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

June 25, 2009

RE: 9150 GROUP, L.P.
SUMMIT COUNTY
OHD 050 387 802
UNPERMITTED TSDF
PARTIAL RETURN TO COMPLIANCE

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) received and reviewed a submittal dated March 18, 2009 of information to resolve ongoing violations of compliance of the 9150 Group, L.P. (Facility) located at 9150 Valley View Road in Macedonia.

The March 18, 2009 submittal included the following documents:

1. Analytical results for the abandoned "mystery drum".
2. A waste manifest for disposal of the "mystery drum".
3. A waste manifest for disposal of 20 yards of contaminated pipe trench soil.
4. A waste manifest for disposal of containment water.
5. A well construction log for MW-3A (note this well was drilled 11/19/2007 not 12/17/2007).
6. Analytical data for the pipe trench investigation (note this investigation was not a closure as indicated in your submittal), and
7. Ground water data for the 3rd and 4th Quarters of 2008.

This letter identifies the violations and concerns that have been addressed and the Ohio EPA violations and concerns that remain.

Indoor Generator Areas

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

Former Drum Accumulation Area (aka Mix Room),
Former Transfer Vessel and Tote Area (aka Mix Room),
Transfer Vessel and Tote Area (aka Mix Room),
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 a 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 in order to identify the required closure needs of this sub floor area.

The March 18, 2009 submittal provided documentation of the disposal of the drummed wash and rinse fluids generated during the floor cleaning and closure process of May 2008. The indoor surface floors of the above areas appear to meet the generator closure performance standards of the Closure Plan Review Guidance (CPRG), revised 2007. The above indoor floor surfaces are considered closed.

Outdoor Generator Areas

The Ohio EPA received a "Site Investigation Report" dated July 30, 2008 for the following SAPs:

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.

The Ohio EPA provided comments to that report in a letter dated August 28, 2008 requesting outstanding SAP documentation so that Ohio EPA could continue evaluation of the results of these investigations. The Ohio EPA requested the following:

1. A map of the boring locations that clearly identifies all sampling locations with corresponding analytical data, and
2. Laboratory QA/QC data representative of all sample results.

Please refer to the August 28, 2008 letter comments for complete details of the information required.

Under the hazardous waste regulations and RCRA closure requirements, the Ohio EPA will continue to require that the 9150 Group delineate and remove all RCRA source contamination and provide all necessary documentation to demonstrate these areas meet closure standards at levels that are protective of human health and ground water.

HAZARDOUS WASTE VIOLATIONS

The following are the remaining **VIOLATIONS** (as numbered in the original NOV letter) for the Hazardous Waste rules and **VIOLATIONS** of the Ground Water Monitoring rules:

1. Waste Evaluation, OAC 3745-52-11 and ORC § 3734.02(E) and (F): Pipe Trench and AST Connecting Pipe Area (see also Violation #9 below):

Ohio EPA's split sample data collected September 24, 2008, confirmed that VOC releases occurred from the Above Ground Solvent Storage Tank (AST) trench containment and pipe system. The Ohio EPA received the 9150 Group sampling results for this investigation in a March 18, 2009 letter, but did not receive a QA/QC package for the lab data. As Ohio EPA's data has confirmed the releases and the 9150 Group L.P. and attorney appear to agree to responsibility and clean up, the QA/QC documentation for this past event is no longer being required. Should this documentation become readily available, please forward the information. The 9150 Group L.P. failed to clean up solvent waste released into the AST and pipe trench containment system during the 2004 CRO efforts.

b. Solvent Contamination in Pipe Trench - Backfill in an outdoor concrete pipe trench at the former pump house was contaminated by solvent releases during CRO efforts in 2004. Rising VOC levels have been noted in nearby well # SMW-8 with quarterly monitoring. PID readings recorded in the September 24, 2008 investigation/removal, indicated VOC contaminated gravel backfill remains in the concrete pipe trench. You could not remove the contaminated gravel because your container was full and you did not want to leave an open trench across the facility driveway. The concrete pipe trench has an unsealed outlet located about three feet below the ground surface through which contaminated trench water flows.

To abate this violation, provide Ohio EPA with a closure report that includes:

- Documentation of removal of contaminated water and backfill with cleanup of the concrete that is to remain.
- Analytical waste evaluation data, QA/QC data,
- Complete documentation of disposal of all media (manifests and receipts),
- Use of clean backfill material, and
- Other documentation as needed to meet all criteria of DHWM's closure guidance and performance standards.

Once the contaminated backfill is removed and the concrete trench cleaned, the outlet will no longer need sealed/plugged. Additionally, removal of concrete at the outlet end appears needed to access contamination that appears to underlie the concrete trench at the former pipe connection outlet. You need not provide Ohio EPA with a work plan prior to conducting these 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.

d. Solvent Contaminated discharge from AST Connecting Pipe - Discharge of VOC contamination occurred from former piping connections between the AST tank containment and the concrete pipe trench. This area was investigated on September 24, 2008. The 9150 data provided in a March 18, 2009 letter and Ohio EPA sampling data from this area confirms the release of VOCs at levels above direct contact and protective of groundwater. Rising VOC levels have been noted in nearby well # SMW-8 with quarterly monitoring.

To abate this violation, provide Ohio EPA with a closure report that includes:

- Delineation, estimation, planning and removal of all VOC contaminated soil to meet direct contact standards and levels protective of groundwater,
- All analytical data and QA/QC data,
- PID screening methods, field documentation and calibration,
- A scaled diagram of the location and extent of excavations, sample delineation points/grids, PID screening points, confirmation sampling locations and depths,
- Method, type and purpose of samples collected (Encore, methanol extraction, composite, grab etc.) for delineation, confirmation or disposal characterization,
- Proper onsite waste management, disposal and supporting documents and manifests,
- Use of clean backfill material
- Other documentation as needed to meet all criteria of DHWM's closure guidance and performance standards.

This AST system area must be remediated and closed meeting DHWM direct contact standards and soil levels protective of groundwater. You need not provide Ohio EPA with a detailed Sampling or Work Plan prior to conducting this effort. 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 summary report with the details above adequate to meet closure for this unit.

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

   The 9150 Group L.P. has failed to conduct closure of the hazardous waste storage activities and failed to provide closure cost estimates, financial assurance and liability coverage for hazardous waste units at the Facility. The 9150 Group L.P. 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 two (2) indoor subfloor areas and at least seven (7) other outside areas including groundwater, on- and off-site, have been identified that require closure. The indoor generator accumulation unit floor surfaces now appear to meet the generator closure performance standards.

To address the Outdoor and indoor subfloor areas of this violation, provide the documentation needed to evaluate whether the extent of these areas appear to be a source of ground water contamination or associated with unit closure. Further delineation, removal, insitu treatment and site specific risk assessment may be needed to attain closure of these areas.

For the "Site Investigation Report" dated July 30, 2008 of the outside SAP areas, QA/QC data and a map of the sample locations has not been provided. The QA/QC that was provided was for the indoor Mix Room SAP area. You must submit a complete QA/QC data package for all samples of the outdoor SAP areas and include a detailed site sample location map so that Ohio EPA may continue evaluating your submittal.

It is required that all VOC contaminated RCRA unit areas including the AST tank containment pipe system area, the outdoor units and the indoor sub floor areas be closed in compliance with DHWM Closure Guidance and performance standards or consistent with the existing Facility closure plan.

Lastly, closure must include both on- and off-site groundwater VOC contaminations. You must meet the existing closure plan requirements or create, modify, revise or amend the closure plan to satisfy the requirements of OAC 3745-66-10 to 66-20 for Closure and post-closure care.

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 Ohio EPA has received the ground water data from the September 2008 and December 2008 ground water sampling event on March 19, 2009. This data is currently under review. Consistent quarterly ground water sampling for the Spring and Summer quarters of 2009 does not appear to have been implemented. At least 32 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 recent transmittals via your attorney, the Ohio EPA has suggested that the 9150 Group enter an agreement, in which the frequency of ground water monitoring be reduced to a semi-annual basis. Until such a Director's authorized agreement or consent order is reached, the 9150 Group will be in violation of the facility quarterly monitoring requirement.

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 needed to be submitted by March 1, 2009. The annual report form is found at: http://www.epa.state.oh.us/dhwm/annualreport/65ANN04arial.pdf. Subsequent annual reports must be submitted by the March 1st 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. After review of this documentation the Ohio EPA may choose to do a walkthrough review of the monitoring well installations.

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):

8. **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 the 9150 Group L.P. 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. Please refer to Violation #1. b. and d. above to address this violation.

GROUND WATER CONCERNS

Ground water sampling results for the Fall and Winter 2008 Quarterly Sampling were received March 18, 2009 and are under review. Ohio EPA comments were provided for the Spring and Summer 2008 Quarterly ground water sampling in a letter dated September 11, 2008. A response to Ohio EPA's comments was received on October 15, 2008.

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. A well log showing the well construction and a boring log documenting the geologic materials that were encountered during the drilling of this well was submitted March 18, 2009. In order to calculate static water level elevations in this well and include it in ground water flow mapping, it must be surveyed.

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 with 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 appears to be source areas for the VOC contamination documented in the ground water.

CONSENT ORDER

Please be advised that the 9150 Group L.P., 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 VIOLATONS

1) With prior 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 for the "Site Investigation Report" dated July 30, 2008.
3) Provide report, data and QA/QC for the AST Containment system SAP, if available.
4) Remove and dispose remaining contaminated pipe trench gravel and connecting pipe contamination.
5) Remove, dispose soil source contamination from all identified units in a manner consistent with RCRA closure guidance and performance standards.
6) Determine the full rate, concentration and extent of migration of hazardous waste or hazardous waste constituents in the ground water.
7) Consistently execute quarterly ground water sampling to satisfy intent of the rule requirements until closure or enter agreement to perform limited sampling semi-annually.

8) Provide an annual ground water report.
9) Provide documentation to demonstrate all monitoring wells are being properly maintained (developed, cleaned, locked, labeled, useable, surveyed, etc.).
10) Revise or modify the existing Closure Plan based on current and historical site data and submit for approval and implement.

Inspections of this Facility 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). As the owner of the Facility, the 9150 Group L.P. is subject to these requirements.

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,

Ron Shadrach

Ronald J. Shadrach
District Representative
Division of Hazardous Waste Management

RJS:ddw

ec: Frank Popotnik, DHWM, NEDO
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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.