COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Blue Ridge Regional Office

www.deq.virginia.gov

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

Robert J. Weld
Regional Director

Lynchburg Office
7705 Timberlake Road
Lynchburg, Virginia 24502
(434) 582-5120
Fax (434) 582-5125

Roanoke Office
3019 Peters Creek Road
Roanoke, Virginia 24019
(540) 562-6700
Fax (540) 562-6725

February 11, 2014

Jay Stewart, Environmental Manager
BAE Systems Ordinance Systems Inc.
P.O. Box 1
Radford, VA 24143

RE: Corrected Consent Order, Acid Sewer Bypass Pumps, etc., Registration No. 20656; BR13-0504

Dear Mr. Stewart:

Enclosed is a copy of the corrected version of a Consent Order for BAE Systems Ordinance Systems Inc. / United States Army concerning the Radford Army Ammunition Plant. The Order was signed by the Regional Director on behalf of the Board on January 7, 2014 and is effective from that date. A revised version of the Order with certain technical corrections was submitted to BAE and the Army in early January 2014. That revised version of the Order was signed by the Regional Director on behalf of the Board on February 11, 2014 and the technical corrections are effective from that date.

Thank you for your cooperation in this matter. If you have questions, please contact me at (540) 562-6777 or Robert.Steele@deq.virginia.gov.

Sincerely,

Robert Steele
Enforcement Specialist Sr.

Enclosure

cc: Case File
Jeff Hurst
Frank Adams
Kerri Nicholas

ECM 127-1 (scan with Consent Order as one document)

COMMONWEALTH of VIRGINIA

Douglas W. Domenech
Secretary of Natural Resources

DEPARTMENT OF ENVIRONMENTAL QUALITY
Blue Ridge Regional Office
www.deq.virginia.gov

David K. Paylor
Director

Robert J. Weld
Regional Director

Lynchburg Office
7705 Timberlake Road
Lynchburg, Virginia 24502
(434) 582-5120
Fax (434) 582-5125

Roanoke Office
3019 Peters Creek Road
Roanoke, Virginia 24019
(540) 562-6700
Fax (540) 562-6725

STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
UNITED STATES ARMY (OWNER)
AND
BAE SYSTEMS ORDNANCE SYSTEMS, INC.
FOR
RADFORD ARMY AMMUNITION PLANT
Registration No. 20656

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 the United States Army (Owner) and BAE Systems Ordnance Systems, Inc., regarding the Radford Army Ammunition Plant, 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. "Army" means the United States Army. The Army is a "person" within the meaning of Va. Code § 10.1-1300.

2. "BAE" means BAE Systems Ordnance Systems, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. BAE is a "person" within the meaning of Va. Code § 10.1-1300.

3. "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.

4. "BRRO-R" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.

5. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.

6. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

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

8. "Facility" or "Plant" or "RFAAP" means the Radford Army Ammunition Plant, located at State Route 114 in Montgomery and Pulaski Counties, Virginia.

9. "Minor NSR Permit" means the Stationary Source Permit to Construct and Operate a new Nitric Acid Concentrator / Sulfuric Acid Concentrator (NAC/SAC) facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to Alliant (as operator) and the United States Army (as owner) on December 8, 2008 and amended on April 6, 2012. On June 18, 2012, BAE submitted a Form 7 (Facility/Owner/Operator Information Update Form) application to DEQ notifying the agency that the operator for the Plant would be changing to BAE as of July 1, 2012. On August 2, 2012, BAE submitted a revised Form 7 correcting certain errors that were contained in the original submittal.

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

11. "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.

12. "The Parties" means the United States Army (Owner) and BAE Systems Ordnance Systems, Inc. (Operator).

13. "PCE" means a partial compliance evaluation by DEQ staff.

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

15. "T5 Permit" means the Title V Federal Air Operating Permit No. VA-20656 to operate the Facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to the Army (as owner) and Alliant Ammunition & Powder Co., LLC ("Alliant")(as operator) effective January 15, 2004. On June 18, 2012, BAE submitted a Form 7 (Facility/Owner/Operator Information Update Form) application to DEQ notifying the agency that the operator for the Plant would be changing to BAE as of July 1, 2012. On August 2, 2012, BAE submitted a revised Form 7 correcting certain errors that were contained in the original submittal.

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

17. "VAC" means the Virginia Administrative Code.

18. "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 Fact and Conclusions of Law

1. The Army owns the Facility and BAE operates the Facility. The Facility manufactures specialty munitions, propellants and chemicals for the Army and other users. The Facility is the subject of the Permit which allows operation and emissions in accordance with its terms.

2. On March 1, 2013, DEQ received BAE's February 28, 2013 Title V Semi-annual Monitoring Report ("TVSAMR"). This report indicated that two diesel engines had been in operation since April 2011 to operate pumps for a bypass of a process wastewater sewer.

3. A DEQ staff review on March 22, 2013 of the TVSAMR and subsequent review of follow-up submittals by BAE indicated that two 300 HP Caterpillar ("CAT") Model C9 diesel engines were in operation at the facility without a permit since April 2011. DEQ subsequently obtained information from BAE indicating that a 300 HP John Deere Power Tech PVX 6090HFC94 diesel engine was in operation at the facility without a permit since March 12, 2013.

4. A DEQ staff review on March 22, 2013 of the TVSAMR indicated that written documentation of once-per-shift inspections of the absorption tower for the Nitric Acid Concentrator/Sulfuric Acid Concentrator for the period of July 1, 2012 through December 31, 2012 was not maintained as required by the Minor NSR Permit.

5. On May 3, 2013, based on the evaluation and follow-up information, the Department issued Notice of Violation No. AWCRO#8690 to the Army and BAE for the violations described in paragraphs C(2) through C(4), above.

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.

7. Condition X.A.1 of the T5 Permit requires the facility to comply with all "all applicable current and future MACT, NESHAPS, NSPS and state regulations for fossil fuel fired boilers, internal combustion engines, miscellaneous organic chemical manufacturing, commercial and industrial solid waste incinerators, organic liquid distribution, military MACTS and any other applicable regulations once promulgated."

8. Condition 21 of the Minor NSR permit requires that the facility conduct visual inspections of the absorption tower once per shift and maintain records of maintenance and training for a period of five years.

9. On May 21, 2013, Department staff met with representatives of the Parties to discuss the violations.

10. On May 31, 2013, BAE submitted a written response to the NOV. The response indicated that BAE would remove the two CAT engines and the John Deere engine from the facility. In a letter dated June 6, 2013, BAE indicated that the two CAT engines were removed from the facility on June 6, 2013.

11. Based on the results of the March 22 and April 17, 2013 document reviews, the May 21, 2013 meeting, and the documentation submitted on March 1 and 20, 2013, the Board concludes that the Parties have violated the T5 Permit condition X.A.1 and 9 VAC 5-80-1120(A) and the Minor NSR Permit condition III.A.5 as described in paragraphs C(2) through C(4), above.

12. The Parties have submitted documentation that verifies that the violations described in paragraph C(4), above, have been corrected.

13. By signing this Order, the United States Army does not waive sovereign immunity.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders BAE, and BAE agrees to:

1. Perform the actions described in Appendix A of this Order; and

2. Pay a civil charge of $46,837 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

BAE shall include its Federal Employer Identification Number (FEIN) 54-189-2491 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, BAE 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 the Parties for good cause shown by the Parties, 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, the Parties admit the jurisdictional allegations, and agree not to contest, but neither admit nor deny the findings of fact, and conclusions of law in this Order.

4. BAE 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. The Parties declare they have received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and they 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. 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 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.

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. 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 unforeseeable circumstances beyond their control and not due to a lack of good faith or diligence on their part. The Parties shall

demonstrate that such circumstances were beyond their control and not due to a lack of good faith or diligence on their part. The Parties 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 the Parties.

11. This Order shall continue in effect until:

a. The Director or his designee terminates the Order after the Parties have completed all of the requirements of the Order;

b. The Parties petition the Director or his designee to terminate the Order after they have 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 the Parties.

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.

12. In accordance with the Federal Anti-Deficiency Act, the obligations of the Army under this section are expressly conditioned on the availability of Congressional appropriations,

which the Army agrees to seek in amounts sufficient to timely accomplish these undertakings. If sufficient appropriations are not available and cannot be obtained, the Army will promptly inform the DEQ Regional Director. In such case, the Director may terminate the Order and take other action, if so desired, or amend the Order with the Parties' consent or in accordance with the Administrative Process Act.

13. Any plans, reports, schedules or specifications attached hereto or submitted by the Parties 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.

14. The undersigned representative of the Parties 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.

15. 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.

16. By their signatures below, the Parties voluntarily agree to the issuance of this Order.

And it is so ORDERED this 11th day of February, 2014.

Robert J. Weld, Regional Director
Department of Environmental Quality

----------(Remainder of Page Intentionally Blank)----------

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

Date: 3 FEB 2014 By: LTC LUIS A. ORTIZ, RADFORD COMMANDER
(Person) (Title)

Commonwealth of Virginia
City/County of Montogonery

The foregoing document was signed and acknowledged before me this 3rd day of February, 2014, by Luis A. Ortiz, who is Commander of the Radford Army Ammunition Plant, on behalf of the Army.

Notary Public

7107154
Registration No.

My commission expires: 10/31/15

Notary seal:

BENJAMIN M. GRADY
NOTARY PUBLIC
REGISTRATION # 7107154
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
OCTOBER 31, 2015

BAE Systems Ordnance Systems, Inc. voluntarily agrees to the issuance of this Order.

Date: 13 JAN 14 By: _____, GEN. MANAGER
(Person) (Title)

Commonwealth of Virginia
City/County of Montgomery

The foregoing document was signed and acknowledged before me this 13 day of January, 2014, by William M. Barnett, who is General Manager of the Radford Army Ammunition Plant, on behalf of the corporation.

_____
Notary Public

7107154
Registration No.

My commission expires: 10/31/15

Notary seal:

BENJAMIN M. GRADY
NOTARY PUBLIC
REGISTRATION # 7107154
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
OCTOBER 31, 2015

APPENDIX A
SCHEDULE OF COMPLIANCE

1. Within 30 days of the execution of this Order, the Parties shall remove the John Deere engine referenced in Paragraph C(3) above from the Facility.

2. Within 45 days of the execution of this Order, the Parties shall submit to DEQ written documentation of removal of the John Deere engine referenced above.

3. Unless otherwise specified in this Order, the Parties shall submit all requirements of Appendix A of this Order to:

   Robert Steele
   Enforcement Specialist Sr.
   VA DEQ- BRRO
   3019 Peters Creek Road
   Roanoke, VA 24019

   Phone: (540) 562-6777
   Fax: (540) 562-6725
   Email: Robert.Steele@deq.virginia.gov