



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

West Central Regional Office
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Robert G. Burnley
Director

Steven A. Dietrich
Regional Director

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO THE
UNITED STATES ARMY, (OWNER)
AND
ALLIANT AMMUNITION AND POWDER COMPANY, LLC, (OPERATOR)
FOR THE
RADFORD ARMY AMMUNITION PLANT
(VPDES Permit No. VA0000248)**

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §62.1-44.15(8a) and (8d) by the State Water Control Board to the United States Army, (Owner) and Alliant Ammunition and Powder Company, LLC, (Operator) for the Radford Army Ammunition Plant for the purpose of resolving certain alleged violations of State Water Control Law 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. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 62.1-44.7 and 10.1-1184.
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.
5. "Order" means this document, also known as a Consent Special Order.

6. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
7. "Permit" means VPDES Permit No. VA0000248, which was reissued to the Parties on April 28, 2000 to authorize discharges from RAAP wastewater treatment facilities. The Permit expired on April 28, 2005 and was reissued on June 10, 2005.
8. "RAAP" means the Radford Army Ammunition Plant, a manufacturing facility near Radford, Virginia owned by the United States Army and operated by Alliant Ammunition and Powder Company, LLC.
9. "Alliant" means Alliant Ammunition and Powder Company, LLC.
10. "Regulations" means the Permit Regulation, 9 VAC 25-31-10 *et seq.*
11. "The Parties" means the United States Army, (Owner) and Alliant Ammunition and Powder Company, LLC, (Operator).

SECTION C: Department's Findings of Fact and Conclusions of Law

1. On April 15, 2004, the Department issued a Permit Reissuance Reminder letter to the Parties. That letter stated that the Permit will expire on April 28, 2005 and that the deadline for submitting a complete application for reissuance of the Permit is October 28, 2004.
2. The Department received an application for reissuance of the Permit on November 3, 2004.
3. In a letter to the Parties dated December 3, 2004, the Department stated that the application for reissuance of the Permit was administratively incomplete. Attachments to that letter explained the deficiencies. The letter made no reference to the permit application being received after the due date of October 28, 2004. Late submittal was not realized by the Parties until April 21, 2005.
4. In a letter to the Department dated December 7, 2004, the Parties provided responses to the Department's December 3rd letter. Information provided in the December 7th letter corrected the deficiencies in the Permit application. Accordingly, the application for reissuance of the Permit was complete as of December 7, 2004.
5. On February 14, 2005, the Department issued a Warning Letter ("WL") No. W2005-02-W-1014 to the Parties. The WL stated that : 1) Discharge Monitoring Report ("DMR") data submitted by the Parties for December 2004 indicated that the Parties had exceeded the pH limit for Outfall 006 during that month; 2) the Parties had discharged an unknown volume of wastewater through Outfall 006 containing contaminants not authorized by the Permit to the New River on December 16, 2004; and 3) the Permit reapplication failed to state whether conditions used as a basis for thermal mixing zones had changed by the deadline specified in the Permit. The unknown volume of wastewater discharged and the pH exceedance were

caused by failure of a pump at the Nitric Acid Concentrator / Sulfuric Acid Concentrator building and subsequent treatment of the acidic wastewater spill with an excessive amount of sodium carbonate, resulting in a high-pH wastewater discharge. In a letter dated December 20, 2004, the Parties explained that the pump had been repaired and that alarm systems were being installed to warn of any future pump failures. The thermal mixing zones issue was resolved on January 21, 2005 when the Parties provided the required notification. The issue was further clarified by the Parties in a letter to DEQ dated May 25, 2005, to clear up incorrect statements regarding the material discharged. This letter was issued in response to DEQ Notice of Violation Number W2004-05-W-0006.

6. On April 19, 2005, the Department issued WL No. W2005-04-W-1006 to the Parties. The WL stated that the February DMR for Outfall 024 failed to report data for the following parameters: BOD₅ concentration maximum; TSS concentration average & maximum; COD concentration maximum; sulfates concentration maximum; ammonia concentration average & maximum; oxidized nitrogen concentration maximum. In letters dated March 8 and May 25, 2005, the Parties explained that Outfall 024 had flow of about two gallons per minute for about 4.75 hours on February 1, 2005. Because of the short duration of the discharge, Facility personnel were unable to obtain a 24-hour composite sample. Because the valve connecting the settling pond to the discharge line was permanently closed and the level of the pond was below the point where the pond could discharge into that line, the Parties believe that the flow was caused by groundwater infiltration.
7. On February 2 and 3, 2005, Department staff advised the Parties not to submit the samples it had taken of the February 1 discharge from Outfall 024 because the samples did not meet the 24-hour composite sample requirements of the Permit.
8. On May 11, 2005, the Department began a 30-day public comment period for reissuance of the Permit.
9. On May 16, 2005, the Department issued Notice of Violation ("NOV") No. W2004-05-0006 to the Parties. The NOV repeated the alleged violations specified in the WLs issued in February and April 2005 and also listed the following alleged violations: 1) the Parties failed to submit a complete application for reissuance of the Permit at least 180 days before expiration of the Permit as required by 9 VAC 25-31-100; 2) the Permit expired on April 28, 2005 and the Parties has been discharging without a permit since that time; 3) the DMR for January 2005 indicates that the Parties exceeded the BOD₅ loading maximum limit during that month. In a letter dated February 7, 2005, the Parties explained that the excessive BOD loading was caused by high ethanol levels from the NC dehydration press house in the green lines process area, combined with delay in response to the ethanol levels due to a failure by the contract analytical laboratory to correctly identify the strength of the constituents of the wastewater. During a meeting on May 31, 2005, the Parties explained that all effluent limit problems, including the BOD₅ violations, have been corrected.

10. The Permit was reissued on June 10, 2005.

SECTION D: Agreement and Order

Accordingly, the State Water Control Board, by virtue of the authority granted it in §62.1-44.15(8a) and (8d), orders Alliant, and Alliant agrees, to pay a civil charge of One Thousand Eight Hundred Dollars (\$1,800.00) 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 the "Treasurer of Virginia". Payment shall be sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, VA 23240

Payment shall include Alliant's federal identification number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of the Parties, for good cause shown by the Parties, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those alleged violations specifically identified herein, including those addressed in NOV No. W2004-05-W-0006, WL No. W2005-04-W-1006, and WL No. W2005-02-W-1014. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (a) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (b) seeking subsequent remediation of the facility as may be authorized by law; or (c) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein. The Parties do not waive any rights they may have to object to enforcement actions by other federal, state, or local authorities arising out of the same or similar facts alleged in this Order.
3. For purposes of this Order and subsequent actions with respect to this Order, the Parties admit the jurisdictional allegations contained herein. The Parties neither admit nor deny any allegation of fact or law set forth in this Consent Order.
4. The Parties declare that they have received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.* and waive 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, except that the Parties reserve their right

to a hearing or other administrative proceeding authorized or required by law or to judicial review of any issue of fact or law contained in any subsequent amendments to this Order issued without the consent of the Parties. 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 the Director to enforce this Order.

5. Failure by the Parties 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. The Parties do not waive any rights they may have to object to enforcement actions by other federal, state, or local authorities arising out of the same or similar facts alleged in this Order.
6. 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.
7. The Parties 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. The Parties shall show that such circumstances were beyond their control and not due to a lack of good faith or diligence on their part. Nothing in this Order shall be interpreted to require obligation or payment of funds by the Parties in violation of the Anti-Deficiency Act, 31 U.S.C. Sec. 1341. The Parties shall notify the WCRO 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 this 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 WCRO Regional Director within twenty-four hours 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 of inability to comply with a requirement of this Order.
8. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
9. This Order shall become effective upon execution by both the Director or his designee and the Parties.
10. This Order shall terminate upon receipt of the funds specified in Section D herein. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the Parties from their obligation to comply with any statute, regulation, permit

condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 11. By the signatures of the authorized officials below, the Parties voluntarily agree to the issuance of this Order.
- 12. Each undersigned representative of the Parties by his or her signature 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 the Parties to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the Parties.

And it is so ORDERED this day of 9-29, 2005.

FOR Steven A. Dietrich
 Robert G. Burnley, Director
 Department of Environmental Quality

The United States Army voluntarily agrees to the issuance of this Order.

By: Anthony R. Skinner
 Date: 7/18/05

Commonwealth of Virginia

City/County of Montgomery

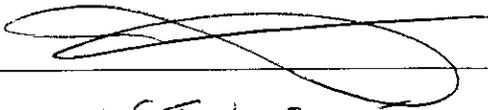
The foregoing instrument was acknowledged before me this 18th day of July, 2005,
 by Anthony R. Skinner, who is the Commander of the Radford Army
 Ammunition Plant, on behalf of the United States Army.

Lisa Y. Eggen
 Notary Public

My commission expires: 8-31-07

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United States Army and Alliant Ammunition and Powder Company, LLC

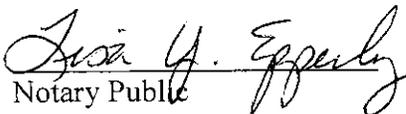
Alliant Ammunition and Powder Company, LLC voluntarily agrees to the issuance of this Order.

By: 
Date: 15 July 2005

Commonwealth of Virginia

City/County of Montgomery

The foregoing instrument was acknowledged before me this 15th day of July, 2005,
by James W. Cates, who is VP & Gen. Manager of
Alliant Ammunition and Powder Company, LLC, on behalf of said organization.


Notary Public

My commission expires: 8-31-07