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
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)
AQMP Background

2006 GRIC Adopts AQMP

2007 GRIC Submits AQMP to USEPA for Federal Enforceability

2009 GRIC Submits AQMP supplemental Packet to USEPA

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)
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
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
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 g/m²/ft (g/ft²)."

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 Tumam 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 limit (see attached Visible Emission Observation Sheet) from the pollution control equipment (bighouse) attached to the pug mill/dryer. GRIC Air Quality staff observed a detached blue gray plume of emissions exiting the bighouse 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
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
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.

Very truly yours,

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

cc: Dan Blair,
Environmental Enforcement and Compliance Manager
CEMEX Enforcement Action

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