

Overview of Holcim breaches

- 1993 fined \$838,850 in South Carolina for failing to comply with air emission standards
- 1993 fined \$135,000 in Texas after emissions were 50% about 50% higher than allowable
- 1994 fined \$100,874 in Missouri for violations ranging from failing to analyze waste to keeping waste in open containers
- Holcim's Florence plant had failed air-pollution tests 3 times since 1996
- 1999 Iowa officials found that Holcim failed to report excess emissions
- 1999 fined \$576,500 in Michigan for emissions 7.5 times the allowable limits
- 2000 Colorado plant was releasing twice as much pollution as permitted
- 2002 TNRCC report shows Holcim violations range from failing to fill out forms, to being contemptuous of some of the most basic rules that govern air pollution emissions
- 2003 fined \$14.6 million Euro's as part of a cartel accused of artificially keeping cement prices high
- The EPA (Environmental Protection Agency) class Holcim as a "High-priority violator" after the Ada Oklahoma cement plant was fined \$321,000 in 2005 for violating its pollution limits more than 1,000 times in a single year.
- 2006 fined in India for failing to comply with takeover regulations during its acquisition of Associated Cement Company
- 2008 Colombia fined Holcim \$424,000 for fixing prices in 2005
- 2010 fined \$280,000 in Western Australia for blasting into a heritage zone containing indigenous rock art up to 10,000 years old

USA: Holcim -- Global Greenwasher

Transnational Corporations Push Voluntary Self-Regulation at Johannesburg Earth Summit

by Lucy Komisar, Pacific News Service
August 26th, 2002

Along with environmentalists and community activists, big business has descended upon Johannesburg, South Africa, to tout its own "green" growth strategies in the summit on Earth-friendly development. But if the environmental record of one key corporate player is any indication, the overtures are pure "greenwash."

Stephan Schmidheiny, from Switzerland, has fought environmental regulation of business since the 1992 Earth Summit in Rio de Janeiro, when he founded the Business Council for Sustainable Development, a coalition of 160 international companies including AOL Time Warner, AT&T, Bayer, BP, Coca-Cola and Dow Chemical.

The council, attending this week's World Summit on Sustainable Development in Johannesburg, insists on voluntary self-regulation, a strategy supported by the Bush administration.

But the Schmidheiny family-controlled international cement conglomerate Holcim has done more than fail at self-regulation. Even while its U.S. plants have been fined repeatedly for environmental violations, it has worked to weaken restrictions on cement production emissions internationally.

Holcim (formerly Holderbank Financiere Glaris Ltd., based in Switzerland) owns 15 U.S. cement factories that do \$1.2 billion in business per year. In August, Holcim's Midlothian, TX, plant was fined \$223,125 by state regulators for violating limits on pollution, including toxic carbon monoxide, lung-damaging soot and smog-causing compounds.

A 1993 Environmental Protection Agency study reported that people living near cement plants may inhale harmful airborne dioxins, arsenic, cadmium, chromium, thallium, and lead at levels that might cause cancer or other diseases. Such emissions are especially dangerous to children, the elderly and people with heart and lung conditions.

Holcim had promised in 1997 that despite the expansion of the Texas plant, new technology would result in cleaner air. It was granted permits to double production.

But emissions went up, not down. Residents near the plant reported a high incidence of cancer as well as illnesses among farm animals. The pollution affected the entire Dallas-Ft. Worth region.

Local regulators said the plant had not installed equipment promised in the permit application, made changes that increased air pollution, and then lied in emissions reports for nine years.

They called Holcim a "high priority violator/significant non-complier."

Now, St. Lawrence Cement, a Canadian company controlled by Holcim, is seeking permission to build what may be the largest cement factory in the United States on the Hudson River in New York. Environmentalists say the plant's 404-foot stack would discharge respiratory disease-causing soot over a large part of the Hudson Valley.

The Schmidheiny family's concrete factories have a long history of environmental violations:

- In 1993, the Environmental Protection Agency (EPA) fined the Holnam Holly Hill Plant in South Carolina \$838,850 for failing to comply with air emission standards. (Holcim's U.S. operation formerly was called Holnam, for Holderbank North America.)
- Also in 1993, the Texas Air Control Board fined the Midlothian plant \$135,000 after discovering emissions were about 50 percent higher than allowable.
- In 1994, the company's Clarksville, Missouri, plant, which began burning hazardous waste in 1986, paid a \$100,874 fine for violations ranging from failing to analyze waste to keeping waste in open containers.

- In 1999, Iowa state officials found that the company failed to report excess emissions.
- Also in 1999, the Michigan Department of Environmental Quality fined the Holnam plant in Dundee \$576,500 for emissions 7.5 times the allowable limits.
- In 2000, the company was fined because a coal mill and dryer stack at its LaPorte, Colorado, plant was releasing twice as much pollution as permitted. Its Florence plant had failed air-pollution tests three times since 1996.

Holcim spokesman Tom Chizmadia the violations were not "willful" and that the company's "intent is to comply with all standards." Asked about the violations on record, Chizmadia said, "limits are set with an intention of protecting environment and health, and those limits are set very low."

Cement production air pollution became more dangerous after the EPA banned certain hazardous waste from landfills in 1985 and allowed it to be burned in cement kilns. Marti Sinclair, co-chair of environmental quality strategy for the Sierra Club, said that to avoid problems in cities with political influence and access to the media, Congress set a low population limit on places where waste could be burned.

"Holnam went to the Deep South and started burning hazardous waste in Black communities in Alabama, Mississippi and South Carolina," she said.

Environmentalists say that the burning process releases into the air deadly dioxins and PCBs, carcinogenic chemicals that may cause birth defects, including mental and physical retardation.

The Business Council for Sustainable Development has picked the Johannesburg summit to argue its self-regulation position in a new book, "Walking the Talk," by Schmidheiny, Charles O. Holliday Jr., CEO of DuPont, and Philip Watts, chairman of the Royal Dutch Shell Group. Set for launching at the summit, the book maintains that multinationals have kept the commitments made in Rio.

Lucy Komisar is a freelance investigative reporter based in New York City.

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Holcim, Cemex, Lafarge, HeidelbergCement face cement cartel fine of up to £4 billion (10% global turnover)

[Http://www.aggregateresearch.com/article.aspx?ID=15097](http://www.aggregateresearch.com/article.aspx?ID=15097)

Nov, 24 2008

(UK) -- Five major concrete firms Holcim, Cemex, Lafarge, Heidelberg and Dyckerhoff face a total fine of up to £4 billion if they are found guilty of forming an illegal cartel.

Earlier this month, European Commission officials raided UK and European offices of Holcim, Cemex, Lafarge, and Heidelberg - as well as Dyckerhoff in Germany - on suspicion of illegal cartel activity.

If the firms are found guilty, they could be fined up to 10 per cent of their combined worldwide turnover, about £4 billion.

Three of the five firms being investigated - Dyckerhoff, Heidelberg, and Lafarge - have been fined previously.

In 1994, the European Commission fined cement companies - including Lafarge - for operating a cartel, dividing up cement markets and sharing information.

German authorities also fined cement companies 660 million euros in 2003 for cartel activity, while the EU fined Lafarge 250 million euros in 2002 for its part in a plasterboard cartel.

Cartel law specialist John Cassels, of Field Fisher Waterhouse, said that, if found guilty, the companies could be hit with fines at least as large as those imposed last week on car glass manufacturers - a total of £1.2 billion.

Mr Cassels said: "If the current raids result in finding that there has been a cartel, Dyckerhoff, Heidelberg, and Lafarge will be repeat offenders and could face very significant fines, easily as big as the car glass fines.

"Fines could run as high as 10 per cent of group turnover."

He added: "Those that buy cement from companies that are found to have been engaged in a cartel are also likely to bring actions for damages to recoup losses.

"Directors of companies found to be involved in cartels can be sent to prison. In a recent case, three directors were prosecuted by the Office of Fair Trading and sentenced to three years each in prison."

With the cement industry already under pressure due to the economic downturn, the fines could put some companies close to bankruptcy.

But Mr Cassels said: "It has never been found to be a good defence to say a fine will make a company bankrupt.

"It is much better to co-operate. If so leniency will be shown and fines reduced."

The European Commission runs a leniency programme whereby the first member of a cartel that comes forward with relevant information can gain total immunity from fines.

Mr Cassels said: "Whistle-blowers can get complete immunity from prosecution because it's hard enough to discover cartels. Companies that come forward with information can get a significant reduction in their fine."

The European Commission said: "We have reason to believe that the companies concerned may have violated EC Treaty antitrust rules that prohibit cartels and restrictive business practices and/or abuse of a dominant market position."

All of the firms involved told Construction News they were co-operating fully with the Commission's investigation.

There are currently two other investigations of construction industry cartels being carried out by the Office of Fair Trading in the UK.

In April this year, the OFT formally alleged 112 construction firms were engaged in bid rigging having probed thousands of tenders for construction work covering schools, hospitals and private sector developments. In total, £3 billion worth of tenders were affected.

Last month, the OFT launched an investigation into eight recruitment firms following allegations regarding fixing the rates of workers supplied to construction sites in the UK.

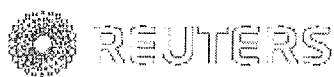
How to cut risk of cartels

John Cassels of law firm Field Fisher Waterhouse offers advice
Reducing cartel risks

- Take care with language in all communications – careless use of language can cast suspicion on legitimate discussions
- Leave any meeting if anti-competitive discussions start – also, agree an agenda for any meeting where a rival company is present and keep detailed notes of all meetings with competitors
- Remember all internal documents will be scrutinised including diaries and personal notebooks in an investigation. This is not limited to papers: computer records, emails and tape recordings are also under scrutiny
- Conceding or destroying incriminating evidence only makes things worse – and do not use guilty vocabulary such as 'delete after reading' or 'destroy'

What to do if raided?

- Do not refuse admission to officials or be obstructive
- Do not attempt to hide, shred or delete any records or materials, and do not create any new documents relating to the investigation
- Immediately notify your in-house legal department or external legal advisors
- Ensure all investigating officials are accompanied or assisted by members of staff at all times
- Consider a temporary block on all external emails
- Do not volunteer any more information than you're asked for
- Keep a record of questions and answers



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UPDATE 1-Holcim German cartel fine cut to 15 mln euros

Mon, Jun 29 2009

* German court reduces total fine on 5 companies

* Case dates back to 2003

ZURICH, June 29 (Reuters) - Holcim (HOLN.VX: Quote, Profile, Research, Stock Buzz), the world's second-largest cement maker, said on Monday a German court had reduced a fine by the cartel office to 14.6 million euros (\$20.44 million) relating to a cartel with four other companies.

Holcim, one of five companies originally fined in 2003 for keeping prices artificially high, would examine its options regarding the fine, which was lowered from 74 million euros, a company spokesman said.

A spokesman for a court in Duesseldorf, Germany, said the companies' total fines would be reduced to 330 million euros from the original 660 million euros because of gaps in the chain of evidence. Other firms involved include HeidelbergCement (HEIG.DE: Quote, Profile, Research, Stock Buzz), Dyckerhoff (DYKG.DE: Quote, Profile, Research, Stock Buzz), Lafarge (LAFP.PA: Quote, Profile, Research, Stock Buzz) and Schwenk. (\$1=7143 euros) (Reporting by Jason Rhodes; editing by Mike Nesbit)

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Montanans Against Toxic Burning

NoToxicBurning.org

September 2007 Update

The Montana Department of Environmental Quality announced that it expected to release the Final Environmental Impact Statement (EIS) in June 2007 but it has still not been released. Once it is released, a record of decision on Holcim's air quality permit will be published approximately 15 days later. We do not anticipate that there will be another opportunity for public comment. If the outcome is not satisfactory, the next step will be to appeal the decision to the Board of Environmental Review. We will only have 15 days after the record of decision to appeal so stay tuned...

Particulate Monitoring in the Gallatin Valley is Inadequate

We have started a campaign to advocate for better monitoring of particulates in our valley. For more information, read our letter to the members of the Gallatin City-County Board of Health [here](#).

February 2007 Update

EPA Do-Nothing Rule on Cement Kiln Mercury Pollution
Ignores Court Order, Public Outcry

Montanans Against Toxic Burning joins coalition of groups to challenge EPA's latest refusal to control toxic mercury emissions.
Press Release

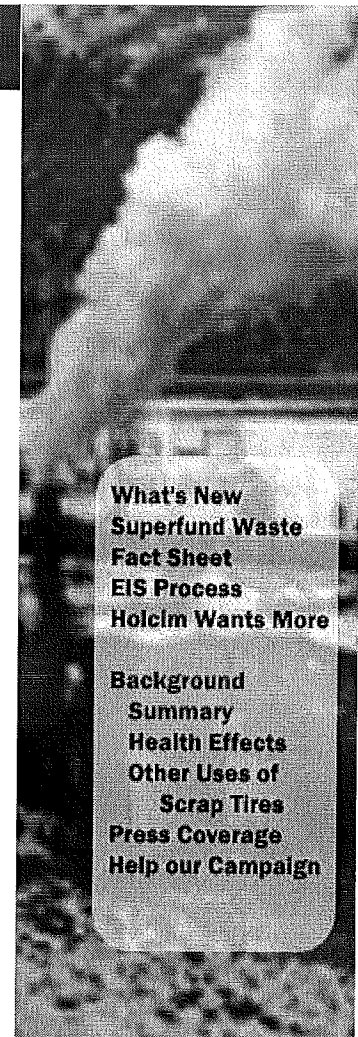
November 2006 Update

The public comment period on the long-awaited Draft Environmental Impact Statement (DEIS) and Draft Permit ended on September 28, 2006, and we now await the DEQ's response to comments on those drafts and the departmental determination on the air quality permit.

Overwhelming evidence was presented at two public hearings (one in Three Forks and one in Bozeman) and in written comments, demonstrating that the human health risk assessment failed to show, as required by law, that burning tires and slag in Holcim's outdated cement kiln would pose no more than a negligible risk to human health and the environment. Sixty local physicians signed a petition stating opposition to the burning of tires in the Trident kiln, and several doctors presented very compelling testimony at the hearings on the serious health impacts of lead, mercury, and dioxin emissions, all of which are expected to increase if the permit is granted. Experts in the fields of risk assessment, toxicology, chemical engineering, and air dispersion modeling submitted comments on the serious inadequacies in the state's analysis, and several hundred local citizens stated their concerns and objections to the proposed action.

Montanans Against Toxic Burning worked closely with the Montana Environmental Information Center, the Montana Chapter of the Sierra Club, EarthJustice, and an informal coalition of local physicians on this campaign. These groups shared the various tasks of analyzing the technical aspects of the analysis and informing local citizens on the issues.

These efforts paid off. Roughly 150 people attended the Three Forks hearing, and close to 350 people attended the Bozeman hearing, filling



Powerpoint of
our informational
meeting

the Bozeman High School cafeteria to capacity. A great majority of the people who testified stated their opposition to burning tires and lead smelter slag in Holcim's outdated wet-process cement kiln. Only a small group of Holcim managers and industry representatives expressed their trust in the DEQ's decision, asserting that Holcim has been a good neighbor and that they were not worried about health risks.

During the hearings, citizens gave voice to a long list of problems in the state's analysis. The Draft Environmental Impact Statement failed to prove negligible risk to human health, as required by law, used very suspicious assumptions in its analysis, and totally ignored several important issues. Furthermore, the documents released to the public were missing important appendices, and DEQ failed to show how it arrived at its counter-intuitive conclusions. In addition, the DEIS failed to analyze several alternatives that might have mitigated negative impacts of the proposal, such as burning processed tires instead of whole tires or converting to a more efficient dry-process kiln.

One of the most troubling flaws in the analysis is that DEQ established an artificially low hourly limit on dioxin emissions in order to reach its conclusion that the proposal would result in no more than a negligible risk to human health and the environment, without requiring any meaningful monitoring to assure compliance with that limit. In fact, DEQ is not requiring Holcim to test dioxin emissions any more frequently than the federal requirement for cement kilns, which is every two and half years. See below for a complete discussion of the **flaws in the analysis**.

Another serious problem is that the risk assessment is based on the same invalid data used in the initial 2003 risk assessment. These data were extrapolated from test burns conducted at ten cement kilns burning various types of tire-derived fuel, but none of the facilities match the profile of this proposal, which is a wet-process kiln burning whole tires. This distinction is critically important because research conducted by EPA indicates that wet-process kilns have much higher dioxin emissions when burning whole tires as fuel. This finding is confirmed by the compliance history of the few wet kilns burning whole tires in the United States: Six of the seven wet-process kilns burning whole tires are out of compliance with their permitted pollution limits. Three of those are classified as "high-priority violators" by EPA, including a Holcim cement plant in Ada, Oklahoma, which was fined \$321,000 in 2005 for violating its pollution limits more than 1,000 times in a single year. Despite repeated requests, Holcim has declined to share emissions data from its Oklahoma cement plant, leading one to believe that this information would be detrimental to Holcim's Trident proposal.

DEQ also failed to adequately assess the health risks associated with burning slag from the ASARCO East Helena lead smelter. DEQ simply states in the DEIS that slag was included in its analysis but provides no evidence for how that was done. Moreover, the state failed to even disclose to the public the compositional analysis of the slag, which contains significant amounts of toxic heavy metals, including lead, arsenic, chromium, and manganese. DEQ's stated assumption that 95% of these toxic metals end up in the final product (the remaining 5% is expected to be trapped by Holcim's pollution control device) is not justified anywhere in the analysis. More troubling is DEQ's failure to formally permit Holcim's use of slag under Montana's waste incineration statute (MCA 75-2-215). This decision sets a very disturbing precedent for Holcim's future use of "alternative" feeds and fuels.

The state has indicated that it will take several months to respond to comments submitted by citizens and to issue the final EIS and its final

determination on the permit. In the meantime, we expect that Holcim will again lobby the state legislature for a tax credit for burning tires (Holcim lobbyists pressed hard for this in the last session but their efforts were thwarted by the counterlobbying of several environmental and public health groups). We also expect that DEQ will seek to weaken the existing waste incineration statute (MCA 75-2-215), making it easier to permit industrial facilities as waste incinerators. MATB will be actively involved in these legislative issues in the coming months. In addition, MATB will be working with the Tire Depot, a tire-recycling center in Polson, supporting its plan to upgrade and expand its operation, thus enhancing its ability to truly recycle all of the waste tires generated in Montana.

Flaws in the Draft Environmental Impact Statement (DEIS) and Draft Permit

WHY YOU SHOULD BE CONCERNED: Burning waste causes much of the worst hazardous air pollution in the U.S. That's why Montana has outlawed any waste-burning that poses more than a "negligible risk" to human health. Unfortunately, the Holcim EIS provides no assurance that tire-burning at Holcim will not pose significant risks to human health. People living and working in the Gallatin Valley need to be aware:

Burning whole scrap tires exposes people to hazardous dioxins. This is the biggest reason why doctors and other concerned citizens in our community are concerned about tire-burning at Holcim's cement kiln:

- **Dioxin is among the most toxic substances ever identified**, according to the National Academy of Sciences. Exposure to dioxin is linked with tumor development, birth defects, reproductive disorders, immune system disorders, and skin disorders among many other adverse health effects.
- Studies by the U.S. Environmental Protection Agency (EPA) reveal that burning whole tires significantly increases emissions of cancer-causing dioxin. At Holcim's Trident kiln, the DEQ anticipates that **burning whole tires will increase dioxin emissions by 60 percent**, well over federal limits that are intended to protect public health. Yet the DEQ decided to ignore this alarming jump in dioxin emissions when it prepared the health risk assessment required under Montana's waste-burning laws.
- Actual increases in **dioxin emissions are likely to be even greater than anticipated by the DEQ**. The DEQ is projecting emissions based solely on information from other plants, but it failed to gather any data from kilns with operations similar to what Holcim is proposing to do, that is, burn whole tires in a wet-process kiln. EPA studies show far greater increases in dioxin emissions when old "wet-process" kilns such as the Trident kiln burn whole tires.

The DEQ is ignoring threats from toxic heavy metals. Lead smelter slag containing lead, arsenic, cadmium, chromium, and other toxic metals is already going into Holcim's kiln. Last year, the DEQ agreed that pollution from slag is a major issue that must be addressed. Yet the DEQ has never attempted to find out what is coming out of Holcim's stack. Based on this EIS, the public has no idea whether current pollution levels are safe, or what the impacts will be if Holcim adds tires to its mix.

- Unaccountably, the DEQ is predicting that emissions from heavy metals and other hazardous air pollutants are going to decrease if Holcim receives its permit to burn 1.13 million whole scrap tires and 16,535 tons of lead smelter slag annually. Yet tires contain far more heavy metals than the coal they will be replacing in Holcim's kiln, and **EPA studies confirm that heavy metal emissions go up**

when cement kilns use tires as fuel. Similarly, lead smelter slag contains more heavy metals than the iron ore it is replacing in the cement mix.

- **The DEQ is relying on pollution controls to prevent heavy metals from escaping out Holcim's stack, but the controls don't work during the plant's frequent "upsets."** The Trident kiln regularly malfunctions, and burning tires is likely to make the current problems worse. Of the nine wet-process kilns burning whole tires in the U.S., seven are violating their pollution emissions limits. Three are classified as "high-priority violators" by EPA, including a Holcim cement plant in Ada, Oklahoma, which was fined \$321,000 in 2005 for violating its pollution limits more than 1,000 times in one year. This record inspires little confidence that the Trident facility will effectively control emissions of hazardous air pollutants if it is allowed to burn tires.

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Contents

- 1 Criticism
 - 1.1 Environmental
 - 1.2 Human Rights
 - 1.3 Business Ethics
 - 1.4 Political Influence
- 2 Praise
- 3 Subsidiaries and Affiliates

Criticism

Environmental

- Holcim -- Global Greenwasher"Holcim has done more than fail at self-regulation. Even while its U.S.plants have been fined

repeatedly for environmental violations, it has worked to weaken restrictions on cement production emissions internationally...In 1993, the Environmental Protection Agency (EPA) fined the Holnam Holly Hill Plant in South Carolina \$838,850 for failing to comply with air emission standards. (Holcim's U.S. operation formerly was called Holnam, for Holderbank North America.) Also in 1993, the Texas Air Control Board fined the Midlothian plant \$135,000 after discovering emissions were about 50 percent higher than allowable. In 1994, the company's Clarksville, Missouri, plant, which began burning hazardous waste in 1986, paid a \$100,874 fine for violations ranging from failing to analyze waste to keeping waste in open containers. In 1999, Iowa state officials found that the company failed to report excess emissions. Also in 1999, the Michigan Department of Environmental Quality fined the Holnam plant in Dundee \$576,500 for emissions 7.5 times the allowable limits. In 2000, the company was fined because a coal mill and dryer stack at its LaPorte, Colorado, plant was releasing twice as much pollution as permitted. Its Florence plant had failed air-pollution tests three times since 1996."

- Weitz & Luxenberg alerts public to toxic emissions of Holcim Cement Plant "The law firm of Weitz & Luxenberg PC would like to inform the public of harmful emissions emanating from the Holcim Inc. cement plant in Dundee, Michigan. According to submissions made by Holcim Inc. to the Toxic Release Inventory, maintained by the US Environmental Protection Agency, the cement plant emitted over 2 million pounds of toxic chemicals in 2006 alone. Such emissions include lead, benzene, mercury and other toxins, which are released from kiln stacks, pre-heaters and cooling towers. The emissions from the Holcim cement plant may be negatively impacting the air quality in the Village of Dundee and consequently the health of the community."

Human Rights

- Holcim -- Global Greenwasher "In August, Holcim's Midlothian, TX, plant was fined \$223,125 by state regulators for violating limits on pollution, including toxic carbon monoxide, lung-damaging soot and smog-causing compounds. A 1993 Environmental Protection Agency study reported that people living near cement plants may inhale harmful airborne dioxins, arsenic, cadmium, chromium, thallium, and lead at levels that might cause cancer or other diseases. Such emissions are especially dangerous to children, the elderly and people with heart and lung conditions."

Business Ethics

- Holcim -- Global Greenwasher "Holcim had promised in 1997 that despite the expansion of the Texas plant, new technology would result in cleaner air. It was granted permits to double production. But emissions went up, not down. Residents near the plant reported a high incidence of cancer as well as illnesses among farm animals. The pollution affected the entire Dallas-Ft. Worth region. Local regulators said the plant had not installed equipment promised in the permit application, made changes that increased air pollution, and then lied in emissions reports for nine years."

Political Influence

- Holcim US Lobbying Spending Database "Holcim US Total Lobbying Income: \$1,690,000"
- Holcim Ltd. Lobbying Spending Database "Holcim, Ltd. Total Lobbying Expenditures: \$290,000"

Praise

- Holcim (US) Theodore, AL, Cement Plant Wins Environmental Award "The Holcim (US) Inc. cement plant in Theodore, AL, has received the Environmental Performance Award from the Portland Cement Association (PCA) and Cement Americas magazine as part of the 2008 Cement Industry Energy and Environment Awards. The Environmental Performance Award recognizes facilities that take steps beyond those required by environmental laws, regulations and permits to minimize their impact on the environment. To reduce its environmental impact, the Holcim Theodore facility developed programs to respond to air, water and solid waste emissions. The plant's emissions are well below state limits for particulate matter and other emissions."

Subsidiaries and Affiliates

Aggregate Industries Holcim Apasco S.A. de C.V. Holcim (US) Inc.

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Category: Company

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Enforcement Action-Holcim

May, 13th, 2002

Texas Natural Resource Conservation Commission
Re: Enforcement Action
Agreed Order Docket No. 2001-0337-AIR-E
Holcim (Texas) Limited Partnership
TNRCC Account No. ED-0099-J
Midlothian, Ellis County, Texas

Comments By Downwinders At Risk

In regard to this specific Agreed Order, Downwinders At Risk asks that the Commission keep two of its own regulatory tests in mind: 1) the adherence to, or violation of, "Best Operating Practices" by Holcim during construction and (continuing) testing of its new and rebuilt kilns, and, 2) the adherence to, or violation of, Best Available Control Technology standards as applied to Holcim by the TNRCC.

Both the company and the state are guilty of a pattern of behavior in this matter that's resulted in a much inferior cement plant than was possible to build, or even promised by permit by Holcim and the TNRCC.

Holcim's 15 violations of law as outlined by the Agreed Order cover a multitude of sins ranging from failing to fill out forms, to being contemptuous of some of the most basic rules that govern air pollution emissions.

Holcim willfully ignored regulations triggering Prevention of Significant Deterioration. The company was caught red-handed by the TNRCC exceeding permitted capacity and air permits even while it was only supposed to be "testing" two new kilns. It lied for nine years about the amount of particulate matter emissions it was emitting. Holcim failed to maintain its pollution control equipment in good working order; failed to comply with dioxin and furan testing procedures; failed to install pollution control devices as stated in the original permit.

Holcim's test burn for Kiln 1's took 7 months, or one month longer than allowed by their TNRCC permit. Kiln 2's test lasted 10 months, or 4 months longer than their TNRCC permit allowed.

Holcim has violated their permitted emission rates for Particulate Matter, Volatile Organic Compounds, Nitrogen Oxides and Carbon Monoxide. These are all major pollutants, with well-known adverse human health effects.

Holcim exceeded its emission rate for Nitrogen Oxide (NOx) - the pollutant that the EPA has identified in DFW as the major contributor to smog - for a total of 1905 hours or approximately 80 days during the height of the ozone season. The company is probably still in constant violation of their NOx emission rate since it's applied for a permit amendment which seeks an increase of 2,000 tons a year in NOx emissions over the limit established in the original 1998. (This number is 1500 more tons a year than the plant was producing in 1996 - the baseline year used by the TNRCC in its DFW smog clean-up plan).

For its crimes, Holcim is receiving a slap on the wrist. At the penalty of

\$223,125, it average under \$15,000 a violation. Hardly a disincentive for future outlaw actions. With the donation of a hazardous material trailer to the City of Midlothian, that figure is halved by the TNRCC to just \$111,562, or an average of \$8400 per crime – the range of many misdemeanors.

According to the Midlothian Fire Department and TXI, the Department already has a hazardous materials trailer. Was there any showing of need for this piece of equipment to the TNRCC for this Agreed Order provision? Is there any legal threshold which must be achieved that demonstrates need in the community for any Supplemental Environmental Project? Is there a convincing statement from the Fire Department itself stating that Midlothian needed two of these trailers? If not, then Downwinders At Risk requests the Commission reject the cutting in half of Holcim's meager fine in order to satisfy a need in the community which does not exist.

Holcim made more money by violating the 15 laws the TNRCC says it broke, than the TNRCC is now willing to reclaim in fines. Indeed, a more appropriate penalty might be to total the ill-gotten gains of Holcim in hard dollars and then treble that for a fine.

It's our belief that Holcim not only did not follow "best operating practices" in building its new plant and installing new pollution control equipment, it flagrantly flouted the law of the land as it did so. Nothing less than a \$15,000,000 fine, one million for each violation, will get Holcim's attention and serve as an incentive for future permit compliance. In addition, the TNRCC should investigate why TXI, which is building a similar plant only a few miles away from Holcim, is able to achieve most of its permit emissions levels while Holcim cannot.

Not only is Holcim's fine too low, but other penalties and provisions are too lenient.

TNRCC gives Holcim an additional one and a half years (545 days) to comply with "authorized air emissions." This is certain to result in one and a half more years of non-compliance with the authorized air emissions in the 1998 original permit, since the company admits it cannot meet those promised limits. That's why it's asking for a permit amendment to increase emissions.

So Downwinders At Risk requests that the Commission clarify Agreed Order Provision IV. 3. D, which determines the length of time for Holcim's compliance with "authorized air emissions." Does the Commission mean for Holcim and citizens to wait 545 days while the company supposedly tries to bring its emissions in line with the 1998 permit until the Commission considers the pending permit amendment? Or is this pending permit amendment some form of "authorized air emissions" and its adoption or rejection is included in the 545 day limit for compliance with the 1998 limits?

Downwinders At Risk urges the Commission to simplify the terms of Holcim's compliance. It should order Holcim to cease operation of its Midlothian cement plant until such time as it can comply with its 1998 original permit or it has won its permit amendment and demonstrates compliance with such.

TNRCC's Agreed Order also exempts Holcim's violations from ever being used in a civil court of law. This routine shield is puzzling in this case because of the enormity of the violations and Holcim's thumbing of its corporate nose at the laws of the state of Texas. Downwinders At Risk believes that the forces of a free market must be able to work when a company has made a mistake – just as it works when the company has successes. With the amount and potency of the kinds of pollution Holcim emitted above its permit limits, the company should be able to be held liable in all circumstances. In all courts of law. Downwinders At Risk urges the Commission to remove this protection for Holcim. The company doesn't deserve it.

Finally, Downwinders At Risk thinks it would be appropriate for Holcim to

finance a team of TXI engineers in a top to bottom reassessment of its pollution control strategy, installation and operation of Kilns 1 and 2 in Midlothian. For some reason, although the two plants are supposedly similar in design and application of control technology, TXI has been able to achieve its promised emissions while Holcim has failed spectacularly. In what might be one of the most humiliating punishments the TNRCC could impose, Holcim would have to be lectured and salvaged by a competitor.

Without this kind of effort or some other third party investigation of Holcim, it's likely that this agreed order will not be the last one for the Midlothian plant.

Those are our comments on the Agreed Order as presented by the TNRCC. However, there's a part of this order that's missing. It's the part dealing with what the TNRCC should be doing to make amends for its complicity in Holcim's crimes. For as clear as it is that Holnam is guilty of misrepresentation and shoddiness, the TNRCC is just as guilty as its official "co-conspirator."

First, TNRCC should apologize to Downwinders At Risk and other citizens who sought a contested case hearing for the original 1998 Holcim permit but were denied one by the TNRCC on the grounds that Holcim new plant would reduce overall emissions. As the company's violations and permit amendment make clear, this has not been the case. A truly independent oversight effort that subjected the company's representatives to cross examination might have prevented Holcim's meltdown in the field by first subjecting their assumptions in an administrative court. But citizens were never given that chance by the TNRCC.

Even TXI warned the TNRCC that Holnam's claims of NOX reductions were based on misrepresentations about the pollution control equipment it was installing. Citizen's experts could have perhaps found these and other flaws four years ago if there had been a contested case hearing.

Moreover, in light of Holcim's track record to date, TNRCC should be rewarding a percentage of any fine money paid by Holcim as a result of this Agreed Order to Downwinders At Risk and the other citizens who requested a hearing instead of paying for yet another hazardous materials trailer. History has shown that the most effective oversight of the Midlothian cement plants comes from the people who live around them and must breathe their pollution. If the TNRCC really wanted to send a message about enforcement to Holcim, it would help fund the citizens groups who were right to warn the Commission in 1998 of Holcim's misrepresentations.

Secondly, the entire issue of Best Available Control Technology (BACT) as it relates to Holcim - and TXI Kiln #5 - needs to be thoroughly re-examined by the TNRCC before the permit amendments for both plants come before the Commission.

Through a Texas Open Records Act request to the TNRCC, Downwinders At Risk has obtained evidence that a true BACT review for both new plants was never performed by the Commission.

In a memo dated 10/5/00 from TNRCC employee Randy Hamilton to TNRCC staff, it's revealed that the European Community has at least 18 "dry process" cement kilns, including at least one owned by Holcim, operating with Selective Non-Catalytic Reduction (SNCR) technology. This existing European SNCR technology is reducing NOx emissions by up to 80-85%. (By comparison, the TNRCC's State Implementation Plan for North Texas proposes only 30% reductions from 1996 levels in NOx emissions at the three Midlothian cement plants.)

Since these European plants, or at least a great majority, seem to have been operating in 1998/99 when Holcim and TXI were applying for permits for brand new dry process kilns, they should have automatically been included in the most basic "Tier" of BACT consideration under TNRCC rules.

The Hamilton memo states that during the 1999/2000 development of the DFW State Implementation Plan, the state's contractor for cement kiln technology had "no awareness" of the European SNCR cement plants. Their exclusion from the SIP research meant that an additional 50% reduction of NOX from some Ellis County cement plants was overlooked by the TNRCC based on what the Commission thought was "technically feasible."

But besides this costly error – one that should be fixed during the "mid-course correction" of the DFW SIP - the memo indicates that TNRCC staff also didn't know anything about these European cement plants when they should have back in 1998. Only two explanations are possible. If the TNRCC did not know about the European plants until 2000, then there was no true BACT review of Holcim's new Midlothian plant or TXI's Kiln #5 in 1998. If the TNRCC staff did know about these plants in 1998 but ignored them in the BACT reviews for Holcim and TXI then the staff broke the law. Either way, Holcim and TXI were not subject to a genuine BACT review as required under TNRCC rules.

This BACT mistake comes on the heels of the TNRCC staff ignoring a retrofitted Holcim Dundee, Michigan "wet process" cement plant during TXI's BACT review for the largest hazardous waste permit ever granted. The Michigan plant was in the process of installing wet scrubbers, low nox burners and advanced particulate matter controls when TXI's permit was granted in 1999, yet it was never considered as a basic "Tier I" facility for comparison.

In their quest for new permit amendments, Holcim and TXI should be subject to a true BACT review process they never had the first time around. And when that happens, true BACT for dry kilns should include SNCR technology as it already cost-effectively exists in Europe. Downwinders At Risk believes that SNCR should be the starting point for any dry process cement kilns in Ellis County seeking modifications in their permits and that any permit amendment proceedings involving those kilns must include a revisiting of BACT.

Finally, TNRCC should reform the way it does "trial burns" such as those that were violated so flagrantly at Holcim. If a company fails to meet its requirements after its 180 day permit expires, perhaps it should be required to cease operations for a certain period of time and finance an independent evaluation of the problem. There must be some better incentive for a company to solve problems rather than letting them pollute the air for months on end in the name of "testing."

Holcim should be fined and fined big, but the TNRCC should also accept its share of responsibility for the mess Holcim is in and start rectifying past and present mistakes of its own when it comes to the Midlothian cement plants.

If you have any questions about these comments, please don't hesitate to contact us.

Sincerely,
Downwinders At Risk

Holcim fined over takeover 'lapse'**BS Reporters / Mumbai August 26, 2006**

Rs 25 crore fine Sebi's biggest.

The Securities and Exchange Board of India (Sebi) today slapped a Rs 25-crore penalty on Swiss cement major Holcim for its failure to comply with takeover regulations during its acquisition of Associated Cement Company (ACC) last year. This is the biggest monetary penalty imposed by the market regulator till date.

Holcim has been asked to pay the fine in 45 days. The company can file an appeal before the Securities Appellate Tribunal (SAT) against the Sebi order.

In its order, the Sebi said Holcim had violated takeover guidelines as it failed to come out with an open offer in Everest Industries Ltd, in which ACC held a 76 per cent stake.

Holcim had directly bought a 13.82 per cent stake in ACC from Ambuja Cement India, and subsequently scaled up its stake to 34.72 per cent through an open offer. This triggered the takeover code in Everest Industries, a listed entity; but the Swiss cement-maker did not comply with this rule, the Sebi said.

Though Holcim contended that Everest Industries was into an unrelated business of asbestos, which it had no plans to enter in India, the Sebi order delivered by adjudicating officer Amit Pradhan said: "Holcim's conduct towards Indian consumers, by not producing products with asbestos fibre, is indeed exemplary, but that cannot be a mitigating factor for this proceeding."

The order said the money involved as a result of the default by Holcim was "anyway above Rs 50 crore... and it was appropriate to impose a penalty of Rs 25 crore, which would be commensurate to the nature of the violation by Holcim."

The matter dates back to January 2005 when the Swiss MNC acquired a 67 per cent stake in Ambuja Cement India, which held shares in ACC. Subsequently, Holcim, along with persons acting in concert (PAC), made an open offer to raise its combined holding in ACC to 52 per cent.

However, the offer fell short of the target. Since ACC held 76 per cent in Everest Industries, it was alleged that the Holcim acquisition led to its indirect control of this company.

Holcim submitted to the Sebi that its global policy did not allow it to engage in non-core activities, and that the group had divested non-core assets worth \$1.25 billion in four years beginning 2002.

It said it did not want to manufacture products using asbestos fibre in India — although such manufacture was permitted in the country — as part of its global policy. It further contended that the acquisition of Everest Industries was the result "of a global arrangement."

But this argument did not find favour with the Sebi. At present, the management control of Everest Industries has been transferred from ACC to a trust managed by former managing director of Gujarat Ambuja N S Sekhsaria, who was one of the promoters of Ambuja Cement India.

[\[Lead Page \]](#) [\[Archive \]](#)

News

El Almorzadero | Mining
Industry | News

Colombia Antitrust Watchdog Fines Cemex, Holcim, Argos

Dow Jones Newswires - Dec
18, 2008

BOGOTA -(Dow Jones)- The Colombian anti-trust watchdog fined the country's three largest cement makers with 923 million Colombian pesos (\$424,000) each for fixing prices in the second half of 2005, an amount with little relevance given the size of the companies.

The antitrust regulator fined Colombia's largest cement maker, Cementos Argos (CEMARGOS.BO), and the local units of Mexico-based Cemex SA (CX) and Swiss-based Holcim Ltd (HOLN.VX).

"The fines are the result of an investigation that showed that during the second half of 2005, the cited companies participated in an agreement to fix prices of Gray Portland Type 1 cement to divide among themselves the market of this product at a national level," the regulator said.

The regulator found there was exchange of confidential information between the three companies and contacts between officials.

The three companies can appeal the decision.

Natalia Agudelo, a stock analyst with local brokerage Interbolsa SA who covers Cementos Argos, said the amount of the fine is not significant for such big companies. "The amount is very low compared with the potential profits of such an agreement," Agudelo said.

Cementos Argos said in a statement it always acts "in

benefit of the country and the industry." The company didn't say whether it will appeal the decision. Cementos Argos reported a net profit of COP110 billion in the first nine months of 2008, or \$51 million. Agudelo said the companies have the money to hire powerful lawyers that may be able to reduce the fines.

"In many cases, the companies ended up paying much less because of tough lawyers," Agudelo's colleague Andres Jimenez said. "At the end of the day, the fines are like jokes for the companies," he added. The regulator also said it fined the legal representatives of the three companies COP414 million. Cementos Argos' Chief Executive Jose Alberto Velez is currently the company's legal representative.

The current legal representative of Cemex's Colombian unit is Cesar Constain, according to the company.

Officials at Holcim and Cemex weren't immediately available for comment.

Contact: Annalisa Peace, GEAA 210-320-6294 (office) / 210-275-9336 (cell)
Charles Hair, Comal Residents for Rural Heritage 830-625-5169

For Immediate Release

April 3, 2008

Local Group - 800 strong - Joins Forces with Greater Edwards Aquifer Alliance to Save Neighborhood from New Quarry

NEW BRAUNFELS -- After collecting more than 800 petition signatures opposing a new rock quarry near New Braunfels, the leaders of Comal Residents for Rural Heritage have teamed up with Greater Edwards Aquifer Alliance to continue the fight. The two groups will meet Thursday, April 3rd at 6:30 p.m. at the Senior Citizens Center, 655 Landa Street in New Braunfels.

The Comal Residents for Rural Heritage generated 800 signatures over the past few months on a petition soliciting county-wide opposition to Holcim Inc., which is planning a quarry south of route 1863, north of 482 and west of Loop 337. The petition states: "As residents of Comal County, we oppose Holcim Inc.'s attempt to build a new quarry here and urge all state and federal officials to reject it. We believe all permits should be denied and ask for a public hearing for each permit. We are concerned about threats to water quality, and believe another gaping hole over the Edwards aquifer so close to Cemex poses a threat to aquifer recharge. We also believe the presence of the endangered golden cheeked warbler should be taken into consideration. The destruction of this songbird's habitat to dig another quarry robs the Hill Country of the character that makes the area desirable. We believe that another quarry would adversely affect our quality of life. As Texans, we do not want our private property rights violated by more blasting, dust, dangerous trucks, and traffic. There are already two quarries close to the newly proposed quarry and that is enough."

"Greater Edwards Aquifer Alliance sees the potential for this quarry to damage our water quality and water quantity," said Annalisa Peace, the Alliance's executive director. "And Holcim does not have the best track record when it comes to pollution," citing reports of large fines for pollution at their Midlothian, Texas, plant.

These fines and other penalties applied to Holcim, a European Company, are detailed on a new web site, www.nomoreblasting.com. The web site notes that Holcim was cited by the Texas Air Control Board for emitting excess sulfur dioxide in Midlothian, Texas, and fined \$135,000. When the problem worsened, Holcim was fined an additional \$233,000. Investigators found that Holcim had falsified emissions reports.

Presently there are two quarries operating near the site. A third one, says the organization's web site, will bring "more blasting, more dirty trucks, more dust, more pollution, more traffic and lower property values."

Charles Hair, who signed the petition, said, "I am sick and tired of having these filthy operations turn public roads into dirty, dust covered, publicly subsidized private driveways for their businesses. We, the taxpayers, bought and paid for these roads, and now many such as 482 are almost useless for public travel. Environmental damage is evident to the most untrained eye while driving through areas surrounding quarries and plants. A flight over the area reveals an even more telling picture." Hair added, "Anyone happy with the presence of operations such as Holcim and Cemex should be required to live within a mile downwind of their favorite plant."

The Greater Edwards Aquifer Alliance (GEAA) is a non-profit organization whose mission is to promote effective broad based advocacy for protection and preservation for aquifer protection throughout the twenty-one county Edwards region. To achieve this mission, The Greater Edwards Aquifer Alliance unites 42 member organizations in support of a comprehensive plan to protect and preserve the Edwards Aquifer, its springs, watersheds, and the Texas Hill Country.

For more information about the Aquifer Alliance visit our web-site at www.AquiferAlliance.org.

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Company fined over rock art damage

TOM ARUP

February 13, 2010

A GLOBAL cement company that damaged ancient Aboriginal rock art has been fined \$280,000 by the federal government after a year of investigations.

The settlement means the government will not take the case to court under powers granted by national environment and heritage protection laws, despite external legal advice that the actions were serious enough to warrant a court case.

In December 2008, rock blasting at Holcim Australia's Nickol Bay quarry in the culturally significant Burrup Peninsula in the north of Western Australia extended into a heritage zone containing indigenous rock art up to 10,000 years old.

Last March it was revealed that three sites had been damaged by blasting and rock fragment showers, including rock art and an ancient indigenous quarry.

An external report found that the damage had been "significant" enough to warrant legal proceedings under national laws.

A spokeswoman for the Department of Environment Water and Heritage said yesterday settlements such as fines are an "important tool under the national environment law and allowed money to be directed where it was needed and avoided lengthy adversarial court processes".

Under the agreement the company involved will also have to enter into "financial arrangements" with three local indigenous groups, details of which are being kept confidential.

Other conditions agreed to by Holcim - previously known as Cemex - include developing a cultural management plan, appointing an indigenous officer, revising its environmental plan and training for its staff and contractors.