

LANCE R. LEFLEUR
DIRECTOR



BOB RILEY
GOVERNOR

Alabama Department of Environmental Management
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

November 1, 2010

Certified Mail 91 7108 2133 3936 5819 0555

Timothy K. Garrett
PMCSO-ANCDF FO
ANCDF Field Office
3580 Morrisville Road
Anniston, AL 36201

Certified Mail

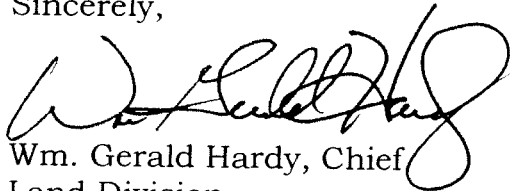
Robert C. Love 91 7108 2133 3936 5819 0548
Westinghouse Anniston
ANCDF Field Office
3580 Morrisville Road
Anniston, AL 36201

Dear Mr. Garrett and Mr. Love:

Enclosed please find Consent Order No. 11-016-CHW which requires the ANCDF to take certain actions in regard to alleged violations of the Alabama Hazardous Waste Management and Minimization Act. This Order has been issued with your consent and is final and not appealable.

Should you have any questions concerning this matter please call Mr. Ronald T. Shell at (334) 271-7748.

Sincerely,


Wm. Gerald Hardy, Chief
Land Division



WGH:RTS:mal

Enclosure

Cc: Colonel Timothy M. Sullivan

File: Anniston Army Depot (Calhoun County)/ AL3 210 020 027/ Hazardous Waste/ Correspondence

Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

Decatur Branch
2715 Sandlin Road, S. W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (FAX)

Mobile Branch
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400
(251) 479-2593 (FAX)

Mobile-Coastal
4171 Commanders Drive
Mobile, AL 36615-1421
(251) 432-6533
(251) 432-6598 (FAX)

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF

**UNITED STATES DEPARTMENT OF THE ARMY
ANNISTON CHEMICAL AGENT DISPOSAL FACILITY FIELD
OFFICE
ANCDF FIELD OFFICE
3580 MORRISVILLE ROAD
ANNISTON, ALABAMA 36201**

Consent Order NO. 11-016-CHW

**WASHINGTON GOVERNMENT ENVIRONMENTAL
SERVICES COMPANY LLC
WESTINGHOUSE ANNISTON
ANCDF FIELD OFFICE
3580 MORRISVILLE ROAD
ANNISTON, ALABAMA 36201
CALHOUN COUNTY**

USEPA ID NUMBER AL3 210 020 027

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter "ADEM" or "the Department") and the Anniston field offices of the United States Department of the Army Anniston Chemical Agent Disposal Facility Field Office and Washington Government Environmental Services Company LLC (hereinafter jointly referred to as "ANCDF"), pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.), and the Alabama Hazardous Wastes Management and Minimization Act of 1978, (AHWMMA), Ala. Code §§ 22-30-1 to 22-30-24 (2006 Rplc. Vol.), and the ADEM Administrative Code, promulgated thereunder.

STIPULATIONS

1. The Anniston field offices of the U.S. Army Anniston Chemical Agent Disposal Facility Field Office and Washington Government Environmental Services Company LLC (hereinafter jointly referred to as "ANCDF") own and operate a facility at 3580 Morrisville Road, Anniston, Calhoun County, Alabama 36201 (assigned EPA ID Number AL3 210 020 027).

ANCDF's primary activities involve the treatment of chemical agent and chemical agent munitions and the storage and management of related hazardous wastes. ANCDF holds a permit issued under the Alabama Hazardous Wastes Management and Minimization Act (Permit) for the treatment and storage of hazardous waste.

2. The Alabama Department of Environmental Management is a duly constituted department of the state of Alabama pursuant to Ala. Code §§22-22A-1 to 22-22A-16 (2006 Rplc. Vol.).

3. Pursuant to Ala. Code § 22-22A-4(n) (2006 Rplc. Vol.), the Department is the state agency responsible for the promulgation and enforcement of solid and hazardous waste regulations in accordance with the federal Solid Waste Disposal Act, 42 U.S.C. §§ 6901 through 6992k, as amended. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Hazardous Wastes Management and Minimization Act, Ala. Code §§ 22-30-1 to 22-30-24 (2006 Rplc. Vol.).

DEPARTMENT'S CONTENTIONS

4. Pursuant to the facility's compliance with applicable portions of Anniston Army Depot's (ANAD's) permit and the generator standards outlined in the ADEM Administrative Code, Division 14, ADEM has been conducting 24 hour/ 7 days a week monitoring of the Anniston Chemical Demilitarization Facility (ANCDF), ANAD, in Anniston, AL.

5. In a Notice of Violation dated January 12, 2010, during the monitoring period of July 1, 2009 to September 30, 2009, the following violations were self reported by ANCDF.

A. On September 8, 2009, Metal Parts Furnace (MPF) feed was initiated and allowed to continue with the MPF Discharge Airlock (DAL) cooling air valve, XV-907, in an improper position. If the valve is in a mid or intermediate position, air flowing from the valve could overcome the ability of the Automatic Continuous Air Monitoring System (ACAMS) to pull a representative sample of the exhaust from the MPF DAL. As a result, monitoring would not be conducted as is required by the ANCDF RCRA Permit Application Section III D-6b(2)(b) which states, "In the event that a tray of...

munitions... has been within the furnace for a sufficient period of time to satisfy the entirety of the waste treatment times specified in Table III D-26, these items may be discharged from the furnace *after appropriate monitoring within the discharge airlock to verify destruction of agent.*” As such, this was also a violation of Permit Condition I.E.8. which states “The Permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control...which are installed or used by the Permittee to achieve compliance with the conditions of this Permit....Proper operation and maintenance includes... following SOPs....”

B. On September 23, 2009 an expander rod removed from a Multi-Purpose Demilitarization Machine (MDM) was placed on a tray containing HT mortars that were being routed for processing within the MPF. This expander rod is considered to be secondary waste. The permit governing operation of the MPF prohibits the co-mingling of munitions and secondary waste. Specifically, this is a violation of Permit Condition VI.C.3.j., which states “Munitions and secondary waste shall not be fed to the MPF at the same time.”

6. In a Notice of Violation dated January 12, 2010, during the monitoring period of July 1, 2009 to September 30, 2009, the following violations were self reported by ANCDF.

A. On September 20, 2009, it was determined at 00:00 hours that Common Stack heat-trace for ACAMS PAS 701H, monitoring for agent HD, was not functioning normally. The ACAMS unit was returned to service prior to repairing the heat trace for the unit and processing occurred within the Deactivation Furnace System (DFS). A note in AN-LOP-210 Operation 2 step 4.3 states “If heat trace at an HD station is not working, monitoring station WILL NOT be placed back in OPERATE mode until heat trace is repaired....” This is also a violation of Permit Condition I.E.8. (See item 5. A. above.)

B. On September 20, 2009, while recovering from the event described above in item 6.A., all three common stack mustard ACAMS were placed in service mode at 07:29 hours to challenge each instrument, and monitoring was re-established at 07:43

hours. AN-LOP-210 Operations 4. gives directions to ensure only one ACAMS at the common stack location is off line at any given time. This is also a violation of Permit Condition VI.E.1. which states: "...The instruments installed on the common stack will be configured so that two are alternating sampling and analysis and the third is in standby to replace either of the two active instruments in case one must be removed from service for any reason."

7. In a Notice of Violation dated March 30, 2010, during the monitoring period of October 1, 2009 to December 31, 2009 the following violation was self reported by ANCDF.

A. On November 30, 2009 during an entry into the Munitions Processing Bay (MPB), a bag containing disposable protective ensemble (DPE) booties and aprons was located by door 230 that had exceeded the three (3) day storage limitation. The tracking log indicated that the bag had been moved to the Toxic Management Area (TMA) on November 24, 2009. This is a violation of ADEM Admin. Code R. 335-14-3-.03(5)(c)2. which requires that the initial amount of waste be removed from satellite areas within three days. As such, it is a violation of Permit Condition I.E. 8.

B. At approximately 0940 hours, December 17, 2009, the power switch was found in the 'OFF' position on Depot Area Air Monitoring System (DAAMS) sequencers at Stations PFS711 and PFS712 [Deactivation Furnace System (DFS)], resulting in a loss of monitoring at these locations for approximately 13 hours. This is a violation of the Permit Application Section III D-7b(2)(c). As such, it is a violation of RCRA Permit Condition Module I.E. 8. (Note: This is also a violation of Permit Condition II.S.4. that requires DAAMS to monitor the mid-bed of the Pollution Abatement System Filtration System (PFS) carbon filters.)

8. In a Notice of Violation dated March 30, 2010, during the monitoring period of October 1, 2009 to December 31, 2009, the following violations were self reported by ANCDF.

A. On September 13, 2009, ANCDF had recently completed decontamination of carbon filters removed from the Munition Demilitarization Building (MDB) ventilation system. A review conducted during this process revealed that an ACAMS used in the

initial drum monitoring evolution conducted prior to decontamination efforts was not in proper control to support use in compliance with the SOP governing this activity. AN-SOP-094 requires that the interior of the drum/contents be monitored with an ACAMS prior to removal of the carbon filter housing from its original container. As such, this is a violation of Permit Condition I.E.8 which states: "The Permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control...which are installed or used by the Permittee to achieve compliance with the conditions of this Permit....Proper operation and maintenance includes... following SOPs...."

B. On October 27, 2009, it was discovered that while transferring 5X projectile waste contents from a Discharge Collection Bin into a roll-off container stationed in the Residue Handling Area (RHA) using a forklift rotational bin tilting device, the baghouse collection system had not been activated as required by AN-SOP-023. ANCDF procedure AN-SOP-023 Operation 2 step 4.4 requires the RHA baghouse collection system used to capture airborne particulate matter on/off switch be in the on position before any waste transfer occurs from the discharge collection bin into a roll-off container. As such, this is a violation of Permit Condition I.E.8 (see item 8. A. above).

C. On December 1, 2009, ANCDF received an alarm condition on the DFS furnace that resulted in a Continuous Emission Monitoring System (CEMS) automatic stop feed to the furnace. An investigation into the cause of the alarm revealed that the on-line CEMS unit had entered into automatic zero mode. The Programmable Logic Controller (PLC) identified this condition and secured feed to the DFS as a result. The DFS operator had received an alarm for malfunction from the off-line CEMS unit earlier in this feed event. The off-line unit ("B" CEMS) subsequently returned to normal operation without action from the operator but the PLC still identified the "B" CEMS unit as being in a malfunction condition due to the operator failing to acknowledge the alarm. This is a violation of Permit Condition I.E.8 (see item 8. A. above).

9. In a Notice of Violation dated June 3, 2010, during the monitoring period of January 1, 2010 to March 31, 2010, the following violation was self reported by ANCDF.

On February 25, 2010 at 0800 the DFS Carbon Monoxide (CO) Continuous Emission Monitor (CEMS) 'A' unit experienced a Lo-Range cumulative zero and span drift of 18.6 ppm. This exceeds the allowable drift limit of 18 ppm as provided by AN-LOP-265 Operation 2 and the ANCDF CEMS Certification Plan. The unit should have been deemed as out of control. As such, it could not serve as the unit of record until corrective actions were taken and a successful Calibration Error (CE) Test was performed to document the control status of the instrument. The instrument was calibrated back to within tolerances and placed back on line without performing the CE Test because the operators did not recognize the criteria for being out of control. The condition was recognized on March 24, 2010 and a CE Test was successfully performed to document control status of the system. This is a procedural non-compliance for failing to follow the CEMS Certification Plan and LOP-265. It is also a violation of Permit Condition: VII.D.5.a. & b. which states that the Permittee shall maintain, calibrate, and operate process monitoring equipment as specified in Tables 7-9 and 7-10. It also states that hazardous waste shall not be fed to the DFS if any of the monitoring instruments fail to operate properly. The DFS went for a period of 27 days without the CEMS having a CE Test. ANCDF was cited for two similar violations in a Notice of Violation dated April 11, 2006 and Consent Order Number 08-058-CHW finalized December 14, 2007.

10. In a Notice of Violation dated August 20, 2010, during the monitoring period of April 1, 2010 to June 30, 2010, the following violations were self reported by ANCDF.

A. On May 21, 2010, at RCRA Sump 175 located in the Munitions Processing Bay (MPB) the interstitial space leak detection alarm became active at 0533. A series of boroscope images revealed liquid in the interstitial space as well as a dark material. During an entry to remove this sump from service, entrants placed absorbent pigs around the sump to prevent liquid from reaching the sump until repairs were complete.

However, the absorbent material was insufficient to restrict liquid from entering into the primary sump. This is a violation of RCRA Permit Condition IV.K.1.a, Response to Leaks or Spills which states "...if a hazardous waste system becomes unfit for continued use, the Permittee shall remove the system from service immediately and....Stop the flow of chemical agent or hazardous waste into the system...."

B. On May 21, 2010, at 1420 the primary sump low level alarm on Sump 175 became active (i.e. the liquid level in the sump was higher than the low level assigned in Table 4-2 of the Permit) and stayed in alarm until May 23, 2010, at 0820. An attempt to pump Sump 175 was made at 1012 on May 22, 2010. The pump ran for 76 minutes but the alarm did not clear. The operator attempting to clear the sump alarm did not recognize that the sump level was dropping but that the pump was removing liquids at a very slow rate due to debris being present within the sump. Subsequently, a separate operator completed a successful secondary attempt to pump Sump 175, and the alarm was cleared on May 23, 2010, at 0755. This is a violation of RCRA Permit Module IV.I.6 Response to Leaks or Spills which states "The Permittee shall maintain a liquid level in any of the primary containment sumps no higher than the low level assigned in Table 4-2."

C. On June 10, 2010, at 22:02 the distal ends of ACAMS 468AH, BH, and V sample lines were discovered not to have been re-inserted into the sampling location after the units received their monthly sample line challenge. Trays containing mustard mortars were discharged during the period where monitoring did not occur within the discharge airlock. As a result, monitoring would not be conducted as is required by the ANCDF RCRA Permit Application Section III D-6b(2)(b) which states, "In the event that a tray of... munitions... has been within the furnace for a sufficient period of time to satisfy the entirety of the waste treatment times specified in Table III D-26, these items may be discharged from the furnace *after appropriate monitoring within the discharge airlock to verify destruction of agent.*" As such, this was also a violation of Permit Condition I.E.8. which states "The Permittee shall, at all times, properly operate and

maintain all facilities and systems of treatment and control...which are installed or used by the Permittee to achieve compliance with the conditions of this Permit....Proper operation and maintenance includes... following SOPs....”

D. On June 23 2010, the LIC CEMS 13-XS-798A/B units received an engineering stop feed condition due to both CEMS units being recognized by the PLC in an off-line condition. The engineering stop feed condition was a direct result of the LIC CEMS “alpha” unit having been left in the service mode after calibration error testing. Before the testing commenced, the CEMS technician contacted ANCDF control room requesting that the “bravo” CEMS unit remain as the unit-of-record while the quarterly preventative maintenance was being performed. At 17:17, PDAR recorded the calibration error test as complete; however, the LIC CEMS “alpha” unit manual switch remained in service mode. At 17:30, the control room received their audible alert to swap CEMS unit of record from “bravo” to “alpha” but allowed the “bravo” unit to remain as the unit of record until 18:00. At 18:00, the “alpha” unit began the PLC programmed autozero configuration. Then at 18:30 the control room received a second audible alarm to initiate a unit-of-record switch; however, the unit of record did not change. At 19:00 when the programmed autozero calibration began for the “bravo” unit, the PLC could not swap over to the “alpha” CEMS unit because the “alpha” CEMS unit remained in the “service mode”, which resulted in a stop feed condition. Failing to return the “alpha” CEMS unit to “operate mode” as directed by AN-LOP-265 Operation 6 which states: “Return all switches back to the AUTO position”. This was a violation of Permit Condition I.E.8. which states “The Permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control...which are installed or used by the Permittee to achieve compliance with the conditions of this Permit....Proper operation and maintenance includes... following SOPs....”

E. On June 26, 2010, the DFS CEMS 103B unit received an engineering stop feed condition. The stop feed condition was a result of DFS CEMS “bravo” unit being in

the service mode when becoming selected as unit of record. A laboratory CEMS technician had previously placed the “bravo” CEMS units in service mode to conduct the CEMS daily calibration at 11:00. During the time of the daily calibration, the “alpha” unit began its PLC programmed autozero calibration at 12:00. The CEMS technician had completed the daily calibration operation but had failed to return the local indicator for the instrument to an operational mode. As a result, when the PLC recognized the on-line CEMS as being in autozero, feed was automatically secured due to the condition. Failing to return the “bravo” CEMS unit to operate mode as directed by AN-LOP-265 Operation 6 which states: “Return all switches back to the AUTO position” was a violation of Permit Condition I.E.8. which states “The Permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control...which are installed or used by the Permittee to achieve compliance with the conditions of this Permit....Proper operation and maintenance includes... following SOPs....”

F. On February 9, 2010, a drum containing hazardous waste was generated in the ANCDF Laboratory. This drum was appropriately sampled at the time the drum was generated and was transferred to storage in the Residue Handling Area (RHA) pending final disposal. In accordance with site procedures, the sample was separated into three aliquots for analysis. The first aliquot was analyzed in accordance with approved site methods and the waste was shown to be below the Waste Control Limit (WCL). The two remaining aliquots were spiked with agents HD and VX in order to complete a quality control assessment of the analytical method. Due to the amount of bleach in the material contained in the laboratory waste drum, the spiked agent was not recoverable under the method and as a result, the Laboratory could not validate the analysis of the initial aliquot. On March 8, 2010, the drum was transferred from the RHA to the Waste Transfer Facility for storage until shipment off-site for final disposal. On June 30, 2010, the drum was shipped to an off-site treatment, storage and disposal

facility for destruction. At the time the drum was shipped off-site, the analysis indicating the waste was below WCL had not been verified by completion of the quality control assessment as required by site methods. By not having a complete characterization at the time the drum was offered for disposal to an off-site facility, ANCDF was not in compliance with Permit Condition II.C., General Waste Analysis of the RCRA Permit.

11. Pursuant to Ala. Code § 22-22A-5(18)c. (2006 Rplc. Vol.), in determining the amount of any penalty, the Department must give consideration to the seriousness of the violations, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violations upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not be less than \$100 or exceed \$25,000 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day such a violation continues shall constitute a separate violation.

In arriving at the civil penalty assessed in this Order, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: The violations did not cause any detected releases of agent or hazardous constituents in excess of permit limits.

B. THE STANDARD OF CARE: By committing these violations, ANCDF did not exhibit a standard of care sufficient to prevent the violations. The standard of care was further diminished by the fact that some of the violations were essentially repeat violations from a previous order and Notices of Violation.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: ANCDF did not realize any economic benefit from these violations.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: Upon discovery of the violations, ANCDF addressed the issues immediately and took steps to correct the situation.

E. HISTORY OF PREVIOUS VIOLATIONS: The Operator has a history of similar violations and non-compliance. Within the last 95 months, ANCDF has received nine (9) Warning Letters, eleven (11) Notices of Violation, and three (3) Consent Orders.

F. THE ABILITY TO PAY: The Operator has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that the Special Order by Consent is a negotiated settlement, and therefore, the Department has compromised the amount of the penalty it believes is warranted in this matter in the spirit of cooperation and in the desire to resolve this matter amicably without incurring the unwarranted expense of litigation.

12. The Department neither admits nor denies the Operator's contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

OPERATOR'S CONTENTIONS

13. All items addressed in this order were self-reported by ANCDF. Upon discovery ANCDF took responsibility for the violations and implemented corrective actions immediately. In addition, ANCDF implemented measures to prevent recurrence of these events.

14. Operator neither admits nor denies the Department's contentions. Operator consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein. As such, this Consent Order shall not be deemed or construed at any time for any purpose by anyone (including but not limited to other parties who bring claims in any legal, administrative or other proceeding) as an admission by Operator of liability.

ORDER

Therefore, the Operator, along with the Department, desires to resolve and settle the compliance issues cited above. The Department has carefully considered the facts available to the Department and has considered the six penalty factors enumerated in Ala. Code §22-22A-5(18)c. (2006 Rplc. Vol.), as well as the need for timely and effective enforcement, and the Department believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Operator agree to enter into this Consent Order with the following terms and conditions:

A. That, immediately upon receipt of this Order and continuing each and every day thereafter, ANCDF will properly operate and maintain all systems of control to achieve compliance with the conditions of the Permit including adhering to Standard Operating Procedures as required by Permit Condition I.E.8.

B. That, immediately upon receipt of this Order and continuing each and every day thereafter, ANCDF will not feed munitions and secondary waste to the MPF at the same time as is specifically stated in Permit condition VI.C.3.j.

C. That, immediately upon receipt of this Order and continuing each and every day thereafter, ANCDF will operate two common stack mustard ACAMS, one performing sampling and the other analysis operations, while a third is in standby according to Permit Condition VI.E.1.

D. That, immediately upon receipt of this Order and continuing each and every day thereafter, ANCDF will remove the initial amount of waste from satellite accumulation areas within three days according to ADEM Administrative Code R. 335-14-3-.03(5)(c)2. and report all instances of noncompliance on a quarterly basis as stated in Permit Condition I.E.18.

E. That, immediately upon receipt of this Order and continuing each and every day thereafter, ANCDF will maintain, calibrate, and operate process monitoring equipment as specified in Permit Condition: VII.D.5.a. & b. and shall not feed waste to the DFS if any of the monitoring instruments fail to operate properly.

F. That, immediately upon receipt of this Order and continuing each and every day thereafter, ANCDF will maintain a liquid level in any of the primary containment sumps no higher than the low level assigned in Table 4-2 as stated in Permit Module IV.I.6.

G. That, immediately upon receipt of this Order and continuing each and every day thereafter, ANCDF will immediately remove from service any hazardous waste tank system that has become unfit for continual use or experienced a leak or spill as required by Permit Module IV.K.1.

H. That, immediately upon receipt of this Order and continuing each and every day thereafter, ANCDF will completely and correctly analyze all waste before offering it to an off-site disposal facility in accordance with Permit Module II.C.

I. That, not later than forty-five days from the date of notice of this Order, the ANCDF shall pay a civil penalty in the amount of **\$27,420.00**. All penalties due pursuant to this Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
Post Office Box 301463
Montgomery, AL 36130-1463

All checks shall reference ANCDF's name and address, and the ADEM Administrative Order number of this action.

J. ANCDF agrees, immediately upon receipt of this Order and continuing thereafter, to comply with all terms, conditions, and limitations of the Alabama Hazardous Wastes Management and Minimization Act of 1978, Ala. Code §§ 22-30-1 through 22-30-24 (2006 Rplc. Vol.), and the regulations promulgated pursuant thereto.

K. The parties agree that this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

L. ANCDF agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

M. For purposes of this Consent Order only, ANCDF agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. ANCDF reserves the right to request removal under federal law. ANCDF also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, it shall be limited to the defenses of *Force Majeure*, compliance with this Agreement and physical impossibility, and those defenses available to the Federal Government under the U.S. Constitution and federal statutes. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of ANCDF, including the ANCDF's contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of ANCDF) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain federal, state, or local permits shall not constitute *Force Majeure*. Any request for a modification of a deadline must be accompanied by the reasons (including documentation) for each extension and the proposed extension time. This information shall be submitted to the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Operator, the Department will extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but the Department is not obligated to do so. ANCDF anticipates that all obligations arising under this order will be fully funded. However, any requirement for the payment or obligation of funds by ANCDF established by the terms of this 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 Anti-

Deficiency Act (ADA), 31 USC sec. 1341. In cases where payment or obligation of funds would constitute a violation of the ADA, the dates established requiring the payment or obligations of such funds shall be appropriately adjusted.

N. The Department and ANCDF agree that the sole purpose of this Consent Order is to resolve and dispose of any and all violations of the Alabama Hazardous Wastes Management and Minimization Act of 1978, (AHWMMA), Ala. Code §§ 22-30-1 to 22-30-24 (2006 Rplc. Vol.), and/or the ADEM Administrative Code, promulgated thereunder at the Facility up through the effective date of this Consent Order. Should additional facts and circumstances be discovered in the future concerning the Facilities which would constitute possible future violations not addressed in this Consent Order, then such future violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate, and ANCDF shall not object to such future Orders, litigation or enforcement action based on the issuance of this Consent Order if future orders, litigation or other enforcement action address new matters not resolved in this Consent Order.

O. The Department and ANCDF agree that this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and ANCDF hereby waives any hearing on the terms and conditions of same.

P. The Department and ANCDF agree that this Consent Order shall not affect the Operator's obligation to comply with any federal, State, or local laws or regulations.

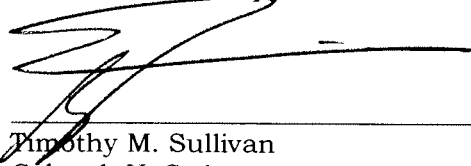
Q. The Department and ANCDF agree that, should any provision of this Consent Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with federal or State law and therefore unenforceable, the remaining provisions herein shall remain in full force and effect.

R. The Department and ANCDF agree that any modifications of this Consent Order must be agreed to in writing and signed by both parties.

S. The Department and ANCDF agree that, except as otherwise set forth herein, this Consent Order is not and shall not be interpreted to be a permit or modification of an existing permit under federal, State or local law, and shall not be construed to waive or relieve ANCDF of its obligations to comply in the future with any permit coverage.

Executed in duplicate, with each part being an original.

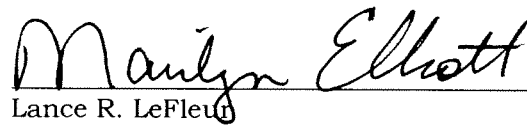
United States Department of the Army
Anniston Army Depot



Timothy M. Sullivan
Colonel, U. S. Army
Commanding

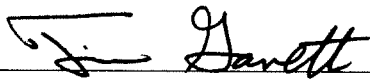
Date Signed 31 AUG 2010

Alabama Department of
Environmental Management



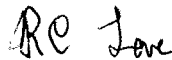
Lance R. LeFleur
Director

Date Signed 11/1/2010



Timothy K. Garrett
ANCDF Site Project Manager

Date Signed 30 August 2010



Robert C. Love
Project Manager, Westinghouse Anniston

Date Signed 8/30/2010

ATTACHMENT A

Penalty Calculation Worksheet

Anniston Army Depot

AL3210020027

Anniston, AL

Violation*	Number of Violations*	Seriousness of Violation & Base Penalty*	Standard of Care*	History of Previous Violations*
Failure to monitor MPF Discharge Airlock exhaust as is required by Permit Application Section III D-6b(2)(b)	2	10,000		10,000
Munitions and secondary waste was fed to MPF at the same time in violation of Permit Condition VI.C.3.j.	1	100		
ACAMS PAS 701H was returned to service prior to repairing the heat trace and DFS processing occurred in violation of Permit Condition I.E.8	1	1,000		
All three common stack mustard ACAMS were placed in service mode at the same time in violation of Permit Condition VI.E.1.	1	1,000		1,000
Failure to move waste from a satellite accumulation area within 3 days IAW 335-14-3-.03(5)(c)2.	1	100		
Loss of monitoring at PFS DAAMS tubes for 13 Hrs in violation of Permit Condition	1	1,000		

I.E.8.				
ACAMS not in proper control when used for monitoring in violation of Permit Condition I.E.8	1	100		
RHA baghouse collection device not used properly in violation of Permit Condition I.E.8	1	100		
CEMS unit of record went into a non-monitoring state, but remained the unit of record in violation of Permit Condition I.E.8	1	1,000		
Fed waste to the DFS when CEMs was not operating properly in violation of Permit Condition VII.D.5.a. & b.	22 (violation repeated on 21 subsequent days with mitigation)	5,200 (21 x 200)		1,000
Liquid level in RCRA Sump 175 was higher than the low level assigned in Table 4-2. In violation of Permit Module IV.I.6	1	1,000		
RCRA Sump 175 was not taken out of service in violation of Permit Module IV.K.1	1	1,000		
LIC CEMS 13-XS-798A was not returned to operate mode which resulted in a stop feed condition is a violation of Permit Condition I.E.8	1	100		
DFS CEMS 103B was not returned to operate mode which resulted in a stop feed condition is a violation of Permit Condition I.E.8	1	100		
A complete waste characterization was not performed on a	1	500		

drum of waste prior to being shipped off-site. This is a violation of Permit Module II.C				
Totals:	37	22,300		12,000

Economic Benefit*: _____

Mitigating Factors: 6880

Ability to Pay*: _____

Other Factors: _____

Total Civil Penalty: \$27,420

CERTIFICATE OF SERVICE

I, Ronald T. Shell, hereby certify that I have served Administrative Order No. 11-016-CHW upon the respective parties by sending the same, postage paid, through the United States Mail, as Certified Mail.


Certified Mail 91 7108 2133 3936 5819 0555

Timothy K. Garrett
PMCSO-ANCDF FO
ANCDF Field Office
3580 Morrisville Road
Anniston, AL 36201

Certified Mail 91 7108 2133 3936 5819 0548

Robert C. Love
Westinghouse Anniston
ANCDF Field Office
3580 Morrisville Road
Anniston, AL 36201

Done this the 3rd day of November, 2010.



Ronald T. Shell



Alabama Department of Environmental Management
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

November 1, 2010

CERTIFIED MAIL

Ms. Judy Porter Young
2526 West 14th St.
Anniston, AL 36201

Dear Ms. Young:

RE: Response to Comments
Proposed Consent Order
Anniston Chemical Demilitarization Facility

This letter is in response to your comments received October 7, 2010, regarding proposed Consent Order #11-016-CHW to the Anniston Chemical Demilitarization Facility (ANCDF) in Anniston, Alabama. Specifically, your comments assert that:

1. People living in the vicinity of ANCDF, your brother and you have suffered medical problems due to ANCDF operations, and
2. The \$27,420 penalty levied in the order should be higher in view of the number and seriousness of the violations.

The Alabama Department of Public Health (ADPH) is the agency responsible for determining whether illnesses, as described in your letter, in a specific geographic area are connected and have a common causative factor. A copy of this letter is being forwarded to the ADPH for their evaluation.

The ANCDF is only allowed to operate as long as they maintain compliance with environmental laws and rules including those specified in their Alabama Hazardous Wastes Management and Minimization Act Permit. The Permit was only issued after all required risk studies were completed and demonstrated that the ANCDF operation would not produce a significant health risk to people in its vicinity. In addition, the Department has had personnel on-site at ANCDF 24 hours a day, seven days a week monitoring ANCDF operations for the last seven years to insure compliance with the Permit.

Since ANCDF began chemical operations in 2003, there have been no detected releases of any chemical agent or contaminant at a level harmful to human health or the environment.

The assessment of civil penalties for violations of the Department's rules and regulations, and for violations of any order, permit condition, license, certification or variance issued by the Department is authorized by Ala. Code § 22-22A-5(18), as amended. The statute also authorizes that the penalty amount may range from \$100 to \$25,000 per day for each violation, so long as the penalty amount does not exceed \$250,000 in any given order. In addition to the violations listed in the Public Notice, the Department has considered the six factors detailed in the aforementioned statute in determining the appropriate penalty amount in this particular instance. Those factors are listed as follows: The seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by the respondent; the economic benefit which delayed compliance may have conferred upon the respondent; the nature, extent, and degree of success of the respondent's efforts to minimize or mitigate the effects of such violations upon the environment; the respondent's history of previous violations; and the respondent's ability to pay the assessed penalty. In the final Consent Order the Department has summarized findings of facts applicable to each of the six factors used in determining the appropriate penalty.

The public was provided the opportunity to present any additional findings of fact; however, none was received during the public comment period for consideration by the Department. Therefore, the penalty amount is based on the original findings of fact applying the statutory penalty factors.

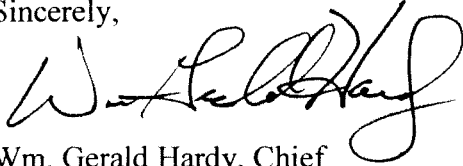
Given that the public had access to the findings of fact and the six statutory penalty factors and was given the opportunity to present additional factual information deemed appropriate for consideration, we believe the public was provided the opportunity and necessary information for comment, including suggestions for a proposed penalty amount.

Based on a review of comments received concerning the penalty, the Department has determined that the penalty assessed is in accordance with statutory requirements, and is consistent with penalty amounts assessed in similar cases. The penalty has not been changed as a result of this comment. The Consent Order was executed on November 1, 2010, and a copy is enclosed. Procedures for appeal of this action can be found in ADEM Admin. Code R. 335-2-1-.04, which can be found on ADEM's website at www.adem.state.al.us. Please note that Ala. Code § 22-22A-5 allows 30 days after the effective date of the Order for an appeal to be made.

Response to Ms. Judy Porter Young Comments
ANCDF Consent Order
November 1, 2010
Page 3 of 3

We trust this addresses your concerns; however, if further clarification is needed, please contact Ronald T. Shell at (334) 271-7748, or by email at rts@adem.state.al.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Gerald Hardy". The signature is fluid and cursive, with a large, stylized "H" at the end.

Wm. Gerald Hardy, Chief
Land Division

Enclosures
Letter, Ms. Young, dated 10/6/10
ADEM Consent Order #11-016-CHW

cc: The Alabama Department of Public Health (w/o enclosure)

Judy Porter Young
2526 West 14th St.
Anniston, AL 36201

Alabama Department of
Environmental Management.

Attn: Gerald Hardy
Chief of the Land Div.

P.O. Box 301463 Montgomery, AL
36130-1463

Dear Sir:

What is the price of a human life?
What is the price for a quality of life?
I have seen both in the Pink Zone
in Anniston, Ala. to be tested to the up-most
consequences!

People, I would consider still young (Middle-Aged)
since I will be 55 yrs. old. Next Month,

are dying as one Rescue EMA person, told a friend of Mines, when he was called to the residence when her father died, "they are dropping like flies today". Four people who lived or once lived died that Saturday!

Oh, I forgot to say this Month Sept. 2010. More are dying! like a friend Tuesday, after I spoke to her on the phone in the hospital (RMC) she went Code BLUE and yes - died.

I guess you say dying is a part of living, Yes, but these people have some similarities!

1. PINK ZONE

(a) Grew up in the area from childhood

2. STENTS (More than one)

3. Kidney Problems

(c) DEAD!

(4) ONE WAS working at the Depot.

(5) Black (yes)

For the ONES that are still living like, my
Sister Arametta Porter, my brother Yorick Porter,
and myself (Something strange happened to me May 21,
2010) life has been changed.

My Sister story of life changing events are
well documented, web site: Arametta Porter Story,
Arametta Porter Nerve gas, Several sites.

My brother Not so - He was working on the
installation in 2-2005 when he falled out
and rushed to RMC. My Mother was called
back to tell him Good-bye, but a call came
from "Somewhere?" to give him a shot of Atropene,
which is used for the Antidote for NERVE GAS! Before
that call my brother was up for consideration of
A PACE Maker, his heart was failing rapidly!
Thank God for that call that came to RMC
EMR!

Now Me, I was just walking for my health,
in the area, and as I was descending a
incline, something felt as it struck me in
my eye, like a end of a baseball bat, my
stomach was upset, felt unusually tired, but
I didn't notice that my mouth had twisted,
and drooped. My daughter did later that day
when she came to visit. (She is a Dr. of Pharmacy
in ^{the} Montgomery area). Matter of fact both of my
daughters in the Medical field escorted me to
RMC. I was admitted, with symptoms
like BELL's Palsy - But NOT!
Like A STROKE - But NOT!
STill don't know! Symptoms reminded
me of my siblings - but not as severe.
I changed my walking - I Don't!

Sir, 13 Violations of ARMY's ADEM
PERMIT is UNACCEPTABLE! TERMS LIKE-

A. MALFUNCTION

B. Failure

C. Without proper Calibrating

Shouldn't be taken lightly! - When the

Community is so close.

Sir, \$27,420.00 will not pay for 3
Rounds of Chem-o Therapy!

I guess I'm writing for the ones
that can't. Please hold the Dept responsible
for what they fail to do properly!

Thank you
Judy Porter Young

Finished -- Date 10-06-2010