COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN VIRGINIA REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
(703) 583-3800 Fax (703) 583-3801
www.deq.virginia.gov

L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

~~Jeffery A. Steers~~
Regional Director

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

Department of the Army
Untied States Army Garrison, Fort Belvoir
Fort Belvoir, Virginia
DEQ Registration No. 70550

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1316, and 10.1-1309, between the State Air Pollution Control Board (SAPCB) and the United States Army Garrison Headquarters at Fort Belvoir, for the purpose of resolving certain alleged violations of the air permits and regulations as specified in SECTION C of this Order.

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 collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.

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.

4. "Facility" or "Fort Belvoir" means the Department of the Army, United States Army Garrison, Fort Belvoir, located in Fairfax County, Virginia.

5. "NOx" is the generic term for a group of highly reactive gases, all of which contain nitrogen and oxygen in varying amounts. Nitrogen dioxide (NO_2) is a component of NOx, a criteria pollutant and a precursor pollutant for ozone formation.

6. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.

7. "Order" means this document, also known as a Consent Order.

8. "Regulations" refers to the Regulations for the Control and Abatement of Air Pollution for the Commonwealth of Virginia.

9. "SAPCB Regulations" mean the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution.

10. "VAC" means Virginia Administrative Code.

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

SECTION C: Stipulated Findings of Fact

1. The United States Army Garrison, Fort Belvoir (Fort Belvoir) is a Military installation for the defense of the security of the United States of America. The facility operates under several permits, including a RACT Permit, issued on May 16, 2000, and a Title V Permit, issued on March 21, 2003.

2. On May 19, 2006, Department of Environmental Quality (DEQ) personnel conducted a review of Fort Belvoir's *Semi-Annual RACT NOx Report,* covering the period from October 1, 2005, to March 31, 2006. As a result of that review, DEQ issued an Informal Correction Letter (ICL) on June 19, 2006, seeking clarification of "Item IV.1, Preventive Maintenance", as provided by Fort Belvoir's contractor, DynCorp, and accepted by Fort Belvoir. Item IV.1 reported a work order status of "C" for work orders (P90317 & P90318). Previous RACT NOx Reports reported a work order status of "F" to indicate that all maintenance tasks had been completed. On July 17, 2006, DEQ received Fort Belvoir's response to the ICL. In that response, Fort Belvoir noted that work order status "C" was used to report that a work order was cancelled. Fort Belvoir acknowledged the failure to identify the non-compliance with Condition 3 of its RACT Permit.

3. On September 6, 2006, DEQ personnel conducted a review of Fort Belvoir's *Semi-Annual Title V Deviation Report* for the period from January 1, 2006, to June 30, 2006. In that report, Fort Belvoir reported the following deficiencies, relative to its March 21, 2003, Title V Permit:

    A) Fort Belvoir did not appear to have recorded the number of hours of operation for generator unit #s EG-38 - EG-43, EG-66 - EG-69, EG-29 and EG-107, as required in Condition IX.B.1 of their Title V Permit.
    B) Fort Belvoir could not produce complete records of the results of visible emissions observations for generator unit #s EG-38 - EG-43, EG-66 - EG-69, EG-29 and EG-107 to show that they had been completed and recorded, as required in Condition IX.B.2 of their Title V Permit.
    C) Fort Belvoir did not appear to have recorded complete and accurate data for the March 2006 burn on veterinary clinic incinerator unit # I-2, as required in Condition XI.B.1 of their Title V Permit.
    D) Fort Belvoir did not appear to have performed and recorded visible emissions observations for veterinary clinic incinerator unit # I-2 during February and March 2006 burns, as required in Condition XI.B.3 of their Title V Permit.
    E) Fort Belvoir discovered required signs were not continuously in place at three (3) cold cleaning degreaser units, as required in Condition XIII.A.4 of their Title V Permit.
    F) Fort Belvoir reported the discovery that the cover on one (1) of its degreasers was not closed while the unit was not in operation, Condition XIII.A.6c of their Title V Permit requires the degreasers to be closed when not handling parts in the cleaner.

4. On October 11, 2006, DEQ issued a Notice of Violation (NOV) to Fort Belvoir, alleging the aforementioned RACT and Title V Permit violations as detailed in the May 30, 2006, and September 6, 2006, (respectively) Partial Compliance Evaluation (PCE) inspection reports.

5. On October 23, 2006, DEQ received Fort Belvoir's written request to schedule a meeting to discuss the allegations set forth in the NOV. In that letter, Fort Belvoir responded directly to some of the allegations, noting that:

    A) generator Unit #EG-107 is actually 45 kilowatts and not 600 kilowatts as listed in the Title V Permit, and is therefore not subject to the record keeping requirement in Condition IX.B.1 and IX.B.2 of that Permit;
    B) records for the March 2006 incinerator burns (NOV Observation 2c) were completed using the chart recorder data after the submittal of the January 1, 2006 through June 30, 2006, *Semi-Annual Title V Deviation Report*;
    C) the visible emissions observations were not logged at the time of the submittal but have since been updated by the operator (NOV Observation 2d); and

D) degreaser unit signage was relocated and or replaced upon discovery during the reporting period (NOV Observation 2e).

6. DEQ and Fort Belvoir held a meeting at the Northern Virginia Regional Office on November 1, 2006, to discuss the allegations and to allow Fort Belvoir to provide additional data they wished to have considered. During that meeting, Fort Belvoir reported, and DEQ accepted, that:

   A) fuel records or hours of operation are available for all generators except unit #s EG-41, EG-42 and EG-43;
   B) visible emissions observations were documented for generator unit #s EG-66 – EG-69, but records remained incomplete for the other units;
   C) generator unit # EG-107 should not be included in the recordkeeping requirement due to its size; and
   D) a log generated using strip chart recorder data is sufficient to record incinerator burns.

7. DEQ and Fort Belvoir held another meeting on July 11, 2007, to discuss possible corrective action steps in conjunction with a Consent Order. Fort Belvoir has provided DEQ with an EMS Implementation Plan to verify that they are currently instituting an EMS at the facility in accordance with Executive Order 13148. Other possible corrective action steps were discussed and are a part of Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §10.1-1316(C), the Board orders that Fort Belvoir, and Fort Belvoir voluntarily agrees, to perform the actions described in Appendix A of this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Fort Belvoir, for good cause shown by Fort Belvoir, or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued October 11, 2006. 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 as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate

enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Fort Belvoir neither denies nor admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. Fort Belvoir declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State 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 enforce this Order.

5. The Parties to this Consent Order anticipate that all obligations of Fort Belvoir arising under this Consent Order will be fully funded. However, any requirement for the payment or obligation of funds by Fort Belvoir established by the terms of this Consent Order shall be subject to the availability of funds, and no provision herein shall be interpreted to require obligation of funds in violation of the Antideficiency Act, 31 U.S.C. Section 1341. In cases where payment or obligation of funds would constitute a violation of the Antideficiency Act, the dates established requiring the payment or obligation of such funds shall be appropriately adjusted.

6. Failure by Fort Belvoir 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. Fort Belvoir 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. Fort Belvoir shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Fort Belvoir shall notify the DEQ Regional Director in writing 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 within 24 hours of learning of any condition above, which the parties intend to assert will result or has resulted in the impossibility of compliance, shall constitute a 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 Fort Belvoir. Notwithstanding the foregoing, Fort Belvoir agrees to be bound by any compliance date that precedes the effective date of this Order.

11. Settlement of this matter shall not constitute an admission of liability in any administrative or judicial proceeding, nor shall evidence of settlement be admissible in administrative or judicial proceeding, nor shall evidence of settlement be admissible in any such proceeding. Settlement of this matter shall no constitute or be considered a waiver of federal sovereign immunity, or an admission of such a waiver, or an admission that the United States is liable to pay administrative or civil penalties or fines assessed by state or local regulatory authorities implementing programs for the control and abatement of air pollution.

12. This Order shall continue in effect until

    i. Fort Belvoir petitions the Director or Board to terminate the Order after it has completed all requirements of the Order, and the Regional Director determines that all requirements of the Order have been satisfactorily completed; or
    ii. The Director, his designee, or the Board may terminate this Order in his or its sole discretion upon 30 days written notice to Fort Belvoir.

    In making his determination under section 12.i. above, the Regional Director in his sole discretion may accept Fort Belvoir's certification that it has completed all requirements of this Order. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Fort Belvoir from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

13. By its signature below, Fort Belvoir voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of September 24, 2007.

Thomas A. Faha, Regional Director
Department of Environmental Quality

Fort Belvoir voluntarily agrees to the issuance of this Order.

By: COL US Army Installation Cdr

Date: 19 SEP 07

Commonwealth of Virginia
City/County of FAIRFAX

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

19 September, 2007, by BRIAN W. LAURITZEN, who is
(name)

Installation Commander of Fort Belvoir, on behalf of the Organization.
(title)

Christa R. Lacy
Notary Public

My commission expires: 28 February 2009
Commission # 356733

CHRISTA R. LACY
COMMONWEALTH OF VIRGINIA
NOTARY PUBLIC

APPENDIX A

Fort Belvoir shall complete the following actions:

1. Submit an inventory of all fuel burning equipment, including combustion units, incinerators, and boilers, at the facility within 30 days of the execution of this Consent Order.

2. Submit the draft verbiage for an obligation for environmental compliance that will be included in Interservice Support Agreements (ISSAs) between Fort Belvoir and tenant organizations within 60 days of execution of this Consent Order. Existing ISSAs shall be modified to include environmental compliance obligations upon expiration of the current agreement, and ISSAs for new facilities shall incorporate compliance obligations prior to initial signing.

3. Develop a written training plan for supervisors and operators of boilers, generators, degreasers and incinerators and provide training on a quarterly basis.

4. Determine compliance with all applicable requirements in the Title V permit through inspection or audit on a quarterly basis. Results shall be maintained by Fort Belvoir for review by DEQ upon request.

5. Conduct monthly compliance inspections of all degreaser units until all units have demonstrated compliance for one year beginning on the date of the execution of this Order. If noncompliance reoccurs, monthly inspections must be reinstituted.

6. Obtain and implement an environmental compliance tracking software package to keep records of inspections, maintenance, training, testing and other compliance related activities. Notify DEQ of the purchase and implementation of the compliance tracking software within 30 days of purchasing the environmental compliance tracking software for the facility. Fort Belvoir shall provide quarterly updates on the status of implementation of the software and inform DEQ within one year of the execution of this Consent Order whether they would implement the software or pursue an alternate plan. If the software has not yet been purchased, an alternate plan shall be submitted to DEQ for approval within nine months of execution of this Consent Order and shall be an enforceable part of this Consent Order in the event Fort Belvoir would be unable to implement the software package.