



Environmental
Protection Agency

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

Re: BaileyPVSOxides
OHR000040931
Fulton County
Partial RTC

February 8, 2011

Mr. Craig Weigle
Bailey PVS Oxides
6191 County Road 10
Delta, Ohio 43515

Dear Mr. Weigle:

Thank you for your responses to my Notice of Violation (NOV) letter dated October 20, 2010. Specifically, you responded electronically on November 2, 2010 and November 5, 2010. The following is a status of the violations cited during our September 16, 2010, inspection:

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

In your November 2, 2010, response, you stated that the waste in the four drums is indeed hydrochloric acid sludge and PPE from cleaning of the shipping and receiving sump. The waste is K062 waste and will be managed as such in the future. **Therefore, this violation is considered abated.**

2. Container Management, Accumulation Date Marking, OAC 3745-52-34(A)(2):

In your November 2, 2010, response, you included photographs of the four drums showing that they were properly labeled with the date of June 22, 2010. **Therefore, this violation is considered abated.**

3. Container Management, Labeling, OAC 3745-52-34(A)(3):

In your November 2, 2010, response, you included photographs of the four drums showing that they were properly labeled with the words "Hazardous Waste". **Therefore, this violation is considered abated.**

4. Labeling, Satellite Accumulation Area, OAC Rule 3745-52-34(C)(1)(b)

In your November 2, 2010, response, you included a photograph of the accumulation drum showing that it was properly labeled with the words "Hazardous Waste". **Therefore, this violation is considered abated.**

5. Container Management, Weekly Inspections, OAC 3745-66-74:

In your November 2, 2010, response, you included four weeks worth of completed inspection logs of the container storage area. **Therefore, this violation is considered abated.**

6. Manifesting, Waste Codes, OAC Rule 3745-52-20(A):

In your November 5, 2010, response, you included a copy of the manifest that accompanied your November 5, 2010, shipment of the five drums of K062 hazardous waste (from the drum storage area) off-site. **Therefore, this violation is considered abated.**

7. Land Disposal Restriction Form, OAC Rule 3745-270-07(A)(2):

In your November 5, 2010, response, you included a **corrected copy of the LDR form** which will accompanied the November 5, 2010, shipment of the five drums of K062 hazardous waste (from the drum storage area) off-site. This LDR form can also be used in the future for this type of waste. **Therefore, this violation is considered abated.**

The following violations were previously cited on July 21, 2006, as a result of our April 12, 2006 compliance inspection. A follow up inspection was also conducted on December 4, 2008. These violations are currently being handled by the Ohio Attorney General's Office. I will list each violation below and discuss any findings from our December 2008 inspection.

1.a. ORC §3734.02 (E) and (F) Unlawful Disposal of Hazardous Waste/ VWC V.1.c. Unpermitted Storage of K062 hazardous waste

Bailey disposed/stored hazardous waste (K062) on site in the retention pond (surface impoundment) without first obtaining a hazardous waste installation and operation permit. On October 18, 2000, Bailey had a release of K062 spent pickle liquor (SPL) from an above ground storage tank. Ohio EPA's Division of Emergency and Remedial Response (DERR) reported that 36,000 gallons was released from the storage tank which had ruptured. The SPL released into the storm sewer system on the east side of the tank storage area. SPL was observed in the catch basin in the lot area and in the downstream retention pond. Samples were taken for pH in the storm sewer catch basins (upstream/downstream from the pond), retention pond and in the storm sewer catch basin before discharge from the property on the east side. Samples taken and visual observation proved that SPL was present in all areas. No SPL went off-site because the weir to the retention pond was closed. At the time of our inspection, the weir remained closed. Bailey does not have a permit to discharge wastewater off-site and therefore, all storm drainage is directed to this retention pond.

This release, coupled with K062 run-off (from the entire area north of the warehouse and plant where material was and still is on the ground) to storm sewer catch basins, has caused the retention pond (surface impoundment) to become an unpermitted storage/land disposal unit area for K062 hazardous waste.

During our December 4, 2008, and September 16, 2010, inspections, there did not appear to be any new contamination in this area. There have not been any new releases to the pond since the release of K062 spent pickle liquor (SPL) from an above ground storage tank on October 18, 2000.

1.b. ORC §3734.02 (E) and (F) Unlawful Disposal of Hazardous Waste/ VWC V.1.c. Failure to clean up spills and releases of unmarketable Iron Oxide

Bailey disposed of hazardous waste (K062) on-site. Iron oxide that did not meet the high temperature metals recovery (HTMR) exclusion (OAC rule 3745-51-03(C)(2)(a)(iii)(a)&(b)) remains on the ground and in torn supersacks. This material has been on-site since 1999 and is considered K062 hazardous waste.

During our April 2006, inspection, Mr. Belczyk stated that in 1999, Bailey had accumulated hundreds of supersacks containing at the time reclaimed K062 iron oxide. You stated that these supersacks accumulated on-site in this quantity due to a decrease in the market and the fact that there may have been a quality issue with the iron oxide first produced at the site. The supersacks were located in the southwest quadrant of the facility and in all other "open" areas of the facility. Over time, these supersacks became weathered and torn and began to release iron oxide onto the ground. In 2002, Bailey began to remediate this area. The iron oxide waste was sectioned off by quadrant to determine which sections could be managed as solid wastes - per the HTMR exclusion found in OAC rule 3745-51-03(C)(2)(a)(iii)(a)&(b) and which quadrants would have to be managed as hazardous waste. The iron oxide from quadrants which met the exclusion was shipped off-site to a solid waste landfill. Ohio EPA did not receive the notification and certification required by OAC rule 3745-51-03(C)(2)(a)(iii)(b) which should have been sent to the Director by December 31, 2005. Bailey must submit this immediately. The rule will provide details on what information should be included.

In the Fall of 2005, Bailey began to screen iron oxide material that did not meet the exclusion to remove debris. By removing the debris, Bailey intended to market this material to PVS Chemicals as a product for use in their ferric chloride production operations (per Bailey letter to Ohio EPA, Amber Hicks, October 19, 2005). However, some of this material remains in a pile on the ground and is not being managed as valuable product. For example, the material in this pile has been exposed to the elements (e.g., runoff, wind dispersal) and truck traffic has been allowed to track the hazardous waste off-site (by backing into it, which was observed during our inspection). If this is a valuable product, it must be containerized and handled properly.

In May 2008, Bailey removed all visually contaminated topsoil, replaced it with new soil and reseeded the area where the supersacks were once staged (located in the west/southwest portion of the property). Bailey shipped seven roll off boxes to EQ Detroit as hazardous waste spent pickle liquor sludge(KO62, D002). In Spring/Summer 2010, clean up continued and several additional shipments of soil meeting the HTMR exclusion were made.

Bailey also disposed of iron oxide material on the ground in the transformer area on the north side of the pump house building. Iron oxide is on the ground in large amounts in this area. We observed approximately three (3) inch thick material in this area. This material must be cleaned up and managed as hazardous waste K062.

In Spring 2008, Bailey removed iron oxide material from the paved area and surrounding areas north of the pump house building. In Spring/Summer 2010, more soil was removed and taken off site in this area.

Additionally, there was visual contamination where previously remediated iron oxide material that met the HTMR exclusion and other product was once staged which includes the new construction area (northwest of the facility). Contamination also may be occurring from iron oxide dust blowing into this area. This area must be cleaned up prior to the construction being completed.

In May 2008, Bailey removed all visually contaminated topsoil, replaced it with new soil and reseeded the area where there was iron oxide on the ground (located in the west/northwest portion of the property). Bailey shipped seven roll off boxes to EQ Detroit as hazardous waste spent pickle liquor sludge(KO62, D002). Construction of Delta Ferrite Joint Venture was completed prior to the clean up. In Spring/Summer 2010, work continued as the seed did not take well. Future plans include possibly asphaltting the area.

Lastly, Bailey must address the area on the west side of the property behind the warehouse. Bailey had staged clinker material, dust collection material and some regular iron oxide material here. Several of the supersack bags were torn and spilling on to the ground and need to be repacked. Mr. Belczyk had stated that these materials should not be outdoors. Ohio EPA is concerned further contamination due to runoff and wind dispersion will occur, causing potentially more extensive remediation of the site. If this is indeed product, it must be handled in the appropriate manner.

During our December 4, 2008, inspection, it was observed that this area is now the location where black oxide is being stored.

In Spring 2009, Bailey is planning to screen iron oxide material that remains and utilize it in the ferrite process. This material is located between the Bailey warehouse and the new plant on the south side of the drive.

In Spring/Summer 2010, the iron oxide material had been removed and utilized in the ferrite process. The area south of the drive near the warehouse has been covered with crushed asphalt material.

Bailey disposed of hazardous waste (K062) on-site. Per condition_V.1.c. of the June 1, 1999, VWC, Bailey is required to manage all unusable residues including iron oxide material, as K062.

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Bailey must submit a closure plan to address the areas of contamination discussed in violations 1.a. and 1.b.

During our April 2006 inspection, we observed iron oxide material blowing across the property as a truck was being loaded with product. The loading system was not operating correctly. The ports on the truck were open causing more iron oxide to escape. In addition to submitting a closure plan as stated, Bailey must also provide documentation that the loading system is operating properly and what procedures will be taken in the future to prevent iron oxide from escaping into the air and onto the ground.

As of our December 4, 2008, and September 16, 2010, inspections, no bulk loading is being done at this time. All material is being directly conveyed to Delta Ferrites.

Since Bailey violated ORC §3734.02(E) and (F), Bailey 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 Bailey begin facility-wide cleanup pursuant to the Corrective Action process under Ohio law.

2. ORC §3734.02(F) Unlawful Disposal of Hazardous Waste/ VWC V.1.c. Disposal of K062 hazardous waste as solid waste

During the inspection, packing material, debris and sweepings were seen in the solid waste dumpster. You stated that these types of materials are normally managed and sent off site as solid waste. These materials were either coated with K062 waste iron oxide or were K062 iron oxide dust (e.g., sweepings). These materials are typically generated during monthly maintenance shutdowns. Any waste containing SPL or iron oxide is considered hazardous (K062) if it is not put back into your processing as set forth in VWC V.1.c. Bailey is in violation of this law for failing to transport their hazardous waste K062 to a permitted hazardous waste disposal facility.

Bailey must submit information on the ultimate disposal of this hazardous waste. You must submit any manifests, land disposal restriction forms, etc. that accompanied this waste off-site. If the waste went to a solid waste landfill, you must submit to this office, the name and location of the solid waste landfill and date that this material was shipped off-site.

During our December 4, 2008, and September 16, 2010, inspections, we did not discuss the ultimate disposal of this material. You must provide me with this information in writing.

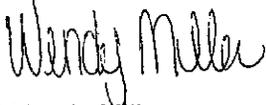
3. Annual Variance Reporting, VWC.V.1.b.

This violation was abated in my previous letter dated October 20, 2010.

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If you have any questions, please call me at (419)373-3114 or contact me via email.

Sincerely,



Wendy Miller
Division of Hazardous Waste Management

/l/r

pc: ~~DHWM-NWDO File: Bailey PVS Oxides~~
Amanda McCartney, AGO, Environmental Enforcement
Colleen Weaver, DHWM-NWDO
Mitch Mathews, DHWM-CO
Cindy Lohrbach, DHWM-NWDO
Mike Allen, DHWM-CO