the nation's fourth most populous on-reservation tribe. CEMEX has two operations on Community land.

Ordinarily an enforcement action of the magnitude of the Compliance Order described above would not be the subject of a letter to the President of the company that is the subject of the Order. However, in this case I wish to bring the Order to your attention for two reasons. First, from statements made on your company's website and the actions your company has undertaken in a number of countries, it is clear that your company gives sustainable development and respect and care for the environment a high priority. However, while it is one thing to have annual sustainability reports and declare your commitment to environmental compliance, those concepts must be carried through on the ground.

Second, my agency's attempt to resolve the noncompliance that was the subject of the Order has been ignored. Specifically, on May 16, 2008, CEMEX was informed of the violations and asked to meet with Community representatives to discuss corrective actions. That meeting never occurred because CEMEX failed to contact us to schedule it.

...2

6331236.1

Page 2

G. Perez, CEMEX

The Gila River Indian Community takes its responsibility as far as protection of the health of Community members and the environment of the Community very seriously and we hope that these are values that we share with your company. With that in mind, I am asking that you personally become involved to ensure that this matter is addressed promptly and appropriately and that actions are taken to ensure that it does not recur. Thank you for your attention.

Very truly yours,

Margaret Cook
Director,
Gila River Indian Community
Department of Environmental Quality

cc: Dan Blair,
Environmental Enforcement and Compliance Manager

6331236.1

CEMEX Enforcement Action

- Met with CEMEX Environmental personnel
- CEMEX signed order and paid \$15K penalty
 - CEMEX submitted a Corrective Action Plan

SACATON OPERATIONS			
Issue	Corrective Action	Status	Comment
ASPHALT PLANT			
Dryer Emissions NOV 08-001	Connected magnehelic gauge on the baghouse and will properly maintain.	Completed	
	Replaced defective baghouse bags .	Completed April 2008	Improved preventative maintenance program.
Asphalt Storage Silo NOV 08-003	Enclosed slat conveyors transporting asphalt into storage silos to prevent visible emissions from escaping out of the open elevator.	Completed March/April 2008	
	Closed observation hatches on top of asphalt storage silo to prevent visible emissions from escaping out of the top of the storage silo.	Completed March/April 2008	
	Repaired hole in the side of the asphalt silo to prevent visible emissions from escaping out of the open hole.	Completed March/April 2008	
	Cleaned excessive amounts of baghouse fines and lime that have collected underneath and around the asphalt plant equipment to prevent excess emissions.	Completed/ Ongoing 2 times/week	Procedures to clean plant areas have been improved.
	Improved and implemented the following measures to control the deposition of bag house fines : 1) Implemented procedures to wet down baghouse fines in the pit area during wind events and for loading/unloading fines for disposal. 2) Filled in the fines pit to decrease the fines fall from 8 ft. to 4 ft. for rejecting dust. 3) Installed a pit cover to be used during discharge of dust reject or during high wind events. 4) Additional burlap canopy/cover over the pit opening will be installed. 5) Install new concrete pit and loader cleanout with cover.	Completed March/ April 2008 Burlap Cover To Be Installed By August 15, 2008 Concrete pit and loader cleanout to be completed in 2009.	New water line from CEMEX RM was installed to supply water at plant. Procedures have been implemented to either manually spray water in pit area or use a sprinkler system to control emissions during wind events and fines rejection process. Burlap cover, when installed, will provide additional control for pit opening. Item 5 to be submitted as a capital expenditure (CAPEX) project and is subject to Corporate approval process. CEMEX will provide a project completion timeline once the project is approved in 2008.



06/13/2008

Elements of Compliance Order

- Introduction
 - Parties
 - Facilities
 - Jurisdiction
- Finding of Facts
 - Details of inspection/complaint
- Finding of Violations
 - Visible Emissions Violations

Elements of Compliance Order

- Order to Comply
 - Corrective actions
 - Schedule
 - Progress Reports
 - Civil Penalty
- Terms and Conditions
 - Compliance with Applicable Laws
 - Communications from DEQ
 - Communications to DEQ
 - DEQ review and approval
 - Subsequent Modifications
 - Reservations of Rights

Elements of Compliance Order

- Final Order
 - Final Order
 - Right of Appeal
- Enforcement
 - Community Court
 - Consequences of Violating the Order
- Attachments
 - List of corrective actions that must be taken in order to be in compliance with the AQMP



Highlights

- Conducted enforcement actions using tribes inherent sovereign authority
- Other jurisdictions all had enforcement actions against CEMEX
 - Tribe was asked how we got them into compliance
- Achieved compliance and working relationship with CEMEX

Contact Information

- Will Antone III, Air Quality Specialist
 - PO Box 97 Sacaton, AZ 85147
 - (520)562-2234
 - wantone3@gilanet.net
- Dan Blair, Compliance & Enforcement Manager
 - PO Box 97 Sacaton, AZ 85147
 - (520)562-2234
 - air@gilanet.net