

ROY COOPER

Governor

MICHAEL S. REGAN

Secretary

LINDA CULPEPPER

Director



NORTH CAROLINA  
Environmental Quality

June 28, 2019

Ms. Robyn L. Gross, Director  
Asset Management Americas  
Badin Business Park LLC  
201 Isabella St.  
Pittsburg, PA 15212

Subject: **SPECIAL ORDER BY CONSENT (SOC)**  
**EMC SOC WQ S18-010**  
Badin Business Park LLC  
NPDES No. NC0004308  
Stanly County

Dear Ms. Gross:

The Division of Water Resources (DWR) hereby transmits for your records a copy of the signed Special Order by Consent (SOC or the Order) approved by the Environmental Management Commission (EMC).

The terms and conditions of the Order are now in full effect, including those requiring submittal of written notice of compliance or non-compliance with any SOC schedule date. To cover water-quality maintenance costs, SOC fees have been revised to include a \$500.00 annual fee, pursuant to North Carolina General Statute 143-215.3D.

If you have questions, please contact the operations staff at DWR's Mooresville Regional Office at (704) 663-1699, or contact me in the central office, Derek Denard [derek.denard@ncdenr.gov] at (919) 707-3618.

Sincerely,

A handwritten signature in blue ink that reads "Derek Denard".

Derek C. Denard, Environmental Specialist  
Division of Water Resources, NCDEQ

hc: Robyn L. Gross, Director Asset Management America, Hwy 740, PO Box 576, Badin, NC 28009  
SOC Files w/attachments  
Central Files w/attachments

ec: Robyn L. Gross, Director Asset Management Americas [Robyn.Gross@alcoa.com]  
DWR/WQPS Qais Banihani [qais.banihani@ncdenr.gov]  
DWR/MRO Corey Basinger [corey.basinger@ncdenr.gov]; Andrew Pitner [andrew.pitner@ncdenr.gov];  
Roberto Scheller [roberto.scheller@ncdenr.gov]  
NCDOJ Asher Spill [Aspiller@ncdoj.gov]; Amy Bircher [abircher@ncdoj.gov]  
NPDES Files [Laserfiche]



North Carolina Department of Environmental Quality | Division of Water Resources  
512 North Salisbury Street | 1617 Mail Service Center | Raleigh, North Carolina 27699-1617  
919.707.9000



**NORTH CAROLINA  
ENVIRONMENTAL MANAGEMENT COMMISSION**

**COUNTY OF STANLY**

<b>IN THE MATTER OF</b>	)	
<b>NORTH CAROLINA</b>	)	<b>SPECIAL ORDER BY CONSENT</b>
<b>NPDES PERMIT NC0004308</b>	)	<b>EMC SOC WQ S18-010</b>
	)	
<b>HELD BY</b>	)	
<b>BADIN BUSINESS PARK LLC</b>	)	

Pursuant to provisions of North Carolina General Statutes (G.S.) 143-215.2 and 143-215.67, this Special Order by Consent is entered into by Badin Business Park LLC, hereinafter referred to as Badin Park, and the North Carolina Environmental Management Commission, an agency of the State of North Carolina created by G.S. 143B-282, and hereinafter referred to as the Commission. Badin Park and the Commission are referred to hereafter collectively as the "Parties".

1. Badin Park and the Commission hereby stipulate the following:

- a. Badin Park holds North Carolina NPDES permit number NC0004308 issued September 29, 2017 (the "Permit")<sup>1</sup> for the discharge of wastewater (contaminated groundwater), stormwater, and fire protection water from Badin Park's facility located at NC Hwy. 740 & NCSR 1719, Stanly County, NC ("Badin Business Park") to an unnamed tributary to Little Mountain Creek and Badin Lake (Yadkin River), Class WS-IV and WS-IV CA & B waters, respectively, of the state in the Yadkin-Pee Dee River Basin.
- b. Badin Park is unable to consistently comply with the monthly average and daily maximum effluent limits for total cyanide, and the monthly average effluent limits for total fluoride set forth in the Permit for Outfall 005. This Special Order by Consent ("Special Order") addresses issues related to compliance with these effluent limits.
- c. Compliance with the monthly average fluoride limit and the daily maximum and monthly average cyanide limits at Outfall 005 in the permit will require the design and construction of a stormwater piping system upgrade at the Badin Business

<sup>1</sup> The North Carolina Department of Environmental Quality, Division of Water Resources ("DWR") anticipates modifying the Permit to address matters unrelated to the total cyanide and total fluoride effluent limits for Outfall 005. Those effluent limits remain the same in the draft modified permit which DWR expects to issue in final form in 2019 after complying with public notice requirements. At the expiration of this Special Order, Badin Park will be required to comply with the effluent limits for Outfall 005 set forth in either the Permit as issued on September 29, 2017, or the modified Permit, whichever is in effect at the expiration of this Special Order. References to the "Permit" throughout this Special Order shall refer to the Permit as issued on September 29, 2017 or the modified Permit.

Park, which can be performed without further permitting in accordance with the existing permit and this Special Order.

- d. Noncompliance with final effluent limits constitutes causing and contributing to pollution of the waters of this State named above, and Badin Park is within the jurisdiction of the Commission as set forth in G.S. Chapter 143, Article 21.
- e. Badin Park has secured financing for planning, design, and construction of a stormwater piping system upgrade which, once constructed and operated, will be sufficient to achieve compliance with the final effluent limits in the Permit.

2. Badin Park, desiring to comply with the Permit hereby agrees to do the following:

- a. Undertake the following activities in accordance with the indicated time schedule:

<i>Scheduled Activity</i>	<i>Due Date</i>
Complete the specification to optimize the newly installed piping system upgrade – to include improved plugging of the former storm drains to isolate old system, and improvements to stormwater collection drainage paths.	<b>February 28, 2019 (Met)</b>
Complete the construction of the Badin Business Park piping system upgrade.	<b>April 30, 2019 (Met)</b>
Attain compliance with the final effluent limitations in the Permit.	<b>July 31, 2019</b>

- b. Badin Park will comply with all terms and conditions of the Permit except those effluent limits identified in paragraph 1(b) above. See Attachment A for all current monitoring requirements and effluent limits for Outfall 005. Badin Park may also be required to monitor for other parameters, as deemed necessary by the Director, in future permits or administrative letters. Badin Park shall comply with the interim effluent limits for total fluoride and total cyanide at Outfall 005 as listed in the table below until the deadline for attaining final compliance with the final effluent limitations in the Permit. Badin Park shall attain compliance with the final effluent limitations in the Permit as listed in the table below by July 31, 2019.

**Under this Special Order, only the parameters listed below have been modified from the most current NPDES Permit in effect for Outfall 005.**

Parameters	Units	Permit Limits		Interim Limits	
		Monthly Avg.	Daily Maximum	Monthly Avg.	Daily Maximum
Total Fluoride	mg/L	1.8 mg/L	24 mg/L	5.0 mg/L	24 mg/L

Total Cyanide	µg/L	5.0 µg/l	46.6 µg/l	100.0 µg/L	148.5 µg/L
---------------	------	----------	-----------	------------	------------

- c. No later than fourteen (14) calendar days after any date identified for accomplishment of any activity listed in paragraph 2(a) above, submit to the Director of the Division of Water Resources (“DWR”) written notice of compliance (including the date compliance was achieved along with supporting documentation if applicable) or noncompliance therewith. In the case of noncompliance, the notice shall include a statement of the reason(s) for noncompliance, remedial action(s) taken, and a statement identifying the extent to which subsequent dates or times for accomplishment of listed activities may be affected.
  
  - d. If the stormwater piping system upgrades required by this Special Order have not been completed by the date of the issuance of this Special Order, Badin Park shall, within thirty (30) days of that issuance, secure and provide documentation to DWR of an irrevocable standby letter of credit (Letter of Credit) to cover the cost of the uncompleted construction. The institution issuing the Letter of Credit shall be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a Federal or State agency. The Letter of Credit shall be issued in favor of the State of North Carolina. The financial assurance provided by the Letter of Credit must be continuous in nature and must bind Badin Park as well as its successors-in-interest. The amount of coverage of the Letter of Credit shall be at least 100% of the estimated cost of constructing the stormwater piping system upgrade required by this Special Order. DWR may increase the amount of the Letter of Credit if it concludes that additional work is required in order to achieve final compliance with effluent limits in the Permit. The Letter of Credit shall be maintained during the term of this Special Order until it expires or is otherwise canceled.
3. Badin Park agrees that unless excused under paragraph four (4), Badin Park will pay the DWR, by check payable to the North Carolina Department of Environmental Quality, stipulated penalties according to the following schedule for failure to meet the deadlines set out in paragraphs 2(a) and 2(c).

<i>Violation Description</i>	<i>Stipulated Penalty</i>
Failure to meet a scheduled date	\$1,000 per day
Failure to comply with an interim effluent limit	\$1,000 for exceeding monthly average limit; \$500 for exceeding daily maximum limits
Monitoring frequency violations for modified parameters	\$100 per omitted value per parameter

Failure to Timely Submit Notice Required by Paragraph 2(c)	\$1,000 for the first violation; penalty doubles with each subsequent assessment for late notice
Failure to achieve compliance with final effluent limits	\$5,000 (single penalty)

4. Badin Park and the Commission agree that the stipulated penalties are not due if Badin Park satisfies DWR that noncompliance was caused solely by:
- a. An act of God;
  - b. An act of war;
  - c. An intentional act or omission of a third party, but this defense shall not be available if the act or omission is that of an employee or agent of the defendant or if the act or omission occurs in connection with a contractual relationship with the permittee;
  - d. An extraordinary event beyond the permittee's control. Contractor delays or failure to obtain funding will not be considered as events beyond the permittee's control; or
  - e. Any combination of the above causes.

Failure within thirty (30) days of receipt of written demand by DWR to pay the penalties, or challenge them by a contested case petition pursuant to G.S. 150B-23, will be grounds for a collection action, which the Attorney General is hereby authorized to initiate. The only issue in such an action will be whether the thirty (30) days has elapsed.

- 5. Since this Special Order is by consent, the Parties acknowledge that review of the same is not available to the Parties in the N.C. Office of Administrative Hearings. Furthermore, neither party shall file a petition for judicial review concerning the terms of this Special Order.
- 6. Noncompliance with the terms of this Special Order is subject to enforcement action in addition to the above stipulated penalties, including, but not limited to injunctive relief pursuant to G.S. 143-215.6C or termination of this Special Order by the Director of DWR upon ten (10) days' notice to Badin Park. Noncompliance with the terms of this Special Order will not be subject to civil penalties in addition to the above stipulated penalties.
- 7. This Special Order and any terms or conditions contained herein, hereby supersede any and all previous Special Orders, Enforcement Compliance Schedule Letters, terms, conditions, and limits contained therein issued in connection with NPDES permit number

NC0004308. In the event of an NPDES permit modification or renewal, any effluent limit or monitoring requirements contained therein shall supersede those contained in Attachment A of this Special Order, except as modified and contained in paragraph 2(b) above.

8. This Special Order may be modified at DWR's discretion, provided DWR is satisfied that Badin Park has made good faith efforts to secure funding, complete all construction, and achieve compliance within the dates specified. In accordance with applicable law, modification of this Special Order will go to public notice prior to becoming effective.
9. In addition to any other applicable requirement, each notice required to be submitted by Badin Park under this Special Order shall be signed by a plant manager or a corporate official responsible for environmental management and compliance, and shall include the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

10. Failure to meet the scheduled date identified in paragraph 2(a) may terminate this Special Order and require Badin Park to comply with the terms and conditions contained in the Permit.
11. Badin Park, upon signature of this Special Order, will be expected to comply with all schedule dates, terms, and conditions of this document.


This Special Order by Consent shall expire October 31, 2019.

*For Badin Business Park LLC:*

  
\_\_\_\_\_  
Robyn L. Gross, Director  
Asset Management Americas

5/3/2019  
Date

*For the North Carolina Environmental Management Commission:*

  
\_\_\_\_\_  
Linda Culpepper, Director  
Division of Water Resources

6/26/2019  
Date



**Attachment A  
EMC SOC WQ S18-010**

**A. (1.) EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS –  
OUTFALL 005 (INTERIM) [15A NCAC 02B .0400 et seq., 02B .0500 et seq.]**

During the period beginning on the effective date of the Special Order and lasting until July 31, 2019, the Permittee is authorized to discharge *groundwater, stormwater, and fire protection water* at Outfall 005. Such discharges shall be limited and monitored<sup>1</sup> by the Permittee as specified below:

PARAMETER [PARAMETER CODES]		EFFLUENT LIMITATIONS			MONITORING REQUIREMENTS		
		Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type	Sample Location <sup>2</sup>
Flow (mgd)	50050				Monthly	Instantaneous	E
Total Suspended Solids (mg/l)	CO530				Quarterly	Composite <sup>3</sup>	E
pH (su)	00400	Shall remain within the range of 6.0 to 9.0 standard units at all times			Monthly	Grab	E
Total Aluminum (mg/l)	01105				Quarterly	Composite <sup>3</sup>	E
Total Fluoride (mg/l) <sup>4</sup>	00951	5.0 mg/l *		24 mg/l	Monthly	Composite <sup>3</sup>	E
Total Cyanide (µg/l) <sup>4</sup>	00720	100.0 µg/l *		148.5 µg/l *	Monthly	Grab	E
Total Residual Chlorine (µg/l) <sup>4, 6</sup>	50060			17 µg/l	Monthly	Grab	E
Acute Toxicity <sup>5</sup>	TGP3B				Quarterly	Composite <sup>3</sup>	E

\* **Attain compliance with the final effluent limitations in the Permit on July 31, 2019. This Special Order by Consent shall expire October 31, 2019.**

Footnotes:

1. Submit Discharge Monitoring Reports electronically using NC DWR's eDMR application system. Please See Special Condition C. (6).
2. Sample locations: E - Effluent.
3. The Permittee may use time-proportionate compositing or other sampling method provided that the alternate method yields samples that are reasonably representative of the discharge during the monitoring period.
4. The permittee shall use sufficiently sensitive test procedures approved under 40 CFR part 136 for the analysis of pollutants. A method is "sufficiently sensitive" when: (1) The method minimum level (ML) is at or below the level of the effluent limit established in the permit for the measured pollutant or pollutant parameter; or (2) the method has the lowest ML of the analytical methods approved under 40 CFR part 136 or required under 40 CFR chapter I, subchapter N or O for the measured pollutant or pollutant parameter. The Permittee shall report on its Discharge Monitoring Reports the actual laboratory results for each effluent sample tested.
5. Acute Toxicity P/F Quarterly; see Special Condition C. (1).
6. The Division shall consider all effluent TRC values reported below 50 µg/ L to be in compliance with the permit. However, the Permittee shall continue to record and submit all values reported by a North Carolina certified laboratory (including field certified), even if these values fall below 50 µg/ L

