

**ENVIRONMENTAL PROTECTION DIVISION  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF GEORGIA**

RE: King America Finishing, Inc.  
Georgia Highway 17  
Dover, Screven County, Georgia

EPD-WQ-5348

**CONSENT ORDER**

**WHEREAS**, King America Finishing, Inc. (hereinafter "Respondent") operates a woven fabric finishing facility (hereinafter "Facility") located at Georgia Highway 17, Dover, Screven County, Georgia; and

**Authority**

**WHEREAS**, under the "Georgia Water Quality Control Act of 1964" as amended O.C.G.A. § 12-5-20 et seq. (hereinafter "Act"), the General Assembly of Georgia designated the Director of the Georgia Department of Natural Resources, Environmental Protection Division, (hereinafter "Director" and "Division") to administer the provisions of the Act; and

**WHEREAS**, the Rules for Water Quality Control, Chapter 391-3-6, as amended, (hereinafter "Rules") required under O.C.G.A. § 12-5-23 of the Act, were established and became effective; and

**WHEREAS**, O.C.G.A. § 12-5-23 of the Act, assigns the Director the authority to issue permits stipulating in each permit the conditions or limitations under which such permit was issued and the authority to issue orders as may be necessary to enforce compliance with the provisions of the Act and all rules and regulations promulgated thereunder; and

**WHEREAS**, Section 391-3-6-.03(5)(c) of the Rules requires that all waters be free from material related to municipal, industrial or other discharges which produce turbidity, color, odor or other objectionable conditions which interfere with legitimate water uses; and

**WHEREAS**, Section 391-3-6-.03(5)(e) of the Rules requires that all waters be free from toxic, corrosive, acidic and caustic substances discharged from municipalities, industries or other sources, such as non-point sources, in amounts, concentrations or combinations which are harmful to humans, animals or aquatic life; and

**WHEREAS**, National Pollutant Discharge Elimination System Permit GA0003280 (hereinafter “the Permit”) was issued to King Finishing Company, Division of Spartan Mills effective September 29, 2000; and

**WHEREAS**, on December 12, 2001, the Permit was transferred to the Respondent; and

**WHEREAS**, on August 30, 2005, the Permit was administratively extended by the Director; and

#### **History**

**WHEREAS**, Respondent’s October 28, 2005 NPDES permit renewal application for permit number GA0003280 disclosed the presence of formaldehyde in trace amounts in finishing chemicals and dyes; and

**WHEREAS**, on December 28, 2005, the Division issued Air Permit Amendment No. 2261-251-0008-V-02-3 (hereinafter “the amendment”) to the Respondent authorizing construction of the two flame retardant fabric finishing lines;

**WHEREAS**, the amendment also served as a final amendment to the Part 70 Air Permit authorizing the operation of the two flame retardant fabric finishing lines (unless objected to by the U.S.EPA or withdrawn by the Division); and

**WHEREAS**, on March 7, 2006 the Division sent a letter to the Respondent which served to make the amendment a final amendment to the Part 70 Air Permit; and

**WHEREAS**, on or about April 2006, the Facility began operating Flame Retardant Finishing Production Lines that discharge process wastewater into the Facility's wastewater treatment system; and

**WHEREAS**, on September 5, 2006 Division personnel conducted a multimedia inspection of the Facility for compliance with the Air Quality Control Act, Rules for Solid Waste Management and the Act, the Rules, and the Permit; and

**WHEREAS**, the Respondent reports that the raw materials used in the Flame Retardant Finishing Production Lines include phosphonium chloride (THPC-urea copolymer), anhydrous ammonia, sodium hydroxide, hydrogen peroxide, a fabric softener, and water; and

**WHEREAS**, the Respondent reports that the Flame Retardant Finishing Production Lines use a wet scrubber to eliminate potential process chemical related odor, and process wastewater from the wet scrubber discharges to the Facility's wastewater treatment plant; and

**WHEREAS**, on June 4 and 5, 2007, the Division conducted a compliance sampling inspection of the Facility; and

**WHEREAS**, the June 4 and 5, 2007, a Division inspection identified improperly located sulfuric acid totes associated with the wastewater treatment pH adjustment system; and

**WHEREAS**, the acid totes were located at the influent box to the secondary clarifiers and were without any system for secondary containment; and

**WHEREAS**, on August 3, 2007, the Division notified the Respondent in writing of the improperly located sulfuric acid totes and required that they be relocated; and

**WHEREAS**, on June 22, 2007, the Respondent in writing to the Division acknowledged the improper acid storage location and provided notification of the subsequent relocation of the pH adjustment system; and

**WHEREAS**, on December 17, 2008, the Division conducted an inspection of the Facility to evaluate the compliance status of the air pollution control equipment, wastewater treatment plant, ash disposal site, and drinking water system; and

**WHEREAS**, on April 13, 2009, the Respondent and the Division entered into Consent Order EPD-WS-2710 (hereinafter "CO"); and

**WHEREAS**, the CO alleged the Respondent failed to provide proper operation and maintenance of the Facility's wastewater treatment system, especially during the evening and weekend hours, resulting in effluent exceedances for pH in February 2003, May 2003, December 2003, April 2004, August 2004, January 2005, May 2005, June 2006, June 2007, and July 2007 in violation of Part II, A.3 of the Permit, which were addressed by the CO; and

**WHEREAS**, the CO required the Respondent to implement written Standard Operating Procedures designed to prevent exceedances of the pH limits specified in the Permit, especially during night and weekend hours; and

**WHEREAS**, on May 19, 2009, the Respondent sent the Division a letter documenting the purchase of equipment for providing continuous pH monitoring of the effluent with an alarm system for pH exceedances; and

**WHEREAS**, the Division determined that the conditions in the CO were satisfied and the Division terminated the CO on October 22, 2009; and

**WHEREAS**, the Respondent submitted signed and certified Discharge Monitoring Reports (hereinafter “DMRs”) that summarized Facility effluent monitoring results for the months of June 2009 through August 2011; and

**WHEREAS**, the Facility exceeded effluent limitations for BOD for the months of December 2010 and January, 2011; Total Phenols for May, 2010; Total Suspended Solids for June, 2010, and pH for June 2010, January 2011, February 2011, and June, 2011; and

**WHEREAS**, on May 20, 2011, at 6:38 pm the Division was notified of a fish kill in the Ogeechee River via telephone call from the State Operations Center; and

**WHEREAS**, on May 20, 2011, the Division attempted to contact the Respondent’s emergency contact telephone number but received no answer. The Division left a voice message at 7:15 pm; and

**WHEREAS**, on May 20, 2011, the Wildlife Resources Division (hereinafter “WRD”) of the Georgia Department of Natural Resources investigated the fish kill and found no dead fish upstream of the Facility; and

**WHEREAS**, on May 21, 2011, at 9:37 am, the Division again attempted to contact the Respondent’s emergency contact telephone number but received no answer; and

**WHEREAS**, on May 21, 2011, at 10:46 am, the Respondent contacted the Division; and

**WHEREAS**, on May 21, 2011, WRD investigated the fish kill and observed dead fish beginning 50 yards below the Respondent’s effluent pipe; and

**WHEREAS**, dead fish of a wide variety of species and sizes were observed by WRD investigators; and

**WHEREAS**, temperature was measured upstream of the Facility outfall at Jones Lane Fishing Camp and at the Facility outfall at 75.4 ° F and 82.8 ° F, respectively; and

**WHEREAS**, on May 22, 2011, the Division issued a swimming and fish consumption advisory for the Ogeechee River for Bryan, Bulloch, Chatham, Effingham and Screven Counties; and

**WHEREAS**, on May 22, 2011, and May 23, 2011, Tetra Tech EM Inc., a contractor for the United States Environmental Protection Agency (hereinafter “EPA”) and EPA representatives collected surface water samples, sediments samples and fish tissue samples from the Ogeechee River; and

**WHEREAS**, the results of EPA sampling showed formaldehyde and ammonia were detected in the surface water at the Facility outfall; and

**WHEREAS**, the results of EPA sampling showed formaldehyde was detected in river sediment at the Facility outfall; and

**WHEREAS**, on May 24, 2011, WRD collected fifteen dying fish for disease analysis by the Auburn University fish disease laboratory; and

**WHEREAS**, on May 26, 2011, the Auburn University fish laboratory concluded the fish had severe bacterial infections of *Flavobacterium Columnare* (hereinafter “Columnaris Disease”); and

**WHEREAS**, on May 26, 2011, the Division announced that the fish kill in the Ogeechee River was caused by Columnaris Disease, a bacterial disease induced by environmental stress. The announcement further stated that humans are not known to be affected by this disease and that the cause of the environmental stress was still unknown; and

**WHEREAS**, on May 27, 2011, the Division announced a decision to lift a swimming advisory for the Ogeechee River based on laboratory testing of river water samples taken by EPA. The Division further announced that the EPA analysis did not detect any chemical substances in the water at unsafe levels; and

**WHEREAS**, on June 3, 2011 the Division announced a decision to lift a fish consumption advisory for the Ogeechee River based on laboratory testing of fish tissue samples taken by EPA. The Division further announced that based on laboratory analysis, fish caught in the Ogeechee River are safe to eat; and

**WHEREAS**, in a June 3, 2011 Memorandum EPA stated “The chemical concentrations measured in the samples EPA collected on May 22 and 23 were not high enough to kill fish by themselves. Exposure to a mixture of chemicals in combination with unseasonably warm temperatures and low flows may have been sufficient to weaken the fish. These multiple factors may have weakened the fish enough to make them susceptible to disease. It may be impossible to ever know for certain exactly what happened.”; and

**WHEREAS**, WRD estimates approximately 38,634 fish died in the Ogeechee River fish kill; and

**WHEREAS**, the Division conducted inspections at the Facility on May 23, 2011, May 31, 2011, June 1, 2011, June 2, 2011, June 3, 2011, June 8, 2011, June 17, 2011, June 19, 2011, June 20, 2011, June 21, 2011, June 29, 2011, June 30, 2011, July 7, 2011, July 8, 2011, July 13, 2011, July 21, 2011, July 22, 2011 July 26, 2011, August 4, 2011, August 23, 2011 and September 8, 2011; and

**WHEREAS**, as a result of Division inspections in May and June 2011, the Division documented an unauthorized discharge of wastewater from the Flame Retardant

Finishing Production Lines through the Facility's wastewater treatment system and into the Ogeechee River; and

**WHEREAS**, during the May and June, 2011, inspections the Division observed continuous pH monitoring equipment installed but documented that continuous recording of pH was not occurring;

**WHEREAS**, during the May and June, 2011, inspections the Division did not observe a pH alarm system per the Respondent's May 19, 2009, letter; and

**WHEREAS**, during the May and June 2011, inspections the Division observed that the Facility had improperly located acid totes for pH adjustment that required manual operation to initiate, adjust, or terminate dosing at the three acid injection points at the Facility's wastewater treatment plant; and

**WHEREAS**, on May 31, 2011, through June 1, 2011, the Division sampled and evaluated the Facility's wastewater treatment plant; and

**WHEREAS**, the Division monitored and recorded during this sampling formaldehyde of 830 micrograms/liter in Respondent's effluent at the discharge sampling location into the Ogeechee River; and

**WHEREAS**, the Division also identified during this sampling minimal living biological organisms necessary for wastewater treatment in a microscopic examination of a sample from the Facility's wastewater treatment system aeration basin; and

**WHEREAS**, on June 16, 2011, the Division required in writing that the Respondent submit a Permit application by August 12, 2011; and

**WHEREAS**, on June 16, 2011, the Division required in writing that the Respondent conduct additional sampling of the Facility's effluent; and



**WHEREAS**, the Division met with the Respondent on June 16, 2011, June 28, 2011 and July 6, 2011, and on numerous other occasions by telephone; and

**WHEREAS**, on June 17, 2011, the Respondent ceased operation of the two Flame Retardant Finishing Production Lines; and

**WHEREAS**, on June 17, 2011, the Division collected samples from one of two Flame Retardant Finishing Production Lines and the Division and Respondent collected samples from the final effluent of the Facility's wastewater treatment system for the purpose of conducting acute toxicity testing; and

**WHEREAS**, the results of the 48 Hour Acute Definitive Toxicity tests for *Ceriodaphnia dubia* performed on the samples collected by the Division indicated a Lethal Concentration 50 (hereinafter "LC50") of less than 5% for the Flame Retardant Finishing Production Lines and a LC50 of 19.3 % for the final effluent from the Facility's wastewater treatment system; and

**WHEREAS**, on June 24, 2011, the Respondent's consultant submitted to the Division an "Interim Work Plan" with LC50 results of 48 hour and 96 Hour Acute Definitive Toxicity tests for *Ceriodaphnia dubia* and *P. promelas* of 33% and 31.5%, respectively, effluent ammonia results of 42.6 mg/l, and a work plan for startup of the Flame Retardant Finishing Production Lines that included wastewater treatment plant improvements, increased monitoring, and reduced flame retardant line operations; and

**WHEREAS**, on June 27, 2011, the Respondent's consultant submitted a document entitled "The Status of Testing and Interim Work Plan" that included results of Toxicity Identification/Toxicity Reduction Evaluations and an update on the work plan for startup; and

**WHEREAS**, the Division required of the Respondent that bench scale reactors be used to simulate the proposed process to remove toxicity; and

**WHEREAS**, the Respondent's consultant submitted to the Division a July 17, 2011, Technical Memorandum entitled "Supporting Evidence for Operations by King America Finishing" (hereinafter "Respondent's TM") that indicated removing the ammonia condensate from the Flame Retardant Finishing Production lines reduced the toxicity of the effluent from an LC 50 at an effluent concentration of 19.3% to LC 50 at an effluent concentration of 78%; and

**WHEREAS**, based on the Division's review of the Respondent's TM, the Division sent a letter to the Respondent dated July 19, 2011, which stated that the Division did not object to a resumption of the Respondent's operations as specified in the Respondent's TM provided the Respondent complied with the stipulations detailed in the Division's July 19, 2011, letter; and

**WHEREAS**, the results of the 48 Hour Acute Definitive Toxicity tests for *Ceriodaphnia dubia* performed on samples from the Respondent's effluent collected by the Respondent on August 5, 2011, August 15, 2011, and August 25, 2011 indicated an LC50 at an effluent concentration of greater than 100%; and

**WHEREAS**, on August 12, 2011, the Respondent submitted an application for re-issuance of the Permit, which contained, among other things, a description of changes in production, manufacturing process, and waste treatment since the issuance of the current permit (September 29, 2000).

## Violations

**WHEREAS**, the Respondent failed to provide advance notice to the Division of its expansion of the Facility by the addition of the Flame Retardant Finishing Production Lines which has resulted in an unauthorized discharge of wastewater into the Facility's wastewater treatment system and into the Ogeechee River, in violation of Section 12-5-29(b) of the Act and Part II.A.1.a of the Permit; and

**WHEREAS**, from January 1, 2009, through June 11, 2011, the Respondent failed to record the exact time of sampling or measurements of all parameters specified in Part I.A.1.of the Permit in violation of Part I.C.5.a of the Permit as observed by the Division during an inspection on June 2, 2011; and

**WHEREAS**, on or about May 19, 2009, through June 11, 2011, the Respondent failed to include results of all pH monitoring in the calculation and reporting of the values as required in Part I.C.6 of the Permit as observed by the Division during its inspection of June 2, 2011; and

**WHEREAS**, from May 31, 2011, though June 1, 2011, the Respondent discharged formaldehyde that exceeded 100 micrograms/liter in violation of the notification requirements of Part II.A.1.b of the Permit ; and

**WHEREAS**, the Respondent relocated sulfuric acid totes without secondary containment to the influent box of the secondary clarifiers in violation of Part II.B.13. of the Permit; and Section 391-3-6-.06(4)(a)(5) of the Rules; and

**WHEREAS**, on May 31, 2011, the Respondent operated an aeration basin with minimal microscopic organisms in violation of Part II.A.3 of the Permit; and

**WHEREAS**, the Respondent exceeded Permit discharge limitations for BOD for the months of December 2010 and January 2011; Total Phenols for May, 2010; Total Suspended Solids for June 2010; and pH limitations of the permit for the months of June, 2010, January 2011, February 2011 and June, 2011 in violation of Part I.A.1. of the Permit; and

**WHEREAS**, the Respondent's discharge from the Facility produced objectionable conditions which interfered with legitimate water uses in violation of Section 391-3-6-.03 (5)(c) of the Rules; and

**WHEREAS**, the Respondent's discharge from the Facility was harmful to aquatic life in violation of Section 391-3-6-.03(5)(e) of the Rules; and

#### **Civil Penalties**

**WHEREAS**, O.C.G.A. § 12-5-52 provides that any person violating any provision of the Act or any permit condition or limitation established pursuant to the Act or, negligently or intentionally, failing or refusing to comply with any final order of the Director shall be liable for a civil penalty of not more than \$50,000.00 per day for each day during which such violation continues; and

#### **Conditions**

**WHEREAS**, the Director has determined that it is in the public interest to resolve all allegations raised above by entering into this Order without the necessity of litigation and adjudication of the issues; and

**WHEREAS**, in settlement of certain enforcement actions, where appropriate, the Division encourages companies to consider undertaking environmentally beneficial projects, or Supplemental Environmental Projects ("SEPs"), i.e., projects the companies

would not otherwise legally be required to perform, but which improve, protect, or reduce risks to the public health and the environment.

**NOW THEREFORE**, by agreement of the parties, before the taking of any testimony and without adjudicating the merits of the parties' positions in this matter, in order to resolve the violations alleged herein, the Director hereby ORDERS and Respondent CONSENTS to the following:

1. Within ninety (90) days of the execution date of this Order, the Respondent shall submit to the Director a plan for undertaking one or more SEPs in an amount totaling at least \$1,000,000.00 to implement (the "SEP Plan") for the Division's review and approval. Should the initial submittal of the SEP Plan not be approved by the Division consistent with the purpose of such a SEP, with the criteria set forth below, and with SEP guidance document(s) of the U.S. Environmental Protection Agency, the Respondent shall have forty-five (45) days to submit an approvable SEP Plan once notified in writing by the Division that the original submittal has not been approved. Respondent shall have eighteen (18) months (or shorter time schedule if the SEP Plan as identified by the Respondent is less than 18 months) from the Division's approval of the SEP Plan to complete the chosen SEPs or to complete alternative SEPs as approved by the Division. If the Respondent fails to submit an approvable SEP Plan to the Division within ninety (90) days of the execution date of this order or within forty-five (45) days of the Division's denial of Respondent's initial SEP Plan, or if the Respondent fails to complete and implement the approved SEP(s) totaling no less than \$1,000,000.00 by the approved SEP Plan deadline date, Respondent shall pay to the State of Georgia

within eighteen (18) months of the execution of the consent order or within ninety (90) days after the applicable SEP deadline date, whichever period is longer, the sum of \$1,000,000.00 reduced by the documented cost of the completed and implemented Division-approved SEP(s) in the SEP Plan or alternative SEPs that were approved by the Division. Payment shall be in the form of certified check or money order made payable to the “Georgia Department of Natural Resources”.

- a) Each SEP shall have a water-related primary purpose and shall:
  - i) Not be associated with daily operations or budgeted improvements at the Facility;
  - ii) Consist of a detailed estimated budget;
  - iii) Consist of a new project(s) designed to improve, protect, or reduce risks to public health or the environment or to improve the quality of life in the Ogeechee River watershed;
  - iv) Advance the objectives of the Act;
  - v) Be funded by the Respondent;
  - vi) Not include any of the Respondent’s statutory obligations under the Act;
  - vii) Include a time schedule with measurable monthly milestones for completion;
  - viii) Include a detailed description of the expected results of the completed SEP(s);
  - ix) Include provisions for monthly progress reports submitted to the Division by the 15<sup>th</sup> day of each month following the month covered by the progress report; and

- x) Assign responsibility for completion of the SEP(s) to an individual employed by the Respondent.
- b) Within ninety (90) days following completion of a Division-approved SEP, a SEP Completion Report shall be submitted to the Division, consisting of the following:
  - i) A detailed description of the SEP(s) as implemented;
  - ii) Itemized costs with acceptable documentation for the costs of the SEP(s) including invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made;
  - iii) Certification by a responsible official that the SEP(s) has been fully implemented pursuant to the provision of this Consent Order;
  - iv) A description of the environmental and public health benefits resulting from the implementation of the SEP.

Following submission of the SEP Completion Report, the Division will either: (a) accept the Report; (b) reject the Report and notify Respondent of deficiencies, inaccuracies, or disagreements with the Report and allow Respondent forty-five days (45) days to correct the Report; or (c) reject the Report.

- c) Respondent hereby agrees not to claim any funds expended in the performance of any SEP performed pursuant to this consent order as a deductible business expense for the purposes of federal or state income taxes or otherwise use the funds expended to reduce the tax liability Respondent would have had in the absence of expending such funds. In addition, Respondent hereby agrees that,

within thirty (30) days of the date it submits its federal and state income tax reports for the calendar year in which such SEP is completed, it will submit to the Division certification that no funds expended in the performance of the SEP have been deducted from, or otherwise used to reduce Respondent's federal or state income taxes.

d) Any public statement, oral or written, in print, film or other media, made by Respondent concerning a SEP performed pursuant to this consent order shall include the following language, "This Supplemental Environmental Project was undertaken in connection with the settlement of an enforcement action taken by the Georgia Environmental Protection Division for violations of the Georgia Water Quality Control Act".

2. The Respondent shall implement the actions specified in the Respondent's TM and the actions as stipulated in the Division's July 19, 2011, response letter to the Respondent's TM, until otherwise notified in writing by the Division, and the Respondent shall submit monthly reports to the Division (due the first day of each month) documenting compliance with the Respondent's TM and with the Division's July 19, 2011, letter.

3. The Respondent shall continue to conduct Toxicity Identification/Toxicity Reduction Evaluations and submit weekly progress reports to the Division until such time that appropriate treatment technologies as approved by the Division are in place to ensure that the Facility consistently and reliably meets chronic toxicity requirements. The results of the TIE/TRE will be incorporated into the Plan submitted under Condition 4.



4. Within ninety (90) days of the Director's execution of this Order, the Respondent shall submit a Corrective Action Plan (hereinafter "CAP") to the Division for review and approval. The CAP shall be prepared and stamped by a professional engineer (hereinafter "engineer") licensed in the State of Georgia and shall include, but not be limited to, the following:

- a) An analysis of the Facility's wastewater treatment system, including but not limited to, analysis of wastewater composition/characterization, waste minimization/source reduction, and overall wastewater treatment system operation and performance (to include a flow diagram and mass balance determination); effluent temperature, pH treatment, pH treatment chemicals, pH treatment injection points, pH monitoring and recording, continuous pH compliance and possibility of exothermic reactions, appropriate outfall placement, sampling of sludge lagoon, and color reduction of the final effluent.
- b) A review of the Best Management Procedures (BMPs) consistent with Part II.B.13. of the Permit and a BMPs Plan that ensures all treatment or control facilities or systems installed or used by the Respondent to achieve compliance with the terms and conditions of the permit are at all times maintained in good working order and operated as efficiently as possible. Proper operation and maintenance includes effective performance, adequate funding, adequate preventive maintenance, good housekeeping, equipment inspection program and record system, adequate operator staffing and training to include written procedures, and adequate laboratory and process controls, including appropriate

quality assurance procedures, proper spill containment measures for all hazardous materials on site, and adequate facility security measures.

- c) An Emergency Operations Document (“EOD”) which details emergency protocols to be followed by Facility personnel to appropriately respond to environmental emergencies related to, at a minimum, Facility power outages, equipment breakdown, effluent violations, spills, and impact to the receiving stream and downstream users. As part of this document, the Facility must ensure 24-hour availability and contact of Facility personnel so that local, state and federal emergency agencies may access the Facility in compliance with 40 CFR Part 370.41 (g).

A schedule for any necessary improvements or upgrades to the Facility shall be included in the CAP and provided to the Division. The Division shall review the CAP for approval and provide the Respondent with written notice of any deficiencies. The Respondent shall have forty-five (45) days (or such other amount of time as to which the parties mutually agree) to submit a modified CAP to the Division. Upon receipt of the Division’s written approval of the CAP the Respondent shall implement and fulfill the CAP.

5. No later than thirty (30) days after the scheduled completion date established for the CAP and associated actions at the Facility, the Respondent shall provide the Division with a professional engineer’s stamped certification that the CAP is completed.
6. All CAPs, plan(s), report(s) and schedule(s) required by the terms of this Order are, upon approval by the Division, incorporated by reference into this Order. Except as

provided in this Order, any noncompliance with such approved plan(s), report(s) or schedule(s) shall constitute noncompliance with this Order.

7. If at any time the Division determines that any element of any approved plan or report should be modified in order to meet the requirements established by this Order, the Act, or the Rules, or any subsequent changes thereto, the Division shall provide the Respondent with written notification of such determination, specify the basis for making such determination and Respondent shall so modify and resubmit the plan or report in accordance with a schedule specified by the Division. If at any time the Respondent determines that any element of any approved plan or report should be modified in order to meet the requirements established by this Order, the Act, or the Rules, the Respondent shall, within thirty (30) days of making such determination, modify and submit the plan or report to the Division. The Division may confer with the Respondent regarding the modified plan or report in person, by telephone, or in writing. Modifications to the any approved plan or report must receive written approval by the Division prior to implementation.
8. Upon receipt of any report, plan, application or schedule; or any revised report, plan, application or schedule; (hereinafter collectively "Document") required under this Order, the Division shall review said document to determine its completeness and adequacy with regard to the Act, the Rules, the Permit, and this Order. If the Division determines that said Document is complete and adequate, the Division shall notify the Respondent in writing that said Document is approved. If the Division determines that said Document is incomplete or inadequate, the Division shall provide the Respondent with written notice of any deficiencies. The Respondent shall have

forty-five (45) days from receipt of the written notice of deficiencies to submit a modified Document to the Division unless otherwise specified by the Division. Should the Respondent take exception to all or part of the Division's notice of deficiencies, the Respondent shall, within fifteen (15) days after receipt of the written notice of deficiencies, submit to the Division a written statement of the grounds for the exception. The Division and the Respondent shall confer by telephone or in person in an attempt to resolve any disagreement. If agreement is reached, the resolution shall be written and signed by representatives of each party. If agreement cannot be reached within thirty (30) days from the date of the Respondent's receipt of the notice of deficiencies, unless otherwise specified by the Division, the Respondent shall revise said Document as required by the Division and resubmit the revised Document in accordance with a schedule to be specified by the Division.

Division approval of any submission required by this Order is not intended as, nor shall such approval be construed as, certification by the Division that compliance with relevant state and federal laws, regulations, and permits will thereby be achieved, and such approval by the Division shall not provide Respondent with a defense to an enforcement action taken by the Director pursuant to violations of the same. Division approval of any submission is strictly limited to the technical aspects of the submission and is not intended as, nor shall it be construed as, approval or acceptance of any statements, assertions, or representations of fact, of opinion, or of a legal nature that are contained in the document.

This Order does not relieve Respondent of any obligations or requirements of the Permit except as specifically authorized herein; which authorization shall be strictly construed.

This Order does not waive the Director's right to take further enforcement action against Respondent, or imply that the Director will not take such action, either for (1) the violations alleged herein if Respondent fails to fully comply with the conditions of this Order, or (2) violations not alleged herein based on any other relevant requirements of this Order, the law, rules, and permit(s). Issuance of this Order does not waive the Director's right to use the violations alleged herein, upon sufficient evidence, to show past violations in any subsequent enforcement proceeding.

This Order is executed and entered solely for the purpose of resolving and disposing of the alleged violations set forth herein and does not constitute a finding, adjudication, or evidence of a violation of any law, rule, or regulation by Respondent, and, by consenting to this Order, Respondent does not admit to any factual allegation contained herein or to any violations of State laws. In addition, this Order is not intended to create and it shall not be construed or otherwise deemed to recognize or create any claim, right, liability, estoppel, or waiver of rights in favor of any third-party or parties.

By agreement of the parties, this Order shall have the same force and binding effect as a Final Order of the Director, and shall become final and effective immediately upon its execution by the Director. The parties further agree that this Order shall not be appealable by Respondent, and Respondent hereby waives its right to initiate any administrative or judicial hearing on the terms and conditions of this Order.

Unless modified or terminated by a subsequent order, or otherwise specified in writing by the Director, this Order shall be deemed satisfied and terminated upon full, complete, and timely performance of each and every condition set forth herein and until such time that the final Permit is issued.

IT IS SO ORDERED, CONSENTED AND AGREED, this 21 (e) ~~16~~ day of September, 2011.

King America Finishing, Inc.	Environmental Protection Division
By: <u>Michael A. Beasley</u>	By: <u>F. Allen Barnes</u>
Title: <u>President - King America Finishing</u>	F. Allen Barnes Director
Date: <u>9/16/2011</u>	