



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

VIA OVERNIGHT DELIVERY

REPLY TO THE ATTENTION OF

C-14J

August 8, 2013

Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
EPA East Building, Room 3334
Washington, DC 20004

Re: In re ESSROC Cement Corporation, Logansport, Indiana
RCRA Permit IND 005 081 542
Appeal No. RCRA 13-03

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U.S. E.P.A.
2013 AUG -9 PM 12:01
ENVIR. APPEALS BOARD

Ms Durr:

I, along with Sabrina Argentieri, am with the Office of Regional Counsel, U.S. Environmental Protection Agency Region 5, and represent EPA Region 5 in the above-referenced matter. As you know from my voice mails, we had some technical connectivity issues with the Central Data Exchange (CDX) portal in filing our *Response to ESSROC Cement Corporation Petition for Review* (Response) and its attachments, as well as a mistake regarding our inadvertent omission of a signature for the Response and error on the word-count certification for the Response. In case there are questions or confusion as to what occurred, I wanted to provide you a written record and explanation of our filing actions.

On August 6, 2013, one day before the due date for filing the Response, Ms. Argentieri filed the Response and several attachments via the CDX portal. After several of the attachments were accepted by CDX, Ms. Argentieri received error messages from the CDX when attempting to file the remaining attachments. The error messages read:

An unexpected failure (Node Submission Error) has occurred while accessing the Ears data flow. A notification has been sent to our system administrators. Please try your request again and if you continue to have difficulties, please contact the CDX Help Desk.

At the time Ms. Argentieri received the error messages, it was after business hours so there was no one available at the CDX help desk or the Environmental Appeals Board (Board) that could help us with addressing this technical issue. Therefore, Ms. Argentieri left a voice mail with your office explaining the situation.

Also, on the evening of August 6, we placed in a UPS receptacle for pick-up the next day a package of identical paper copies of all the Response attachments we had or had anticipated to file (but for the CDX error messages) to be sent to your office per the Board's requirement that filers submit identical paper copies of all attachments where the attachments are more than 50 pages in length. We also mailed to Petitioner's counsel a copy of the Response we filed that day via CDX as well as a CD containing the attachments.

After the CDX error messages were received, we realized that the Response we filed on August 6 was not signed and that the word-count certification indicated that Ms. Argentieri was certifying that the Response was less than 40,000 words in length whereas she intended to state that the Response was less than 14,000 words in length in conformity with Board filing requirements.

On August 7 Ms. Argentieri talked to you via phone to discuss this matter. You advised Ms. Argentieri to re-file the Response and corrected word-count certification, and then the Board would treat that document as the filed Response and use August 7 as the filing date. Ms. Argentieri successfully used CDX to file the Response (with signature) and corrected word-count certification on that day. Ms. Argentieri proceeded to file the remaining attachments via CDX, with the exception of Attachment 7, which apparently was too large of a file to be accepted by CDX. Ms. Argentieri talked to you via phone again, and you advised that we needed to divide the file up into files smaller than 10 MB and filed the parts of the attachment separately. We proceeded to prepare .pdf files of portions of Attachment 7 as you advised. On the afternoon of August 7, I was able to file Part 1 of Attachment 7, but when I tried to file Part 2, I received the same error message that Ms. Argentieri had received. I contacted the CDX helpdesk, which advised that there was a technical issue in the back-end of the server associated with the node connection. The help-desk further indicated that someone would work on the problem and that I likely would not have access to file document until the next day. I left you a voice mail to apprise you of this development. I also mailed on August 7 to Petitioner's counsel a copy of the Response as filed on August 7 and advised counsel why a new Response was filed.

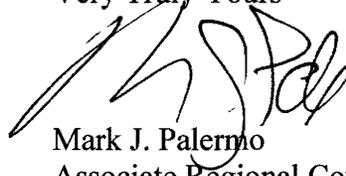
On August 8, I was able to successfully file via CDX all remaining parts (13 in total) of Attachment 7.

Enclosed with this letter is a revised Certification of Identical Paper Copy Submission as the certification we provided in our August 6th mailing does not reflect that we filed the attachments August 6th through 8th as opposed to only August 6th as identified in our original certification.

We greatly appreciate and thank you for your assistance and understanding in this matter, and we apologize for any confusion or inconvenience created by the need to refile our Response to correct the signature omission and word-count certification.

If there is anything you require further with respect to this filing, please do not hesitate to contact me at (312) 886-6082 or palermo.mark@epa.gov.

Very Truly Yours

A handwritten signature in black ink, appearing to read 'M. J. Palermo', written over the printed name.

Mark J. Palermo
Associate Regional Counsel
Counsel for Respondent
U.S. Environmental Protection Agency, Region 5

Enclosure

cc: Sabrina Argentieri
Associate Regional Counsel

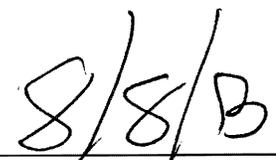
CERTIFICATION FOR IDENTICAL PAPER COPY SUBMISSION

In re ESSROC Cement Corporation, Logansport, Indiana
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I certify that the Attachments to Response to ESSROC Cement Corporation Petition for Review and Certified Administrative Record Index that were shipped via UPS for delivery to the Environmental Appeals Board on August 8, 2013 are identical copies to the Attachments to Response to ESSROC Cement Corporation Petition for Review and Certified Administrative Record Index that were electronically filed by Respondent U.S. Environmental Protection Agency Region 5 in this case with the Environmental Appeals Board on August 6 through 8, 2013.



Mark J. Palermo
Associate Regional Counsel
Counsel for U.S. EPA Region 5



Date