COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
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Molly Joseph Ward
Secretary of Natural Resources

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Director

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Regional Director

STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
DYNAMIC AVIATION GROUP, INC.
Registration No. 81724

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 Dynamic Aviation Group, Inc. for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning 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. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Dynamic" means Dynamic Aviation Group, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Dynamic is a "person" within the meaning of Va. Code § 10.1-1300.

5. "Facility" means the Dynamic Aviation Group, Inc. facility, located at 1402 Airport Road in Rockingham County, Virginia.

6. "FCE" means a full compliance evaluation by DEQ staff.

7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.

8. "O&M" means operations and maintenance.

9. "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.

10. "Permit" means the minor NSR permit to construct and operate an aircraft maintenance and refurbishing plant which was issued under the Virginia Air Pollution Control Law and the Regulations to Dynamic on November 18, 2015.

11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.

12. "Va. Code" means the Code of Virginia (1950), as amended.

13. "VAC" means the Virginia Administrative Code.

14. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

15. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.

16. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.

SECTION C: Findings of Fact and Conclusions of Law

1. Dynamic owns and operates an aircraft maintenance and refurbishing plant located in Bridgewater, Virginia. The Facility is located in Rockingham County at 1402 Airport Road, Bridgewater, VA. The Facility is subject to a Stationary Source Permit to Construct and Operate, issued to Dynamic on November 18, 2015.

2. On June 25, 2015, DEQ met with Dynamic to discuss possible air permitting requirements. Dynamic indicated that spray booths, metal working equipment, a gas fired evaporator, and chemical etching equipment were located within the Facility. DEQ requested that Dynamic submit a Form 7 application in order to assess the Facility's

equipment.

3. On July 27, 2015, DEQ issued Warning Letter No. 15-07-VRO-007 to Dynamic for not submitting records to support exemption from air permitting or a Form 7 air permit application.

4. On August 3, 2015, Dynamic responded to the WL, stating that the Facility was working with their consultant to review the equipment and obtain pertinent information from the equipment manufacturers.

5. On September 15, 2015, DEQ performed a FCE with site visit at the Facility. DEQ observed the following processes and equipment installed: spray booths with spray guns, sandblasting, paint stripping, woodworking, and etching with solvent based materials. DEQ observed that the Facility was in operation during the inspection. At the time of the FCE, DEQ did not have record of a complete Form 7 application.

6. 9 VAC 5-80-1120(A) states that: "No owner or other person shall begin actual construction of, or operate, any new stationary source or any project subject to this article without first obtaining from the board a permit under the provisions of this article."

7. 9 VAC 5-80-1210(E) states that: "Any owner who constructs or operates a source subject to this section not in accordance with the terms and conditions of any permit to construct or operate, or any owner of a source subject to this section who commences construction or operation without receiving a permit hereunder, shall be subject to appropriate enforcement action including, but not limited to, any specified in this section."

8. On September 22, 2015, based on the FCE and follow-up information, the Department issued Notice of Violation No. AVRO000265-001 to Dynamic for the violations described in paragraphs C(6) through C(7) above.

9. On September 30, 2015, Dynamic submitted a Form 7 air permit application.

10. On November 12, 2015, DEQ staff met with Dynamic representatives to discuss the NOV. Since the NOV, Dynamic reported that two new positions were hired, administrative for paperwork and a Manager of Environmental Compliance and Safety. During the meeting, Dynamic informed DEQ that the Facility shutdown their equipment and would not operate until the permit was issued.

11. Based on the results of the September 15, 2015 evaluation and the November 12, 2015 meeting, and the documentation submitted at the meeting, the Board concludes that Dynamic has violated 9 VAC 5-80-1120(A) and 9 VAC 5-80-1210(E) as described in paragraphs C(2) through C(8), above.

12. Dynamic has obtained Permit coverage at the Facility on November 18, 2015, and the violations described in paragraphs C(2) and C(8) 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 Dynamic and Dynamic agrees to:

1. Pay a civil charge of $60,826 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

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

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

Dynamic shall include its Federal Employer Identification Number (FEIN), 54-1836461, 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). If the Department has to refer collection of moneys due under this Order to the Department of Law, Dynamic shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Dynamic for good cause shown by Dynamic, 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 and resolves only those violations specifically identified in Section C of this Order and in NOV No. AVRO000265-001 dated September 22, 2015 and Warning Letter No. 15-07-VRO-007 dated July 27, 2015. This Order shall not preclude the Board or the 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, Dynamic admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Dynamic 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. Dynamic 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 any 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 to modify, rewrite, amend, or enforce this Order.

6. Failure by Dynamic 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. Dynamic 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 unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Dynamic shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Dynamic shall notify the 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 the Order. Such notice shall set forth:

   a. the reasons for the delay or noncompliance;

   b. the projected duration of any 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 above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any 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 Dynamic. Nevertheless, Dynamic 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. The Director or his designee terminates the Order after Dynamic has completed all of the requirements of the Order;

    b. Dynamic 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

    c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Dynamic.

    Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Dynamic 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 Dynamic 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 Dynamic 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 Dynamic to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Dynamic.

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, Dynamic voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 18th day of April, 2016.

Amy T. Owens, Regional Director
Department of Environmental Quality

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Dynamic Aviation, Inc. voluntarily agrees to the issuance of this Order.

Date: 4/15/2016 By: _____, President
(Person) (Title)
Dynamic Aviation, Inc.

Commonwealth of Virginia
~~City~~/County of Rockingham

The foregoing document was signed and acknowledged before me this 15th day of April, 2016, by Michael A. Stoltzfus who is President of Dynamic Aviation, Inc., on behalf of the corporation.

Benita Azpeitia
Notary Public

7508057
Registration No.

My commission expires: August 31, 2019

Notary seal:

BENITA AZPEITIA
Notary Public
Commonwealth of Virginia
Reg. #7508057
My Commission Exps. 8/31/19