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COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTHWEST REGIONAL OFFICE

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Secretary of Natural Resources

David K. Paylor
Director

Dallas R. Sizemore
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO

CLINCH RIVER CORPORATION Registration No. 11140

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1 – 1309, and - 1316, between the State Air Pollution Control Board and Clinch River Corporation, regarding Clinch River Corporation for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, the Permit and the Regulations for the Control and Abatement of Air Pollution.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. “Board” means the State Air Pollution Control Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and - 1301.
2. “Clinch River Corporation” means Clinch River Corporation, a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Clinch River Corporation is a ‘person’ within the meaning of Va. Code § 10.1 – 1300.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.

4. “Director” means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1 – 1185.
5. “Facility” means the Clinch River Corporation, located at 521 Claypool Hill Mall Road in Tazewell County, Virginia, which is permitted to operate a miscellaneous metal parts and coating facility.
6. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 10.1 – 1309.
7. “Order” means this document, also known as a “Consent Order” or “Order by Consent,” a type of Special Order under the Virginia Air Pollution Control Law.
8. “Permit” means the New Source Review permit to modify and operate a miscellaneous metal parts and products coating facility which was issued under the Virginia Air Pollution Control Law and the Regulations to Clinch River Corporation on November 4, 2008.
9. “Regulations” or “Regulations for the Control and Abatement of Air Pollution”, means 9 VAC 5 chapters 10 through 80.
10. “SWRO” means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.
11. “Va. Code” means the Code of Virginia (1950), as amended.
12. “VAC” means the Virginia Administrative Code.
13. “Virginia Air Pollution Control Law” means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Facts and Conclusions of Law

1. Clinch River Corporation owns and operates the Facility in Tazewell County, Virginia. The Facility manufactures and coats miscellaneous metal parts.
2. The Facility is the subject of the Permit which allows the company to operate a miscellaneous metal parts and products coating facility.
3. On Thursday, August 13, 2009, Department staff conducted a Full Compliance Evaluation of the Facility for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:

- a) Records reviewed during site inspection indicated that non-equivalent paints/coatings had been used.
 - b) Records review demonstrated a failure to maintain records of hourly calculations to determine the emissions for each toxic pollutant.
4. Condition 4 of the Permit requires that, “The throughput of the following paints/coatings, or their equivalents, in the spray booth shall not exceed a combined total of 7.0 gallons/hour and 6,000 gallons/year. The hourly rate shall be calculated each month by dividing the total gallons throughput by the total spraying hours in that month. The annual throughput shall be calculated monthly as the sum of each consecutive 12-month period.

-Carbocoat 150 universal primer ... SC-4 Xylene Thinner”
(9 VAC 5-170-160 and 9 VAC 5-80-1180)

5. Condition 21 of the Permit requires that, “The permittee shall maintain records of emission data and operating parameters as necessary to demonstrate compliance with this permit. The content and format of such records shall be arranged with the Director, Southwest Regional Office. These records shall include, but are not limited to:

a) Hourly, monthly and annual calculations to determine the emissions of each toxic pollutant as listed in Condition 20 of this permit for demonstration of compliance. The data shall include the amount of toxic component in the paint/coating according to the most up-to-date MSDS for each paint/coating to determine compliance with Condition 18 of this permit. Hourly throughput and emissions shall be calculated monthly by dividing the monthly usage of each toxic compound by the spray booth hours for that compound in that month. Annual throughput and emissions shall be calculated monthly as the sum of each consecutive 12 month period.

b) Material Safety Data Sheets (MSDS) or other vendor information following toxic air pollutant content for each paint/coating used. A change in the type of paint/coating used may require a permit to modify and operate.

These records shall be available on-site for inspection by the DEQ and shall be current for the most recent five (5) years. The records shall be made available by the 15th day of each month, at which time totals shall include the previous month’s data.” (9 VAC 5-50-50 and 9 VAC 5-80-850)

6. On August 25, 2009, DEQ received a permit modification request from Clinch River Corporation to add additional paints/coatings.

7. On September 9, 2009, based on the inspection and follow-up information, the DEQ issued a Notice of Violation No. 9-6-SWRO-2009 to Clinch River Corporation for the alleged violations described in paragraphs C3 through C5 above.
8. On September 11, 2009, Clinch River Corporation contacted DEQ staff by telephone to schedule a meeting and as a response regarding the NOV.
9. On October 1, 2009, Department staff met with representatives of Clinch River Corporation to discuss the alleged violations.
10. On November 9, 2009, DEQ issued a revised NOV for clarification and to accurately document the alleged violations of Permit Conditions 4 and 21.
11. Based on the results of the August 13, 2009 inspection, review of the September 21, 2009 submittals and the October 1, 2009 meeting, the Board concludes that Clinch River Corporation has violated Permit Conditions 4 and 21 as described in paragraphs C3 through C5 above.
12. On November 10, 2009, DEQ modified the NSR Permit to include the additional paints/coatings and Clinch River Corporation has submitted documentation that verifies that the violations described in paragraphs C3 through C5 above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and – 1316, the Board orders Clinch River Corporation and Clinch River Corporation agrees to pay a civil charge of \$2,096 within 30 days of the effective date of the Order in settlement of the violation cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Clinch River Corporation shall include its Federal Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Clinch River Corporation for good cause shown by Clinch River Corporation, or on its own motion pursuant to the Administrative Process Act Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order
3. For purposes of this Order and subsequent actions with respect to this Order only, Clinch River Corporation admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Clinch River Corporation consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Clinch River Corporation declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board or Director to modify, rewrite, amend, or enforce this Order.
6. Failure by Clinch River Corporation to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Clinch River Corporation shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Clinch River Corporation shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Clinch River Corporation shall notify DEQ Regional Director verbally within 24 hours and in

writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition listed above, which Clinch River Corporation intends to assert will result in the impossibility of compliance, shall constitute waiver of any claim of inability to comply with a requirement of this Order.

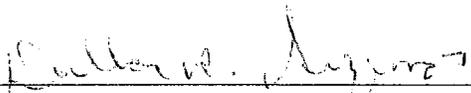
9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Clinch River Corporation. Nevertheless, Clinch River Corporation agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. Clinch River Corporation petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order, or
 - b. the Director or the Board terminates the Order in his or its sole discretion upon 30 days written notice to Clinch River Corporation .

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Clinch River Corporation from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Clinch River Corporation and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of Clinch River Corporation certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Clinch River Corporation to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Clinch River Corporation.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Clinch River Corporation voluntarily agrees to the issuance of this Order.

And it is ORDERED this 30th day of November, 2009



Dallas Sizemore, Regional Director
Department of Environmental Quality

Clinch River Corporation voluntarily agrees to the issuance of this Order.

Date: 11-24-09 By: Sam Kinder,
Sam Kinder, President,
Clinch River Corporation

Commonwealth of Virginia

City/County of Lazewell

The foregoing document was signed and acknowledged before me this 24th day of
November, 2009 by Sam Kinder who is
President of Clinch River Corporation, Inc., on behalf of
the corporation.

Maria L. Farris
Notary Public

173027
Registration No.

My commission expires: 2-28-2013

Notary Seal:

