



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO SOLITE, LLC Registration No. 30200

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 Solite, LLC, regarding Solite, LLC, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permits and the 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. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Lynchburg, Virginia.
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 Solite, LLC facility, located at 11045 Bridgeport Road in Buckingham County, Virginia, which is a lightweight aggregate manufacturing facility to supply specialized aggregate for buildings and bridge construction projects.
6. "Notice of Violation" or "NOV" means a type of Notice of Violation under Va. Code § 10.1-1309.

7. “NSR Permit” means the NSR permit to Construct and Operate a stone processing plant, which was issued under the Virginia Air Pollution Control Law and the Regulations to Solite, LLC on August 14, 2008.
8. “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.
9. “Regulations” or “Regulations for the Control and Abatement of Air Pollution” means 9 VAC 5 Chapters 10 through 80.
10. “Solite, LLC” means Solite, LLC, a limited liability company (LLC) authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Solite, LLC is a “person” within the meaning of Va. Code § 10.1-1300
11. “Title V Permit” means the Title V permit to Construct and Operate a stone processing plant, which was issued under the Virginia Air Pollution Control Law and the Regulations to Solite, LLC. on December 3, 2006, as amended April 21, 2008
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. “VEE” means a Visible Emissions Evaluation, as determined by EPA Method 9 (see 40 CFR 60, Appendix A).

SECTION C: Findings of Fact and Conclusions of Law

1. Solite, LLC owns and operates the Facility in Buckingham County, Virginia. Solite, LLC is a lightweight aggregate manufacturing facility to supply specialized aggregate for buildings and bridge construction projects.
2. The Facility is the subject of the Title V and NSR Permits which allow stone processing.
3. On August 5, 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. The Facility had not maintained periodic monitoring records for each crusher, screen, conveyor and transfer point for the Stone Processing/Finishing Operations from the week of March 8, 2009, to the date of this onsite inspection.
 - b. A Visible Emissions Evaluation (VEE) had not been conducted for the Pugmill Plant’s 30” belt conveyors, PM-C1 and PM-C2. The deadline for completing the VEE was March 31, 2009, which was 180 days after startup of the facility.

4. Condition VII.B.1 of the facility's Title V permit states the following:

“VII.B.1 Stone Processing/Finishing Operations

B. Monitoring

1. Visual emission observations from each crusher, screen, conveyor, and transfer point shall be conducted at least once per week. If visible emissions are observed, the permittee shall:

a. Take timely corrective action such that the affected unit resumes normal operation and there are no visible emissions from the process, or

b. Perform a visible emission evaluation (VEE) in accordance with 40 CFR 60, Appendix A, Method 9 to assure visible emissions from the equipment do not exceed twenty (20) percent opacity. The VEE shall be conducted for a minimum of six minutes. If any of the 15-second observations exceed 20 percent, the VEE shall be conducted for a total of 60 minutes. If compliance is not demonstrated by this VEE, timely corrective action shall be taken such that the affected unit resumes operation within the applicable visible emissions limits.

Records shall be maintained, stating the date and time of each visible emissions check and whether visible emissions were observed, results of all VEEs, the observer's name and any required corrective action taken. Visible emissions checks are not required during start-ups, shut-downs, and malfunctions. These records shall be available on site for inspection by the DEQ and shall be current for the most recent five (5) years.
(9 VAC 5-40-1850 and 9 VAC 5-80-110)”

5. Condition 12 of the NSR Permit states the following:

“Visible Emissions Evaluation - Visible Emission Evaluations (VEE) in accordance with 40 CFR Part 60, Appendix A, Method 9, shall be conducted by the permittee on the following equipment: 30” belt conveyors PM-C1 and PM-C2. Each test shall consist of 30 sets of 24 consecutive observations (at 15 second intervals) to yield a six minute average. The details of the tests are to be arranged with the South Central Regional Office. The permittee shall submit a test protocol at least 30 days prior to testing. The evaluation shall be performed within 60 days after achieving the maximum production rate at which the facility will be operated but in no event later than 180 days after start-up of the permitted facility. Should conditions prevent concurrent opacity observations, the South Central Regional Office shall be notified in writing, within seven days, and visible emissions testing shall be rescheduled within 30 days. Rescheduled testing shall be conducted under the same conditions (as possible) as the initial performance tests. One copy of the test result shall be submitted to the South Central Regional Office within 45 days after test completion and shall conform to the test report format enclosed with this permit. One copy of the test result shall be submitted to the South Central Regional Office within 45 days after test completion to EPA Region III at the address in Condition 15.

(9 VAC 5-50-30, 9 VAC 5-80-1200, and 9 VAC 5-50-410)”

6. On September 10, 2009, based on the inspection and follow-up information, the Department issued Notice of Violation AWCRO No. 7109 to Solite, LLC for the violations described in paragraphs C (3) through C (5), above.
7. On October 1, 2009, Department staff met with representatives of Solite, LLC to discuss the violations.
8. On October 16, 2009, Solite, LLC submitted a written response to the NOV and as a follow-up to the meeting held with DEQ on October 1, 2009.
9. Based on the results of August 5, 2009, inspection, the October 1, 2009 meeting and the documentation submitted October 16, 2009, the Board concludes that Solite, LLC has violated Permit conditions VII.B.1 of the Title V Permit and condition 12 of the NSR Permit, as described in paragraphs C (3) through C (5), above.
10. Solite, LLC has submitted documentation that verifies that the violations described in paragraphs C (3) through C (5), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and -1316, the Board orders Solite, LLC, and Solite, LLC agrees to pay a civil charge of \$10,140 within 30 days of the effective date of this 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 be "Treasurer of Virginia", and delivered to:

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

Solite, LLC shall include its Federal Employer 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 Solite, LLC, for good cause shown by Solite, LLC, 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. 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, Solite, LLC admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Solite, LLC 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. Solite, LLC 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 Solite, LLC 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. Solite, LLC 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. Solite, LLC shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Solite, LLC 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 Solite, LLC intends 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, 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 Solite, LLC. Nevertheless, Solite, LLC 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. Solite, LLC 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 Board terminates the Order in his or its sole discretion upon 30 days written notice to Solite, LLC.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Solite, LLC 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 Solite, LLC 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 Solite, LLC 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 Solite, LLC to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Solite, LLC.
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, Solite, LLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 7th day of April, 2010.



Steven A. Dietrich, Regional Director
Department of Environmental Quality

Solite, LLC voluntarily agrees to the issuance of this Order.

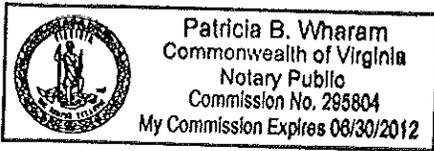
Date: 4/7/10 By: Suddith D. Wharam Jr. Plant Manager
(Person) (Title)

Commonwealth of Virginia,
City/County of Buckingham

The foregoing document was signed and acknowledged before me this 7 day of

April, 2010 by Suddith D. Wharam Jr., who is
(name)

Plant Manager of Solite, LLC on behalf of the Corporation.
(title)



Patrice B. Wharam
Notary Public

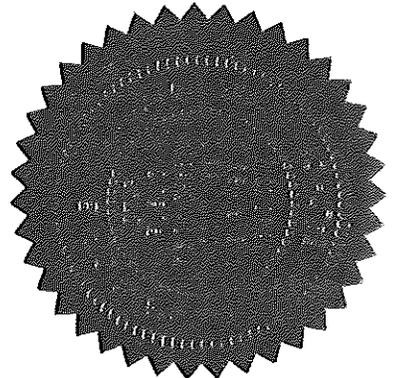
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Registration No.

Embossed Hereon Is My
Commonwealth Of Virginia Notary Public Seal
My Commission Expires June 30, 2012
PATRICIA B. WHARAM

My commission expires: 6/30/2012

Notary Seal:



References

Va. Code § 55.118.6

Va. Code §§ 47.1-2, -16

A Handbook for Virginia Notaries Public (2008)