

MILITEC-1[®]

MILITEC INCORPORATED

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To: Federal Investigators
From: Brad P. Giordani, President
Subj: Unethical Conduct by DSCR and ARDEC

Summary

The Military has been lubricating weapons with a Cleaner Lubricant and Preservative (CLP) product since 1980. CLP is an all-in-one product that has undergone several Military Specification (MilSpec) upgrades during its history. CLP is cataloged by DSCR.

The MilSpec and ASTM tests that are mandated for CLP are very stringent and demanding. Picatinny (ARDEC) would agree with this fact: Because of these demanding and tightly-controlled environments, no commercially available products, even those with NSN's, were previously able to pass the MilSpec testing requirement for CLP. No other products were able to compete with MilSpec CLP because of the overriding concern ARDEC has for weapons safety.

As a result, ARDEC has supported only MilSpec lubricants for Military weapons for the past twenty-five years. ARDEC has allowed only one specific MilSpec CLP lubricant to be approved for small arms and crew-served weapons.

But now, suddenly, ARDEC is saying, with DSCR's blessing, "Forget about the past twenty-five years - allow other lubricants to replace MilSpec CLP."

The reason for this twenty-five year flip-flop is obvious: Militec, Inc, their archenemy, has opened the pork-barrel floodgates for lubricants that were previously shut out of competition for the past twenty-five years.

What can ARDEC/DSCR do at this point to thwart the inroads made by Militec, Inc.? Instead of allowing commercially available lubricants to compete fairly against MILITEC-1, they have allowed competitors to use MILITEC-1's NSN's to intercept MILITEC-1 orders and use Militec's twenty years of work. They have cancelled a pending solicitation for expected MILITEC-1 ID/IQ contracts. They have delayed solicitations for MILITEC-1, and then granted them to brand new competitors at the last minute. They have even said that it doesn't matter what lubricant you use, as long as you use *elbow grease!* This was stated in ARDEC's "SWAT" report authored by Col. Smith.

Even though ARDEC has finally realized (after 15 years of criticism) their own CLP does not work properly, they are now insisting that any commercially available lubricant has to be better than CLP. We have been saying this from day one.

Their recent actions against Militec have demonstrated, once again, that we were right all along about the dangers of CLP, which causes weapons to malfunction unnecessarily.

Making sense out of DLA's letter

The Defense Logistic Agency (DLA) sent a letter dated September 20, 2005 to Senator Mikulski and Congressman Walter B. Jones. DLA is the parent agency for the Defense Supply Center Richmond, DSCR.

Claudia S. Knott, Deputy Director Logistics Operations for DLA wrote the following to Congress: "Because the U.S. Government is required to buy competitively whenever possible under the competition in contracting act, it is standard practice to describe the acceptable product for a particular NSN by referring to a specification or drawing. Any product that meets the requirement of the specification or drawing may be offered, and the ordering activity may receive items produced by any of the acceptable suppliers. When it is not feasible to develop a competitive specification or drawing, for instance when the U.S. Government does not have adequate technical data, the NSN will describe the product by reference to a manufacturer's name and part number such as MILITEC-1. When more than one manufacturer's part number is determined to be acceptable by the cognizant technical authority or Engineering Support Activity (ESA), the NSN will refer to all acceptable part numbers."

Ms. Knott went on to say: "Due to competition requirements, in solicitations for NSN's described by part numbers, DLA's buying activities include in their solicitations a clause that invites alternate offers, which are then submitted to the appropriate ESA for evaluation. [Suppliers] offerors are advised that DLA has no drawings or specifications for the part number sought in the solicitations. Consequently, alternative [suppliers] offerors must submit adequate technical data with their alternate offer to establish that the offered product is equivalent to the product sought by part number in the solicitation."

"On March 17, 2005, ARDEC notified DSCR that it had approved GPL 60006 as an alternate product for MILITEC-1. In accordance with the Agency's normal practices, DSCR then modified the item description for the five NSN's to include GPL 60006. It would be inappropriate for DLA to address ARDEC's source approval decisions."

General Background Questions for Investigators

1. What prior precedent was established that allowed DSCR to authorize the dual-use of twelve-year-old NSN's, thereby substituting a CLP formula for MILITEC-1, which is NOT a CLP?
2. Do you know how many times Militec had its NSN's and orders cancelled by DSCR since 1994? Is repeated cancellation of awards and NSN's a common business practice?
3. Can NSN's be legally blocked or cancelled with a phone call? What specific cause (other than a phone call) and then action is required for cancellation?
4. What specific evidence is required for a new product to receive NSN assignment by DSCR? Who controls this assignment? Who controls the rules governing assignment?
5. Has DSCR ever granted other products NSN's based on the same level of information that was submitted by ARDEC?
6. Who is the ultimate governing authority for NSN management?

7. What are the established guidelines that govern the approval, upgrading and cancellation process for NSN assignment? Did ARDEC supply all the required paperwork for MILITEC-1's NSN's to be used by others to DSCR?
8. What other weapon lubricants have had their NSN's and/or orders cancelled repeatedly by ARDEC with DSCR's assistance? Have you ever seen another weapons lubricant company that has had orders and NSN's cancelled repeatedly over the past ten (10) years, even though their product is still approved to this day without a formulation change?
9. Were you aware that on March 19, 2003, Col. Michael Padgett from ARDEC notified DSCR to cancel all MILITEC-1 emergency war orders from theater?
10. What was the justification for canceling emergency war orders from our troops in combat? Could this be done with a phone call too?
11. Has ARDEC ever encouraged DSCR to cancel other companies' emergency war orders placed by our troops in combat for a weapons lubricant with valid NSN's and a historical demand to back it up?
12. Were you aware on August 21, 2003 Bruce Stout at Rock Island Arsenal asked DSCR to block all orders and NSN's for MILITEC-1?
13. Does Mr. Stout have the same ESA authority as ARDEC for canceling orders and blocking NSN's from our troops?
14. What documents did you receive from ARDEC that re-approved all MILITEC-1 NSN's on October 14, 2003? Can re-approvals be done with a phone call?
15. What documents were received by DSCR that authorized the dual use of MILITEC-1 NSN's and the assignment of their contracts? Are their rules governing this?
16. Was DSCR aware of the fact that millions of dollars of MILITEC-1 had been ordered by our troops in the eighteen months prior to ARDEC advising DSCR to cancel Militec's five-year ID/IQ solicitation through DSCR? Can ID/IQ solicitations be cancelled by a phone call from a GS-13? Are there rules governing this?
17. Has DSCR ever been advised by ARDEC to cancel a solicitation calling for an ID/IQ contract for a synthetic, or a non synthetic weapons lubricant before?
18. What was the purpose of Augustine Funcasta's trip to DSCR last spring? Have you ever visited Mr. Funcasta at DSCR before? Have you ever spoken, or met with, ARDEC employees about other lubricant products before last spring?
19. Once you started the new competitors approval process for MILITEC-1's NSN's, how long did this process take? Was all the formal paper work supplied to DSCR for the proper assignment of all five NSN's? Was the implementation of MILITEC-1's dual-use NSN's fast-tracked through ARDEC, or did it take the normal amount of time?
20. How was it that MILITEC-1's NSN's were granted to a new competitor in March (according to DLA letter) and then that same competitor was granted subsequent contracts calling for MILITEC-1 that were out for bid in February - the month before the NSN's were awarded?
21. Can you show a precedent for the issuance of brand new NSN's to a company's competitor that resulted in subsequent awards that were out for bid a month or more before the issuance of NSN's or dual use NSN's?
22. Were you aware of Militec's financial contribution in product and advertising cost to our troops? Did you know that Militec's large contribution is responsible for this demand (based on NSN's orders thru DSCR) to be created in the first place?

23. Did it ever occur to you that the new competitor would take advantage of Militec since ARDEC allowed them to fulfill MILITEC-1 contracts and be awarded their twelve-year-old NSN's?

24. Did Militec not create this multi-million dollar demand for MILITEC-1 through its NSN orders? Did our troops request the same amount for CLP?

25. Why would DSCR "give away" twenty+ years of Militec's hard-earned multi-million dollar market share, to a company with no track record with DSCR?

DSCR Business Practice

Civil servants at Defense Supply Center Richmond (DSCR) have been aware of serious problems between Picatinny Arsenal (ARDEC) and Militec, Inc. since 1993. Given this knowledge, which is not only historical but also up-to-date, why did DSCR implement ARDEC's verbal request to divert Militec, Inc.'s military contracts, grant an unknown competitor the NSN's Militec, Inc. had held for twelve years, and substitute an unknown product for MILITEC-1, which has a proven track record stretching back 20 years? Further, why would DSCR officials concealed these facts from Militec, Inc. until after this unknown competitor had been granted our contracts, awarded our NSN's and had received ARDEC's full support in record time?

DSCR failed to adequately investigate its own internal records and ignored our warnings over the years about ARDEC's business practices, which includes, repeatedly canceling our contracts and blocking our NSN's for the past twelve years.

Instead of acting so swiftly to accommodate ARDEC's request for substituting another product for MILITEC-1, DSCR should have taken into account that Congress and DoD agreed on how MILITEC-1 should be governed 10 years ago and again last year.

ARDEC and DSCR agree on this too: Congress and political appointees have no authority over their spending activities. Instead, they wait out the Generals, some Congressional members leave and the active duty ranks rotate. In other words, the mid-level bureaucrats think they can continue their pet programs without any oversight. Their unwillingness to implement past Congressional-brokered agreements is why Congressional members are still being stonewalled by ARDEC/DSCR today.

The bottom line is this: Militec, Inc. worked for over twenty years to receive awards and National Stock numbers. These would never have been diverted by DSCR if it weren't for the large demand Militec created by issuing over 250,000 free bottles of MILITEC-1 to our troops and spending over \$600,000 in advertisement and direct product cost for our troops since 9/11. Our troop support is second-to-none.

Timeline

April 6, 1988: Militec, Inc receives its first Military order from the Navy for MILITEC-1. Amount of contract is \$23,950.00.

July 13, 1989: The Navy approves MILITEC-1 after 18 months of real-world testing. This was a two-year interim approval.

July 27, 1989: Mr. Maurice LePera, the DOD executive agent for fuel and lubes, first attacks MILITEC-1 in a reply to a Navy letter of interest. LePera's people are still in power at Picatinny Arsenal, NJ and its parent command, TACOM, Warren, Michigan.

January 8, 1991: The Navy's first request for a MILITEC-1 National Stock Number (NSN) Assignment after 18 months of successful testing at five SIMA locations.

August 23, 1993: MILITEC-1 products are first granted seven National Stock Numbers (NSN's) by Defense Supply Center Richmond (DSCR), formerly DGSC.

June 29, 1994: Memo titled "Specifications and Standards - A new way of doing business" is sent by Secretary of Defense William J. Perry to his Under Secretaries. The Defense Streamlining Acquisition Act became law in 1995, and Brad attended the Rose garden Ceremony.

August 26, 1994: Acting DSCR commander advises Militec, Inc. that removal of MILITEC-1's NSN's is in the Government's best interest.

October 31, 1994: Defense Logistic Agency (DLA), the parent agency of DSCR, advises Militec, Inc. "*all requisitions have been cancelled.*"

December 6, 1994: DLA advises Congress MILITEC-1's NSN's cancellation order as been suspended.

March 17, 1995: Nineteen members of Congress send a joint letter to Secretary of Defense William J. Perry supporting MILITEC-1.

March 24, 1995: DLA advises Militec, Inc. that it will not cancel the NSN's.

June 29, 1995: The Under Secretary of Defense sends Congress a letter stating, "*Thank you for your letter of May 18, 1995, to Secretary Perry concerning MILITEC-1. I am pleased to inform you...*" DSCR officials said the May 18 letter is useless.

July 6, 1995: DLA notifies Congress that two new National Stock Numbers (NSN's) will be granted to MILITEC-1.

September 18, 1995: MILITEC-1 is granted two additional NSN's for a total of seven NSN's through DLA.

For eight years, using our sole-sourced NSN's, MILITEC-1 is continuously supplied to the Defense Supply Centers and Military units worldwide without a problem.

March 19, 2003: While our troops are rolling into Baghdad, MILITEC-1's NSN's are abruptly blocked by direction of Colonel Padgett at Picatinny Arsenal N.J (ARDEC). Colonel Padgett's group also directs DSCR to cancel over \$120,000.00 in emergency war orders for MILITEC-1, without notifying the Commanders of all three Brigades of the 3rd ID that were arriving in theater. Militec, Inc. lost over \$500,000.00 in war orders and our troops experienced thousands of individual jammed weapons.

April 16, 2003: Major General Thompson (CG-TACOM) reluctantly supports a 60-day window for requisitions for MILITEC-1 through DSCR from Southwest Asia only.

August 21, 2003: Bruce Stout, of Rock Island Arsenal (TACOM-RI), sends Ernest Jeniolionis at DSCR a **high priority** directive to stop filling Army requisitions for MILITEC-1 immediately. Since DSCR's computers could not differentiate between orders, Homeland Security and Coast Guard orders were also cancelled.

October 14, 2003: At the verbal direction of ARDEC, Militec, Inc. received a one-sentence email message from Ernest Jeniolionis at DSCR, stating, “*Sir, as directed by the Army, effective immediately DSCR will begin processing all requisitions under the following NSN’s...*”

November 19, 2003: DSCR updates Congress on the status of our NSN’s.

January 21, 2004: Michael Schexnayder (SES Army) investigates another cancelled order for 930 cases of four-ounce bottles (12 per case) ordered by Ft. Hood. DSCR called to inform us that they were not happy about losing the commission on this contract after investing hours of hard work.

June 10, 2004: Militec, Inc. receives a Gold Metal Award from the Commanders of DLA and DSCR for perfect compliance in 2003. With our NSN’s being blocked from our troops for six months and the cancellation of dozens of emergency war orders we still managed to receive a perfect score for best value. We were not surprised when our invitation was not sent for this year’s award ceremony.

July 26, 2004: The Honorable Walter B. Jones, U.S. House of Representatives, receives a letter from Michael Wynne, Undersecretary of Defense, stating, “This letter responds to your June 23, 2004, inquiry to Secretary Donald Rumsfeld.” “The demand for MILITEC-1 has exceeded DSCR’s expectations.”

August 24, 2004: Brad contacts Mike Kuzmal, our new POC at DSCR, regarding a competitor (an Iranian chemical salesman in Texas named Hussein) who is trying to capitalize on our “sole source” NSN-specific product. Brad requests ID/IQ contract guidance. DSCR awarded Hussein a contract for MILITEC-1 valued at over \$200,000.00. Militec protested and DSCR promptly cancelled the Iranian’s contract.

December 9, 2004: Militec, Inc. receives an email from a GS-15, Gus Liggon, at DSCR, stating Militec, Inc.’s ID/IQ long-term packaging contract is on track and has been initiated for 5 NSN’s (FSC9150). Estimated solicitation date is Dec. 23, 2004, closing date Jan 24, 2005 and award date March 30, 2005.

Between October 2003 and April 2005, DSCR receives approximately 1600 orders through our exclusive NSN’s, which resulted in shipments by DSCR of over 12,000 cases of MILITEC-1 to our troops. DSCR and Militec have supplied over 1 million bottles of MILITEC-1 to our troops since 2001. This demand is unprecedented.

June 6, 2005: Militec, Inc. receives an email from Patrick Finegan at DSCR, saying the over-due MILITEC-1 solicitation SP0406-05-R-0995 has been cancelled.

June 21, 2005: Militec, Inc receives its only contract in the past six months from DSCR. This contract requires labeling on all MILITEC-1 boxes that state, [MILITEC-1 is] “NOT APPROVED BY DOD FOR USE AS A SMALL ARMS LUBRICANT. Steve Waylen, lab manager at ARDEC, who authorized this language, is listed by name as the judge and jury on all MILITEC-1 contracts and solicitations. Can other lab manager exercise this level of control on all contracts?”

June 24, 2005: This was the first time (to our knowledge) a MILITEC-1 contract was diverted to a CLP award. The contract number is SPO406-05-M-AR28. DSCR also requested accelerated delivery on this diverted and delayed contract. We bid on this public solicitation (prior to the award) last February (a month before ARDEC gave away our NSN's) so how could this contract be awarded four months later without Militec not knowing about it? This contract did not contain the "not approved by DOD for use as a small arms lubricant" in the final contract, as did the last contract dated June 21, 2005.

July 19, 2005: Militec, Inc is finally allowed to become aware that DSCR has awarded the MILITEC-1 NSN's to a new competitor's CLP formula. Militec, Inc. receives an email from Patrick Finegan, stating that Solicitation SP040605Q0780, which called for 261 cases of 4 oz. bottles of MILITEC-1, has been awarded to the same brand-new competitor. This second diverted award was also delayed and accelerated delivery was again requested.

July 20, 2005: Militec files protest with DSCR legal. Sol# SPM40605Q0780 and Contract ID # SPM406-05-M-1351. Reply expected August 15, 2005, per DLA CDR.

July 25, 2005: A copy of the second diverted contract requesting MILITEC-1 states: "Not approved by DOD for use as a small arms lubricant". What DSCR is telling our troops, you can buy it, but you can't use it? Troops order MILITEC-1 for their weapons, only to receive a different product that can't be used on their weapons.

July 25, 2005: A MILITEC-1 NSN contract for 261 cases of four ounce bottles is improperly issued to a competitor with ARDEC's POC information on the face of the contract that states "All alternative offers must be approved by US Army ARDEC prior to contract award." ARDEC should not be advertising this fact to our competitors then be allowed to play judge, jury and executioner. Since Desert Storm, we have told the world that ARDEC's MilSpec CLP product is defective, and is directly responsible for injury and death to our forces.

July 28, 2005: A copy of the stop work order that was the subject of our protest through DSCR was received.

August 15, 2005: Congressman Walter B. Jones sends Donald Rumsfeld a letter that states, "My understanding is that there may be ongoing occurrences of inappropriate and possibly unethical business practices at the Army's Armament Research, Development and Engineering Center (ARDEC) located at the Picatinny Army Arsenal, NJ."

August 15, 2005: Mr. Finegan, not the DSCR legal department, answers our protest letter to DSCR dated July 20, 2005. This letter is not dated. It supports ARDEC's behavior, without addressing the specifics of our complaint.

August 16, 2005: Brad sends DSCR legal an email and fax asking why the very person he is complaining about is signing on behalf of the legal department.

August 17, 2005: Brad sends Augustine Funcasta, the stumbling block at ARDEC, an email with five basic questions that remain unanswered.

FACTS

Since Operation Enduring Freedom, Militec has been using the internet to complain about ARDEC's support for CLP. Since March 19, 2003, we have also used Militec, Inc.'s websites to be extremely critical of DSCR's canceling emergency war orders placed by all three commanders of the 3rd ID and others. We have posted DSCR's emails and other correspondence exposing their business practices. Granting MILITEC-1's NSN's to a CLP competitor is simply ARDEC's and DSCR's one-way of paying us back because we have continuously exposed their business practices over the internet.

DSCR reinstated MILITEC-1's NSN's again on October 14, 2003. This caused DSCR to be continuously back-ordered on MILITEC-1. Militec, Inc.'s investment created a multi-million dollar demand for MILITEC-1 through DSCR in less than eighteen months.

In an effort to hide this fact, DSCR deleted millions of dollars of MILITEC-1 sales history from their website. Accurate records are now unavailable when troops search to see what the historical demand for MILITEC-1 has been through DSCR.

DSCR has never received such a demand from our troops for a specific weapons lubricant. The amount of business transacted through DSCR will easily support this fact. Granting MILITEC-1's NSN's to a CLP competitor is slowly killing our demand.

After our reinstatement on October 14, 2003, the Commanders of both DLA and DSCR awarded Militec a Gold Medal for perfect compliance. RADM Admiral Lyden, along with MG Saunders, presented us the Gold Medal in Richmond. The Admiral said, "I was not the one that cancelled your orders."

The ID/IQ contract was still on track last March because of this extreme demand for MILITEC-1. However, at our first meeting with DSCR this spring, we were asked not to accept orders from the troops. Instead, DSCR requested that we continue to channel orders through them. We were doing this all along; however, the free supply demand was so great, that Ms. Hudson said we were "taking orders away from them" which would hurt the stock demand for MILITEC-1 at DSCR.

We took DSCR at its word and spent over \$100,000.00 this year alone in media advertising to advise our troops to order from DSCR. We even set up DSCR numbers on our website so troops could call them direct for prompt service.

This is why we were shocked when our expected ID/IQ contract was cancelled without notice. This was just one more example, like Oct 14, 2003, and ten other times, that DSCR has cancelled MILITEC-1 orders, and our NSN's, without notice. No other similar company has ever had their contracts and NSN's cancelled as many times as Militec.

This document will prove that ARDEC/DSCR is paying us back for exposing their corrupt business activities over the years. Militec, Inc. has initiated multiple IG investigations and posted hundreds of website pages that exposed the business practices of ARDEC/DSCR through their own words. We have posted many of their emails and related correspondence on our websites.

If Militec, Inc. hadn't invested over \$600,000.00 in advertising free supplies through DSCR, thereby single-handedly creating a huge demand for MILITEC-1, ARDEC/DSCR would not have granted a new competitor our five exact NSN's and awarded them \$250,000.00 in recent contracts calling for MILITEC-1.

This entire situation could have been avoided if ARDEC/DSCR would have followed the existing rules and awarded new competitors, with different formulas, their own National Stock Numbers. This way a supplier can be rewarded for their own hard work, instead of piggy-backing on a market that was solely created through investment of a small company that only has one product to support its business.

However, the critical point is this; our troops should never receive a substitute product for use on their weapons. For the past twenty-five years ARDEC has been saying the exact same thing about the dangers of using other weapon lubricants. Since Militec finally proved ARDEC dead wrong, they are now telling our troops just the opposite of their strict twenty-five year old requirement that is firmly established in their manuals.

We have complete documentation to support our facts. Also, over twenty years of historical MILITEC-1 documents are located @ www.militec1.com/militaryletters1.html.

Brad P. Giordani
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