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west virginia department of environmental protection

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Division of Water and Waste Management  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304  
Telephone: 304-926-0470  
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Earl Ray Tomblin, Governor  
Randy C. Huffman, Cabinet Secretary  
[www.dep.wv.gov](http://www.dep.wv.gov)

**CONSENT ORDER  
ISSUED UNDER THE  
HAZARDOUS WASTE MANAGEMENT ACT  
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 18**

TO: Alliant Techsystems Operations, LLC  
Mr. Pat Nolan, Vice President & Site Manager,  
TP&L, ABL Operations  
210 State Route 956  
Rocket Center, WV 26726

DATE: February 10, 2015

ORDER NO.: HW-15-003

**INTRODUCTION**

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter "Director"), under the authority of West Virginia Code, Chapter 22, Article 18, Section 1 et seq. to Alliant Techsystems Operations, LLC (hereinafter "Alliant").

**FINDINGS OF FACT**

In support of this Order, the Director hereby finds the following:

1. Alliant operates a propellant/explosives manufacturing facility located in Rocket Center, Mineral County, West Virginia and was assigned EPA ID No. WV0170023691 to operate one (1) container storage area, perform corrective action on any impacted areas, and operate one (1) hazardous waste thermal treatment unit. This ID No. was issued on July 24, 2005 and expires on July 24, 2015. The aforementioned hazardous waste thermal treatment unit is additionally operated under Permit No. HW-X-1. This permit was issued by West Virginia Department of Environmental Protection Division of Air Quality on July 31, 2005 and expires on July 31, 2015.
2. On September 5, 2013, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, violations of the following sections of Code of Federal Regulations were observed and documented:

- a. 40CFR264.173(a)-Alliant failed to close hazardous waste containers during storage.
- b. 40CFR262.34(a)(3)-Alliant failed to label containers of hazardous waste with the words, "Hazardous Waste."
- c. 40CFR262.34(a)(1)(i)-Alliant failed to properly containerize hazardous waste.
- d. 40CFR264.52(d)-Alliant failed to provide addresses for emergency coordinators in the contingency plan.
- e. 40CFR262.34(a)(2)-Alliant failed to mark the accumulation start date on hazardous waste containers in the less than ninety (90) day storage area.
- f. 40CFR264.171-Alliant failed to transfer hazardous waste to a container in good condition.
- g. 40CFR273.13(a)(1)-Alliant failed to properly containerize Universal Waste Batteries.
- h. 40CFR273.14(a)- Alliant failed to properly label Universal Waste Batteries.
- i. 40CFR262.11- Alliant failed to perform a waste determination.

As a result of the aforementioned violations, a Notice of Violation (NOV) dated September 26, 2013 was issued to Alliant.

3. On July 30, 2014, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of Alliant's permit and the Code of Federal Regulations were observed and documented:
  - a. 40CFR264.173(a)-Alliant failed to keep hazardous waste satellite accumulation containers closed at all times.
  - b. Permit Attachment 6, D-1b(2)-Alliant failed to use the appropriate containers for hazardous waste storage.
  - c. 40CFR262.34(a)(3)-Alliant failed to label each hazardous waste container with the words, "Hazardous Waste."
  - d. Permit Module III-E and 40CFR264.173(a)-Alliant failed to keep containers of hazardous waste closed at the permitted storage area.
  - e. Permit HW-X-1, Attachment 5, 6.1-Alliant failed to remove or permanently paint all previous labels on containers before re-use.
  - f. 40CFR262.11-Alliant failed to perform proper hazardous waste determinations.
  - g. Permit Attachment 4, G-4i-Alliant failed to clean up, place in a suitable container, and label spilled or leaked material.
  - h. 40CFR262.34(c)(2)-Alliant accumulated greater than fifty-five (55) gallons of hazardous waste at a single satellite accumulation area.
  - i. Permit Attachment 2, F-2a-Alliant failed to use the specified inspection form.
  - j. Permit HW-X-1, Attachment 5, 11.1.5 and 40CFR264.174-Alliant failed to perform weekly inspections of the permitted hazardous waste storage area.
  - k. 40CFR264.16(d)-Alliant failed to maintain required employee hazardous waste training documents.

As a result of the aforementioned violations, an NOV dated August 18, 2014 was issued to Alliant.

4. On November 13, 2014, WVDEP personnel and representatives of Alliant met to discuss the terms and conditions of this Order. Upon review, WVDEP personnel determined that

Alliant had returned to compliance with the aforementioned sections of the Code of Federal Regulations.

### **ORDER FOR COMPLIANCE**

Now, therefore, in accordance with Chapter 22, Article 18, Section 1 et seq. of the West Virginia Code, it is hereby agreed between the parties, and ORDERED by the Director:

1. Alliant shall immediately take all measures to initiate compliance with all pertinent laws and rules.
2. Because of Alliant's permit and Code of Federal Regulations violations, Alliant shall be assessed a civil administrative penalty of twenty-one thousand seven hundred ten dollars (\$21,710) to be paid to the West Virginia Department of Environmental Protection for deposit in the Hazardous Waste Management Fund within thirty (30) days of the effective date of this Order. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall include a reference to the Order No. and shall be mailed to:**

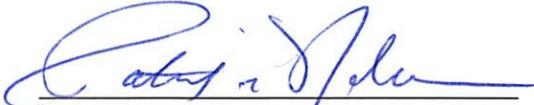
**Chief Inspector  
Environmental Enforcement - Mail Code #031328  
WV-DEP  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304**

### **OTHER PROVISIONS**

1. Alliant hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 18, Section 20 of the Code of West Virginia. Under this Order, Alliant agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Alliant does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Alliant other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Alliant shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Alliant becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Alliant shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of

the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Alliant intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Alliant (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.

4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Alliant of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Alliant to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on Alliant, its successors and assigns.
7. This Order shall terminate upon Alliant's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



Mr. Pat Nolan, Vice President & Site Manager,  
TP&L, ABL Operations  
Alliant Techsystems Operations, LLC

16 Feb 2015  
Date

Public Notice begin:

\_\_\_\_\_  
Date

Public Notice end:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Scott G. Mandirola, Director  
Division of Water and Waste Management

\_\_\_\_\_  
Date

revised June 2013

**RECEIVED**

FEB 23 2015

ENVIRONMENTAL  
ENFORCEMENT

Photo Attachment



7/30/2014 - Satellite container for waste methylene chloride/water mixture

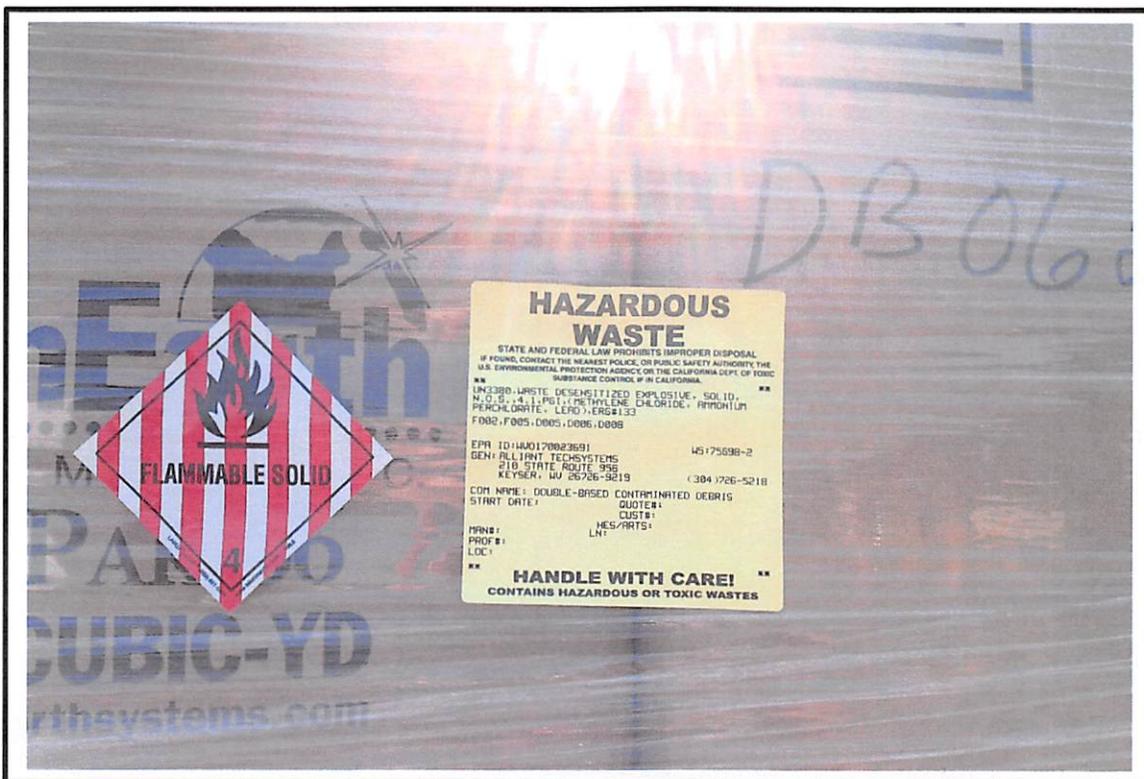


7/30/2014 - Same satellite container bungs not closed

Photo Attachment



7/30/2014 - Four 66-gal lab packs P/E waste per pallet



7/30/2014 - Close-up of hazardous waste label attached to plastic wrap

Photo Attachment



7/30/2014 - Composite and double-based wastes loaded on truck



7/30/2014 - Open 30-gal drum at permitted storage pad

Photo Attachment



7/31/2014 - Same drum in closed condition the following day



7/31/2014 - Locking lid ring secured properly the following day

Photo Attachment



7/30/2014 - Oil spillage on top of Used Oil container



7/31/2014 - Same Used Oil container after clean-up the following day

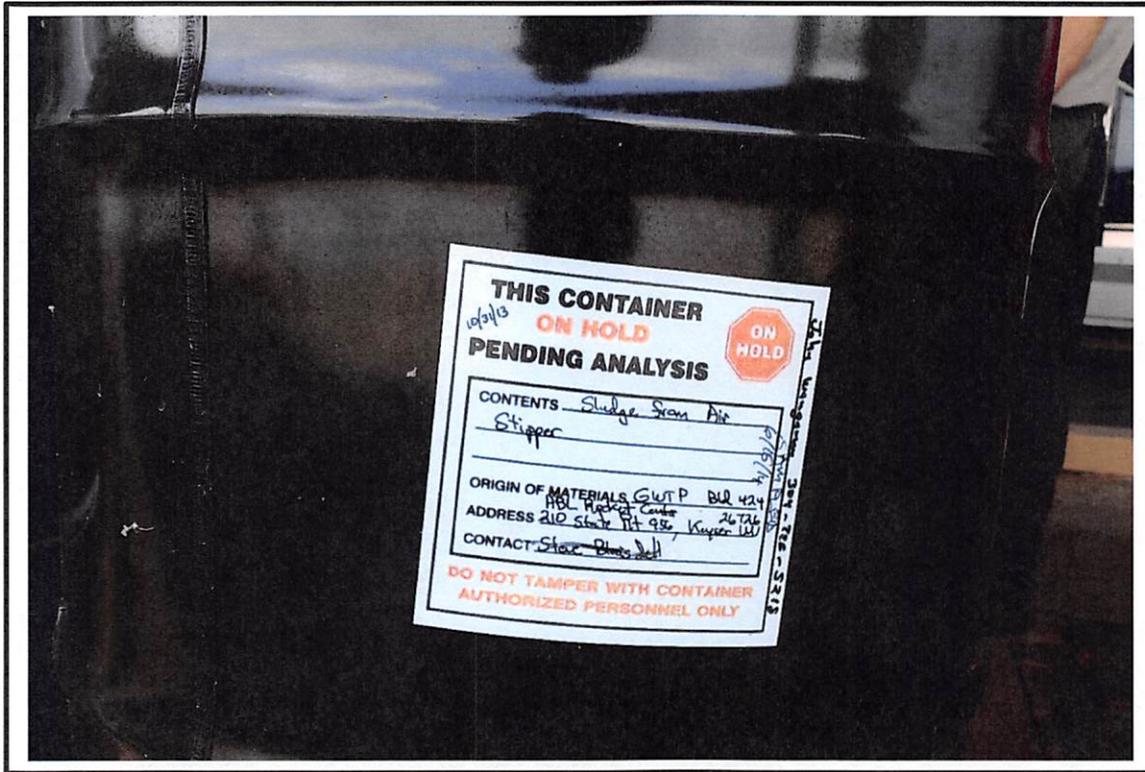
Photo Attachment



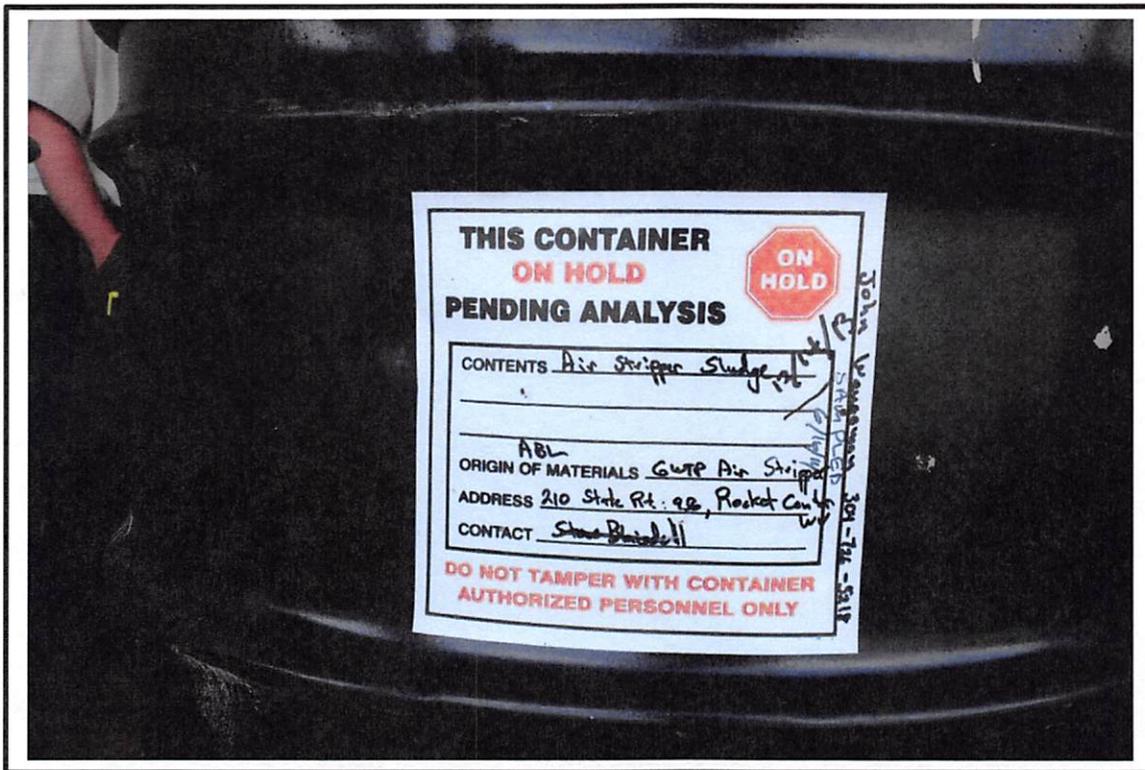
7/30/2014 - Oil spillage and drips on Used Oil containers and pallet



7/30/2014 - "On hold pending analysis" container



7/30/2014 - "On hold pending analysis" container

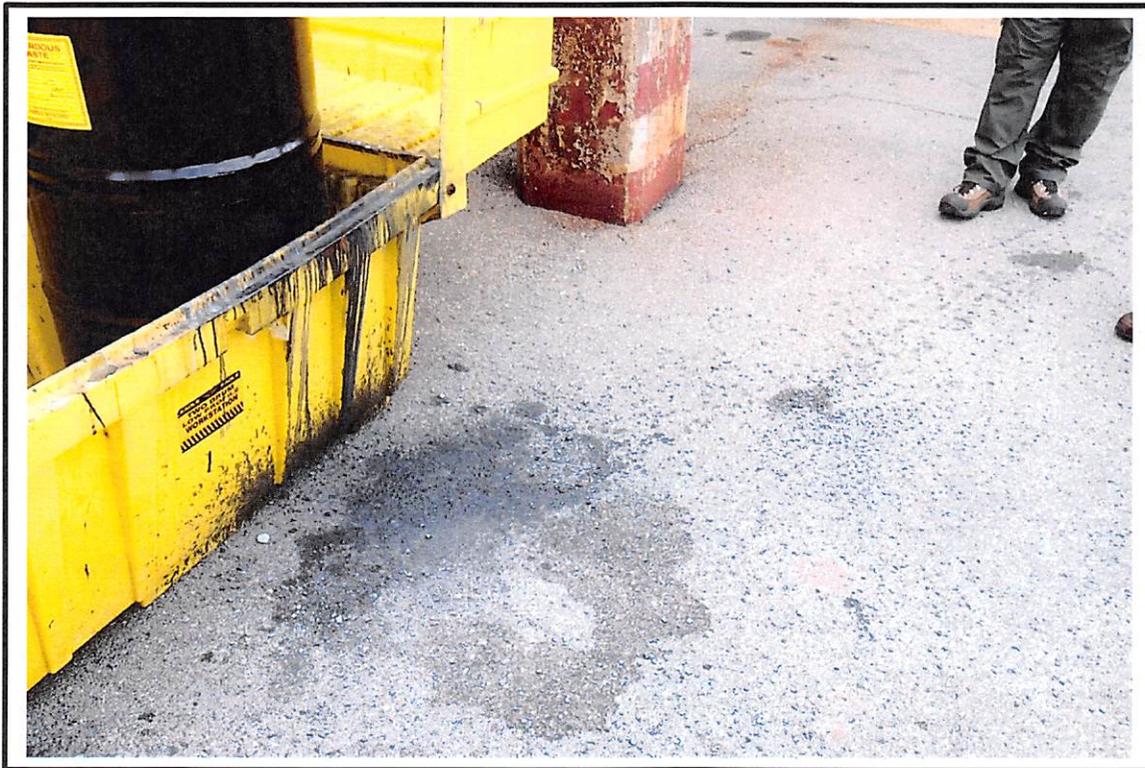


7/30/2014 - "On hold pending analysis" container

Photo Attachment



7/30/2014 - Both bungs unsecured and spillage on container, inside and outside of clamshell



7/30/2014 - Same container, spillage on the ground next to clamshell

Photo Attachment



7/30/2014 - Interior of Allied waste dumpster



7/30/2014 - Two 30-gallon drums accumulating waste from blasting unit

## Hazardous Waste Base Penalty Calculation

(pursuant to 33CSR27-6.1)

Responsible Party: Alliant Techsystems Operations, LLC EPA ID Number: WV0170023691

**Generator Classification: Permitted LQG**

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#												
			3a	3c	3d	3f	3g	3j							
a)	Harm to RCRA Program	1 to 3	1	1	1	3	2	2							
b)	Probability of Exposure	0 to 3	2	1	2	2	2	1							
c)	Potential Seriousness of Contamination	1 to 3	2	1	2	1	1	2							
<b>Average Potential for Harm Factor</b>			1.7	1	1.7	2	1.7	1.7	No						
2)	<b>Extent of Deviation Factor</b>	<b>Factor Range</b>													
	Degree of Non-Compliance	1 to 3	3	1	2	2	3	2							

**Potential for Harm Factors**

1a. - Harm to the RCRA Program

- All regulatory requirements are fundamental to the continued integrity of the RCRA Program
- Violations that undermine the statutory or regulatory purposes or procedures for implementing the RCRA program may have serious implications and merit substantial penalties. Examples include but are not limited to: failure to notify as a generator, failure to respond to an info request, failure to prepare or maintain a manifest, and operating / disposal without a permit

1b. - Probability of Exposure - factors to be considered include but are not limited to: evidence of a release, evidence of waste mismanagement, and adequacy of provisions for detecting and preventing a release

1c. - Potential Seriousness of Contamination - factors to consider include but are not limited to quantity and toxicity of wastes (potentially) released, likelihood or fact of transport by way of environmental media (e.g. air and groundwater), and existence, size and proximity of receptor populations (e.g. local residents, fish, wildlife) and sensitive environmental media (e.g. surface waters and aquifers.)

**Note:** Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.





## **Penalty Adjustment Factors**

(pursuant to 33CSR27-6.2)

### **Penalty Adjustment Factors**

6.2.b.1 - Good faith efforts to comply or lack of good faith - 10% decrease to 10% increase

6.2.b.2 - Degree of Willfulness and / or Negligence - 0% to 30% increase

6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease

6.2.b.4 - History of Non-Compliance - 0% to 100% increase -  
based upon review of last three (3) years - Warning = maximum of 5% each,  
N.O.V. = maximum of 10% each, previous Order = maximum of 25% each

6.2.b.5 - Ability to pay a civil administrative penalty - 0% to 100% decrease

6.2.b.6 - Economic Benefit of non-compliance

6.2.b.7 - Staff Investigative Costs

6.2.b.8 - Other relevant factors determined on a case-by-case basis

## Base Penalty Adjustments

(pursuant to 33CSR27-6.2)

Penalty Adjustment Factor	% Increase	% Decrease	Base Penalty Adjustments
6.2.b.1 - Good Faith - Increase			\$0
6.2.b.1 - Good Faith - Decrease		10	(\$2,168)
6.2.b.2 - Willfulness and/or negligence	10		\$2,168
6.2.b.3 - Cooperation with the Secretary		10	(\$2,168)
6.2.b.4 - Compliance/noncompliance history	10		\$2,168
6.2.b.5 - Ability to Pay an Administrative Penalty			\$0
6.2.b.6 - Economic Benefit (flat monetary increase)	\$0		\$0
6.2.b.7 - Staff Investigative Costs (flat monetary increase)			\$0
6.2.b.8 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.8 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Cost (flat monetary increase)	\$30		\$30
<b>Penalty Adjustments</b>			<b>\$30</b>
<b>Penalty =</b>			<b>\$21,710</b>

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	
Competitive Advantage	
<b>Estimated Economic Benefit</b>	<b>\$0</b>
<b>Comments:</b>	