



State of Ohio Environmental Protection Agency

Northeast District Office

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Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

February 10, 2009

RE: 9150 GROUP, L.P.
SUMMIT COUNTY
OHD 050 387 802
UNPERMITTED TSDF
NOTICE OF VIOLATION - UPDATE

Mr. Frank Libby, site contact
9150 Group, L.P. et al.
2400 Danbury Lane
Hudson, OH 44236

RE: CRO RTC, HAZARDOUS WASTE NOV, GROUNDWATER MONITORING NOV

Dear Mr. Libby:

The Ohio EPA's Division of Hazardous Waste Management (DHWM) conducted its annual compliance inspections of this facility (OHD 050 387 802) located at 9150 Valley View Road in Macedonia (Facility) on December 18, 2008. This Facility is also known as Aerosol Systems, ASI, Specialty Chemical Resources, Hi-Port Aerosol and/or 9150 Group in Macedonia, Ohio. The inspection did not include indoor areas of the facility since the owner of the facility could not be reached to obtain access. This report lists the Ohio EPA's current understanding of violations and concerns that have been identified at your Facility.

These inspections are conducted annually as a result of the Facility being subject to the closure and post-closure care requirements in rules 3745-55-10 to 3745-55-20 or 3745-66-10 to 3745-66-20 of the Ohio Administrative Code (OAC). Further, the 9150 Group is regulated under Ohio's Cessation of Regulated Operations (CRO) laws and rules as found under Chapter 3752 of the Ohio Revised Code (ORC) and Chapter 3745-352 of the OAC. As the owner of the Facility, the 9150 Group is subject to these requirements.

SAMPLING AND ANALYSIS PLAN COMMENT

Indoor Generator Areas

The Ohio EPA's Division of Hazardous Waste Management (DHWM) has received analytical data in letters dated June 20, 2008 and June 27, 2008 for the Old Drum Room and Mixing Room Sampling and Analysis Plans. This data appears to represent the following identified indoor closure areas of concern:

- Former Drum Accumulation Area,
- Former Transfer Vessel and Tote Area,
- Transfer Vessel and Tote Area,
- Old Drum Accumulation Area,
- Last Known Drum Room Accumulation Area, and
- Puncture Shed Room and Vent Area.

Volatile Organic compounds (VOCs) were identified in analytical data results of samples collected from subsurface soil located below the floor crack in the Mix Room area and near the former Puncture Shed Room and Vent Area. VOCs near the former Puncture Shed area (sample DRB-3) are significantly elevated. The area presents a possible source of contamination to groundwater observed at wells MW-3 and MW-3A. Further delineation of subsurface floor contamination is needed to identify the source and extent of VOCs encountered below the Mix Room floor area.

Review of the data provided and the procedure used to clean the floor indicates these floor areas appear to meet the generator closure performance standard cited in the Closure Plan Review Guidance (CPRG), revised 2007. In a letter dated July 31, 2008, the Ohio EPA stated that these surface floor areas will be considered closed when Ohio EPA receives documentation of the disposal of the drummed wash and rinse fluids generated during the closure process.

Outdoor Generator Areas

On August 1, 2008 the Ohio EPA received a site investigation report for the:

Former Propellant Gas Aboveground Storage Tank area,
Former Pipe Trench,
Active Sanitary Sewer,
Clay Tile Drain Lines,
Southwest Quadrant Back Pallet Pad,
Drainage Ditch Sediments, and the
Parking Lot and Rear Driveway.

In response, the Ohio EPA provided comments to that report in a letter dated August 28, 2008. The Ohio EPA agrees that several of these areas appear to meet the closure requirements. However, it was requested that you provide a map of the boring locations that clearly identifies all sampling locations and corresponding analytical data including laboratory QA/QC so that Ohio EPA may finalize its consideration of these areas. Please refer to the August 28, 2008 comments for details of the information required.

Ohio EPA's split sample data collected September 24, 2008, identified that a VOC release occurred from the Above Ground Solvent Storage Tank (AST) Containment and pipe trench system. The Ohio EPA has not received the 9150 Group sampling results or report documentation. Remediation of this area will need to be considered under a closure or a site wide corrective action program. Contaminated gravel source remains in the concrete pipe trench and former connecting pipe area. The impacted material should be removed as soon as possible and properly disposed.

It appears the initial release to the secondary containment system can no longer be removed for purposes of CRO. The Ohio EPA considers the CRO requirements for this site terminated. However, under the hazardous waste regulations the Ohio EPA will continue to require that the 9150 Group remove contaminated sources and provide all necessary documentation to demonstrate that all removed contaminated soil and fluids have been properly evaluated, managed and disposed.

CRO and HAZARDOUS WASTE VIOLATIONS

Although the Ohio EPA has not received the requested information for the following CRO Violations, they will no longer be cited in an Ohio EPA Notice of Violation letter:

1. Removal of Regulated substances, ORC § 3752.06(A)(5) and OAC 3745-352-20(A)(2)(C):
 - Mercury contamination
 - Solvent Contamination in Pipe Trench
 - Solvent Contaminated Containment Water
 - Solvent Contaminated discharge from Connecting Pipe
 - Waste fluid in abandoned 55- gallon drum.

4. 90-day Notification to the Director, ORC § 3752.06(A)(6) and OAC 3745-352-20(A)(2)(h).

Likewise, the Ohio EPA has been requesting documentation to mitigate several hazardous waste violations that does not appear available. The following violations will no longer be cited:

1. Waste Evaluation, OAC 3745-52-11:
 - a. Mercury contamination - Dirt and concrete dust/debris identified to be mercury containing was collected and stored during Darko's lease and sent offsite.
 - c. Solvent Contaminated Containment Water - The "western AST containment water" was to be transported for disposal. Confirmation of the disposal was not provided.
 - e. Waste fluid in abandoned 55-gallon drum -TCLP characterization results of this fluid was not provided.

In the event the above disposal confirmation becomes available in the future, the Ohio EPA requests the information be promptly provided to the agency.

HAZARDOUS WASTE VIOLATIONS

The following is a **NOTICE OF VIOLATION** update for the Hazardous Waste rules and a **NOTICE OF VIOLATION** for groundwater monitoring rule violations.

1. **Waste Evaluation, OAC 3745-52-11:**

- b. Solvent Contamination in Pipe Trench -** Backfill in an outdoor concrete pipe trench at the former pump house was contaminated by solvent releases. On September 24, 2008 the Ohio EPA and the 9150 Group collected split analytical samples during investigation of this containment area. Upon analyses, those samples indicated levels of VOC's above the direct contact standards and above concentrations protective of groundwater. Rising VOC levels have been noted in nearby well # SMW-8 with quarterly monitoring. PID readings recorded in the September 24, 2008 investigation, indicated solvent contaminated gravel backfill remains in the concrete pipe trench. You could not remove the contaminated gravel at that time as you did not want to leave an open trench across the facility driveway and your container capacity had been reached.

To abate this violation, provide documentation of removal of contaminated backfill and cleanup of the remaining concrete. Conduct waste evaluation and proper disposal of all contaminated media, including the provision of disposal manifests or other receipts to Ohio EPA including the contaminated soil roll-off sent off from the September event.

The concrete trench outlet must be permanently sealed or the concrete removed. Clean suitable backfill from an offsite source must be used. You need not provide Ohio EPA with a work plan prior to conducting this abatement measure by removal, however, you must follow established Ohio EPA protocols and notify Ohio EPA at least one week in advance of conducting any field sampling or removal activity. Provide to Ohio EPA a report summary, analytical data, QA/QC data and proper disposal documentation of this effort.

d. Solvent Contaminated discharge from AST Connecting Pipe - Discharge of contamination occurred from a former pipe connection between the dike and the pipe trench. This area was investigated on September 24, 2008. The 9150 data has not been received by Ohio EPA. Ohio EPA split sampling data from this area indicates VOC releases above direct contact levels and levels protective of groundwater.

To abate this violation, provide Ohio EPA with all analytical data, confirmation sampling for verification of cleanup and disposal manifests. This AST system area must be remediated adequately to meet appropriate direct contact standards and levels protective of groundwater. You need not provide Ohio EPA with a Sampling or Work Plan prior to conducting abatement measures by removal. However, you must follow established Ohio EPA protocols and notify Ohio EPA at least one week in advance of conducting any field sampling or removal activity. You must provide a report summary, analytical data, QA/QC data and proper disposal documentation for this effort. Request for approval of any proposed concurrent remedial in-situ treatment or installations should be submitted to Ohio EPA for prior consideration and authorization where required.

3. Hazardous Waste Requirements, OAC 3745-66-10 to 66-20 Closure and post-closure care:

The Facility has failed to conduct closure of its hazardous waste storage activities and failed to provide closure cost estimates, financial assurance and liability coverage for hazardous waste units at the Facility. The Facility has stored and disposed hazardous waste at the site without a permit. Therefore, you are subject to all applicable general facility standards found in OAC chapters 3734-54 and 55. At least six (6) indoor generator accumulation units and at least seven (7) other outside areas have been identified that require closure. The indoor generator accumulation unit floor areas now appear to meet the generator closure performance standard cited in the Closure Plan Review Guidance (CPRG), revised 2007, but, you failed to provide documentation of disposal of wash and rinse fluids.

To abate this violation, for the indoor unit floor surfaces, submit disposal documentation for the generated wash and rinse fluids from cleaning of the indoor unit floor areas. Several, but not all outdoor areas appear to meet the closure standards.

Unfortunately, Ohio EPA could not concur with your outdoor results as the submitted documentation did not include a map that identified the boring/sample location and sample analytical results with pertinent QA/QC data provided. You must submit this documentation to the Ohio EPA for consideration of these areas for closure.

Remaining VOC contaminated unit areas, including the AST tank containment pipe system area, will need to be included in a modified closure plan. The outdoor units and the indoor subsurface floor area (former Puncture Shed Room and Vent Area) will need to be closed in compliance with the regulations and the Facility closure plan. The data results from all SAPs need to be summarized and reported to Ohio EPA per the established SAP protocols.

GROUND WATER VIOLATIONS

- 5. OAC Rule 3745-65-93(D)(4):** 9150 Group is required to conduct a Ground Water Quality Assessment Program in accordance with OAC 3745-65-93 (D) and to specifically determine the rate, concentration, and extent of migration of hazardous waste or hazardous waste constituents in the ground water as required by OAC 3745-65-93 (D)(4)(a) and (b).

The full rate, concentration and extent of migration of hazardous waste or hazardous waste constituents in the ground water have not been determined.

Ohio EPA will enforce this violation until satisfied that rate, concentration and extent of hazardous constituents in the ground water have been delineated.

6. **OAC Rule 3745-65-93(D)(7)(a):** The 9150 Group is required to make quarterly determinations of groundwater quality in accordance with this rule until final closure of the Facility.

The 9150 Group is in the process of completing one year of quarterly ground water monitoring that began the end of March 2008 under a consent order. However, Ohio EPA has not received the ground water data from the September 2008 or December 2008 ground water sampling event. Consistent quarterly ground water sampling has not been performed since the September 1999 ground water monitoring event. At least 30 quarters of ground water monitoring have been missed since 1999.

While the historic violations cannot be specifically abated, **to mitigate the violation**, the 9150 Group must agree in writing to resume and complete the required quarterly ground water sampling and analysis in accordance with OAC Rule 3745-65-93(D)(7)(a) until final closure is achieved. In addition, the September and December 2008 ground water sampling data must be submitted to the Ohio EPA for review.

7. **OAC Rule OAC 3745-65-94(B)(2) and OAC 3745-65-75:** The 9150 Group is required to provide annually, until final closure of the facility, a report to the director containing the results of the ground water quality assessment program which includes, but is not limited to, the calculated (or measured) rate of migration of hazardous waste or hazardous waste constituents in the ground water during the reporting period.

An annual ground water report has not been provided since 1999. The annual ground water report is due March 1st of each year.

Although historic violations cannot be specifically abated, **to respond to this violation**, an annual report for 2008 must be submitted by the March 1, 2009 deadline. The annual report form is found at: <http://www.epa.state.oh.us/dhwm/annualreport/65ANN04arial.pdf>. In addition, all subsequent annual reports must also be submitted by the March 1 deadline.

8. **OAC Rule 3745-65-91:** states that all monitoring wells must be cased in a manner that maintains the integrity of the monitoring well borehole and that the annular space above the sampling depth must be sealed to prevent contamination of samples and the ground water.

Many flush mount well covers are not secure and no longer function to protect the annular space above the wells. Flush mount wellheads were observed filled with silt, debris and water. Other wells have damaged remediation piping and pumps that should be removed to allow these wells to be properly closed and restored to use. Additional details of the violations that need corrected in order to return to compliance are:

- a. The vault lids on many of the flush mounted wells either were not bolted or the bolts that were present were stripped and ineffective at securing the lid. This included the vault lids at BMW-1, MW-1, MW-3/UZ-1, UZ-4, UZ-8, OSMW-4, OSDMW-4, OSDMW-1/DZ-3, UZ-3, and SMW-12. To properly secure these lids, limit access to the wellhead, and aid in preventing the migration of surface water into the well vault, it is recommended that these flush mounted well vaults be bolted. Any stripped bolts should be replaced and any problems with the vaults that prevent the bolts from being secured should be repaired.
- b. Wells DZ-1 and UZ-2 are flush mounted wells that still have the extraction pumps and piping in the well casings. These wells have not been sampled because of this problem. To prevent these wells from becoming conduits for contamination into the ground water, it is recommended that the extraction pumps and piping be removed. Locking expandable caps should then be installed on the inner casings. Removing the extraction pumps and piping will also allow these wells to be sampled and water level elevations measured.
- c. Wells MW-4 and MW-14 are above ground completions. The outer casing lids are not locked. There are expandable locking caps on the inner casings. However, the expandable locking caps easily pull out of the casings even when locked. It is recommended that either locks be added to the outer casing lids or that new expandable locking caps be installed that will be more resistant to being pulled from the casings.
- d. Standing water that did **not** cover the tops of the inner casings was observed in the well vaults of the following flush mounted wells: BMW-1, OSDMW-1/DZ-3, UZ-6, and DMW-5. Standing water that **did** cover the tops of the inner well casings was observed in the well vaults of the following flush mounted wells: SMW-8/UZ-7, UZ-9, UZ-5, DZ-2, OSMW-3, and OSDMW-3. It is recommended that new gaskets be installed between the well vault and the vault lid to prevent water from infiltrating into the well vaults and potentially into the well inner casings and the ground water. Although no ponded water was observed on top of the vault lids during the inspection, it may also be necessary to raise these well vaults slightly above grade so that water does not potentially collect on the vault lids and then migrate into the vaults.
- e. From at least March 31, 2008 through September 19, 2008 the monitoring wells were unlocked and unsecured. It appears that all wells have been locked since September 19, 2008.

To respond to this violation, you must provide verification that all the above items have been corrected. Verification should include photos (before and after), revised site maps, surveys, well logs and measurements showing sediment or equipment removal, work logs, a list of wells showing the service performed including surveying and other pertinent documentation needed to verify your return to compliance with this rule.

ADDITIONAL HAZARDOUS WASTE VIOLATION

In addition to the above violations, you are also in violation of the following Ohio Hazardous Waste laws and rules as found under the Ohio Revised Code (ORC) and Ohio Administrative Code (OAC):

9. **ORC § 3734.02(E) and (F):** During August 2004 VOC contaminants were released to concrete containment features and piping at the site. Several subsequent sampling events confirmed this release determining that unpermitted hazardous waste storage and disposal had occurred at the former above ground storage tank (AST) containment system of the Facility. Since 9150 Group violated ORC §3734.02(E) and (F), the 9150 Group, is subject to all applicable general facility standards found in OAC chapters 3745-54 and 55. Additionally, at any time Ohio EPA may assert its right to have the 9150 Group, begin facility-wide cleanup pursuant to the Corrective Action process under Ohio law. As the owner/operator of the property where unpermitted hazardous waste activities took place, you are jointly and severally liable for the violations of the state's hazardous waste laws.

GROUND WATER CONCERNS

A letter dated September 11, 2008 was issued providing comments to the Spring and Summer 2008 Quarterly ground water sampling events. A response to Ohio EPA's comments was received on October 15, 2008. Ground water sampling results for the Fall and Winter Quarterly Sampling has not been provided to the Ohio EPA. This information needs to be submitted.

The following concerns could lead to violations of OAC 3745-65-93(D)(3)(a) and (F) as these issues call into question the ability to obtain representative data and properly drawn maps. These items need to be corrected to provide reliable data on which to evaluate the contamination at the site and accurately gauge corrective action or closure compliance points.

1. Some of the well identification labels are faded and difficult to read. This includes DMW-10A, SMW-10A, OSMW-2, OSDMW-2, OSDMW-3, and DMW-5. Wells DZ-1, UZ-5, and OSMW-3 were not labeled. Well DMW-4 was incorrectly labeled MW-4. To prevent future confusion, it is recommended that these wells be correctly and clearly labeled or relabeled.
2. The location of well DMW-5 is shown incorrectly on the current site map. The site map shows this well to be located in the parking lot of the adjacent property. This well is actually located along the driveway on the Aerosol property. In a review of historic maps of this site, DMW-5 is correctly located on maps produced in 1988 and 1991. It is unclear when maps showing the incorrect location of DMW-5 were first produced and submitted. So that this well can be found easily and so that ground water flow maps are correctly drawn, the map currently being used should be revised to show the correct location of this well. Lastly, current ground water flow maps have included DMW-5 in the shallow zone map. It appears that this well should be included on the deep zone flow map instead.
3. Well MW-3A, installed in November 2007, still has not been surveyed. In addition, a well log showing the well construction and a boring log documenting the geologic materials that were encountered during the drilling of this well have not been submitted for Ohio EPA review. In order to calculate static water level elevations in this well and include it in ground water flow mapping, it must be surveyed. A well log and a boring log should also be submitted.
4. Based upon the total depth measurements obtained during the September 2008 sampling event, it appears that two wells BMW-1 and OSMW-5 have a build-up of sediment in the well screens and need to be redeveloped. Well BMW-1 had a total depth of 59.38 feet during the 2008 sampling event. The well log indicates that this well is 65 feet deep with a 5 foot long screen.

Well OSMW-5 had a total measured depth during the 2008 sampling event of 25.75 feet. The well log indicates that this well is 28 feet deep with a 3 foot long screen. These two wells should be redeveloped prior to the next sampling event so that representative samples may be collected.

5. Historic well purging records indicate that BMW-2 is at least 61.13 feet deep. Ohio EPA did not find a well log for this well in its files. The measured depth of this well during the 2008 sampling event was 26.25 feet. The 9150 Group should explain this large discrepancy between the historic total depth data for this well and the current measurement. If available, a well log for the well should be submitted. This well may need to be re-developed.

Other Ongoing Ground Water Concerns

- High VOC concentrations have been detected in the ground water at the 9150 Group property boundary and are moving offsite;
- A soil and ground water remediation program needs to be proposed and implemented, upon Ohio EPA approval, to reverse the offsite movement of ground water contamination;
- Elevated VOCs near the former Propellant Farm, Puncture Shed and Vent area and the AST Containment system indicate the soils in these areas may be source areas for some of the VOC contamination documented in the ground water.

CONSENT ORDER

Please be advised that the 9150 Group, as owner of the Facility, may be in contempt of the Consent Order entered into between Aerosol Systems, Inc. and the State of Ohio [State of Ohio v. Aerosol Systems, Inc., et al., Case No. CV-884-10145 (Summit County Court of Common Pleas, July 9, 1990)] and an Interim Partial Consent Order State between the 9150 Group and the State of Ohio [State of Ohio v. 9150 Group, L.P., et. al. Case No. 2006-07-4740 (Summit County Court of Common Pleas, October 15, 2007)].

Ohio EPA reserves the right, pursuant to ORC Chapters 3734 and 6111 and any other applicable state and federal laws or regulations, to require further Facility-wide investigation and remediation to address any unpermitted releases of hazardous waste, hazardous substances, industrial wastes, pollutants, and/or contaminants into the environment, including groundwater.

Additional violations and/or deficiencies which may exist pertaining to closure, financial assurance and liability, compliance monitoring inspections, etc., have not been considered in this letter.

SUMMARY OF ITEMS TO ADDRESS VIOLATIONS

- 1) With notification to Ohio EPA, delineate, remove and dispose contaminated source media and address residual contamination providing pertinent report data to Ohio EPA.
- 2) Provide map of SAP boring/sample locations with data QA/QC info.
- 3) Provide report, data and QA/QC for the AST Containment system SAP.
- 4) Remove and dispose remaining contaminated pipe trench gravel.
- 5) Determine the full rate, concentration and extent of migration of hazardous waste or hazardous waste constituents in the ground water.

- 6) Consistently execute quarterly ground water sampling to satisfy intent of the rule requirements until closure. Submit the ground water sampling results for the September and December sampling events.
- 7) Provide an annual ground water report.
- 8) Provide documentation to demonstrate all monitoring wells are being properly maintained (developed, cleaned, locked, labeled, useable, surveyed, etc.).
- 9) Revise or modify the existing Closure Plan based on current and historical site data and submit for approval and implement.

Please submit the requested documentation, to my attention, within **30 days** of receipt of this letter. Should you have any questions, please feel free to contact me at: ron.shadrach@epa.state.oh.us or (330) 963-1146.

Sincerely,



Ronald J. Shadrach
District Representative
Division of Hazardous Waste Management

RJS:ddw

ec: Frank Popotnik, DHWM, NEDO
John Palmer, DHWM, NEDO
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Bob Karl, Ulmer & Berne

NOTICE: Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with all applicable regulations.