

**Environmental
Protection Agency**

Gov. Strickland, Governor
Lee Fisher, Lt. Governor
Carm Koproski, Director

July 27, 2010

RE: SHERMAN INDUSTRIES, INC.
LAKE COUNTY
CRO SECOND NOV

Mr. Scott Terhune, Owner
P.O. Box 410
Cleveland, OH 44124

CERTIFIED MAIL
RETURN RECEIPT

And;

Matthew J. Caiazza, Senior Consultant
The Meridian Group, Receiver
600 Superior Avenue East
Suite 1300
Cleveland, OH 44114

Dear Mr. Terhune and Mr. Caiazza:

On July 22 and 23, 2010, Ohio EPA received from The Meridian Group a response to Ohio EPA's July 9, 2010, Notice of Violation for the facility at 37701 Stevens Blvd. in Willoughby, Ohio. The documentation included photos of security measures, posted warning signs, a log of inspections of security measures and a Notification Form. No response from Mr. Terhune, owner, has been received.

Review of this documentation indicates that The Meridian Group has adequately demonstrated abatement of the violations identified to pertain to "Receiver" as determined during Ohio EPA's June 9 and June 24, 2010 inspections. These violations are as follows:

8. ORC § 3752.07 Building, Structure or Outdoor Location to be Secured Against Unauthorized Entry; Warning Signs, and OAC rule 3745-352-30 Facility Security Requirements:
9. Weekly Inspections, OAC 3745-352-30(C): The owner/operator must maintain entry barriers and warning signs required in OAC 3745-352-30(A) and (B)
12. 3745-352-25 What are my responsibilities if I am holder of a first mortgage on real property, a fiduciary, an indentured trustee for debt securities, or a receiver?

Background Information

Ohio EPA understands that this facility is a State Emergency Response Commission (SERC) notifier that ceased operations in about 2008. Therefore on June 24, 2010 it was inspected for compliance with Ohio's Cessation of Regulated Operations (CRO) including Ohio's hazardous waste laws and regulations, as found in the Ohio Revised Code and the Ohio Administrative Code ("ORC" and "OAC" respectively). In March 2010 the facility went into receivership to the Meridian Group. The property owner failed to notify the Ohio EPA and other agencies that operations had ceased. The owner failed to secure the site, failed to remove all waste, hazardous waste and regulated substances in accordance with the CRO rules and law.

Summary of CRO Inspection

Ohio EPA identified numerous drums and containers of regulated substances onsite. The regulated substances include: hydrochloric acid, antifreeze, oils, used oils, fuels in containers and underground storage tanks, grease, paints, solvents, compressed gas, cleaners, solid waste and debris, parts washer fluid, aerosol cans, office electronics, fluorescent lamps, lead acid truck batteries, calcium chloride, Portland cement, concrete plasticizers, admixes, form release oils and numerous trucks containing fuel, lead acid batteries and oils. There is an "admix trailer" for the new batch plant that contains seven poly tanks of liquid admixes. The estimated combined content of these tanks is at least 1,200 gallons. A five foot diameter tank was found among site overgrowth with rusted openings. This tank contains an estimated 400 gallons of oily fluid. There are more than thirty (30) 55-gallon drums onsite that are full or with significant contents. The contents of many of these drums are unknown. Some are labeled and appear to contain virgin product. There are also numerous 16-20 gallon size drums that were observed to include: diesel fuel, antifreeze, oils and grease with some drum contents unknown. The contents of all containers need verified and properly recycled, transferred, or disposed.

Violations

The following violations of Ohio's hazardous waste regulations were observed during the June 24, 2010 site visit unless otherwise noted. In order to abate the violations you must do the following **within 30 days** of your receipt of this letter:

1. **OAC 3745-279-22(D), Response to Releases of Used Oil:** "Upon the detection of a release of used oil to the environment, a generator shall...clean up and manage properly the released used oil..."

On June 9th it was discovered you failed to clean up two areas where oil was released. Area #1 was from a tote located on concrete along the garage building. Area #2 surrounds four drums on a pallet in a vegetated area just north of the old batch plant.

- To abate this violation, stop the release of used oil from each container by properly closing the container or transferring the used oil to a good container. Clean up the contaminated areas by removing all visually contaminated soil and debris. Provide photographs that show the contaminated areas have been cleaned up. Used oil contaminated waste can typically be disposed as a solid waste in the regular trash to a licensed solid waste landfill. Area #1 was cleaned up on June 9, 2010. No further action is required at this location. Area #2 must be cleaned up and the release stopped. Please provide documentation for cleanup of Area #2.

Guidance to help understand the proper management of used oil was provided in a previously enclosed *Fact Sheet* on "The Regulation of Used Oil:" that may be found at: http://epa.ohio.gov/portals/32/pdf/Used_Oil_Generators_Guidance.pdf.

2. **OAC 3745-279-22(C), Used Oil Storage Requirements for Generators (Labels):** "Containers and above ground tanks used to store used oil at generator facilities shall be labeled or marked clearly with the words "Used Oil".

You failed to properly label numerous drums, totes and a tank at the site that appear to contain used oil.

- To abate this violation, please evaluate all containers and properly label the used oil containers as "Used Oil". Please provide documentation (pictures) of the proper labeling of the used oil containers. When the used oil is sent off-site it will need to be taken by a licensed used oil hauler. A list of used oil facilities was previously provided.

3. OAC Rule 3745-52-11, Waste Evaluation: Any person who generates a waste must evaluate the waste to determine if the waste is a hazardous waste in accordance with the criteria set forth in OAC Chapter 3745-51.

You failed to determine if the wastes abandoned at the site are a hazardous waste. At least one full drum of hydrochloric acid was observed on the southwest side of the old batch plant. There are numerous full and partially full 55-gallon containers of unknown contents. There are also some larger and smaller containers including numerous five, one gallon and smaller containers of solvent, paints, sealers and adhesives.

- You must immediately evaluate each container of waste to determine if it is a listed or characteristic hazardous waste as required by OAC 3745-52-11. Guidance to assist you in waste evaluation was previously provided and may be found at: <http://www.epa.ohio.gov/portals/41/sb/publications/identifyingwaste.pdf>. Once you have made this determination, you must send me the documentation. A list of licensed hazardous waste disposal facilities was also previously enclosed.

4. Designation of a contact person, ORC § 3752.05 and OAC 3745-352-20 (A)(1)(c):

You failed to identify a contact person on EPA Form 0327.

- You must update Ohio EPA with the name and telephone number of the contact person through completion of EPA Form 0327 and submit it to the requisite agencies and departments identified on this form. A copy of Form 0327 was previously enclosed and may be accessed at: http://epa.ohio.gov/portals/32/pdf/CRO_Manual.pdf.

5. Drain or remove all regulated substances from each stationary item, ORC §3752.06(A)(4):

All regulated substances must be drained or removed from each stationary vat, tank, electrical transformer, and vessel, and from all piping that is to remain at the Facility and a combination of the following must also be done:

1. Transfer the regulated substances to another Facility owned or operated by the owner or operator.
2. Lawfully transfer ownership of the regulated substances to another person through sale or otherwise; or
3. Cause the regulated substances to be transported off the premises and managed in compliance with all applicable regulations for disposal.

You failed to send off numerous totes, tanks and containers of oil, used oil, fluids, fuel, compressed gas, admixes and substances identified in your SERC notification.

- These materials and wastes must be properly recycled, transferred or disposed. A list of used oil transporters was provided to assist you with proper recovery of many of the site fluids. These transporters may be located at the following link: <http://epawebapps.epa.state.oh.us/Recyclers/jsp/results.jsp>. Please provide copies of receipts or manifests that show all oil, fuel and fluids have been received by a licensed used oil transporter, hazardous waste facility or properly transferred.

6. **Submission of a list of all stationary items contaminated with regulated materials remaining at the facility, ORC § 3752.06(A)(3) and OAC 3745-352-20(A)(2)(d):** If an owner/operator will be leaving any stationary tank, vat, electrical transformer, or vessel of any type that contains or is contaminated with regulated substances, the owner/operator must submit a precise description of where each stationary tank, vat, electrical transformer, or vessel of any type is located, and a description of what regulated substance each stationary tank, vat, electrical transformer, or vessel of any type contains or is contaminated with.

No such descriptions have been submitted.

- Please submit the required descriptions of all stationary equipment that contains or is contaminated with a regulated substance.

7. **Removal of Regulated substances from non-stationary items, ORC § 3752.06(A)(5) and OAC 3745-352-20(A)(2)(c):** The owner/operator must remove from the Facility all regulated substances and all debris, and non-stationary equipment and furnishings, non-stationary containers, and motor vehicles and rolling stock that contain or are "contaminated with" regulated substances, as defined in rule 3745-352-05 of the Administrative Code by doing any or a combination of the following:

(i) Lawfully transfer the regulated substances and the debris, non-stationary equipment and furnishings, non-stationary containers, and motor vehicles and rolling stock that contain or are "contaminated with" regulated substances, to another operating Facility that you own or operate;
or

(ii) Lawfully transfer ownership of the regulated substances and the debris, non-stationary equipment and furnishings, non-stationary containers, and motor vehicles and rolling stock that contain or are "contaminated with" regulated substances, to another person; or

(iii) Cause the regulated substances and the debris, non-stationary equipment and furnishings, non-stationary containers, and motor vehicles and rolling stock that contain or are "contaminated with" regulated substances, to be transported off the premises of the Facility and managed in compliance with all applicable regulations.

You failed to remove numerous containers of oil, used oil, fluids, fuel, acid, paints solvents, aerosols, admixes, cleaners and motor vehicles in compliance with this rule.

- You must submit per OAC 3745-352-20(A)(2)(e) documentation that each stationary tank, vat, electrical transformer, vessel of any type, piping, non-stationary equipment and furnishing, non-stationary container, motor vehicle, rolling stock or debris is not contaminated with a regulated substance. You must record in a log the standard industrial method used to remove the regulated substance from each of these items.

10. 90-day Notification to the Director, ORC § 3752.06(A)(6) and OAC 3745-352-20(A)(2)(g):

The owner/operator must make a written certification to the director of Ohio EPA concerning the completion of the removal action within 90 days after ceasing regulated operations using form EPA 0329.

You failed to provide this form to Ohio EPA.

- You need to immediately complete removal per the rules and submit this certification. A copy of Form 0329 has been provided and may be found at: <http://epa.ohio.gov/portals/32/pdf/epa0329.pdf>.

RECOMMENDATION

- The parties need to identify owner/operator and receiver responsibilities and submit the appropriate notification to me within 30 days of the date of this letter.

It is Ohio EPA's understanding that the:

- 1) Meridian Group (receiver) will be responsible for ensuring that site security measures are properly maintained and documented (**The Meridian Group implemented security measures and submitted the requested information**) and that;
- 2) Mr. Terhune (property owner(s)) will be responsible for removing all regulated and potentially regulated substances including substances that could be considered an asset. These items include but are not limited to: oil, grease, antifreeze, fuels, paints, solvents, cleaners, admixes, plasticizers, acids, salts, lamps, batteries, electronic equipment, solid wastes, scrap metal and debris. And that;
- 3) Both parties must submit the requisite Notification Form and designate a contact person. **The Meridian Group has submitted a completed Notification Form.**

Concerns – Management of Universal Wastes

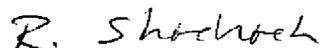
During the CRO process it is likely that fluorescent lamps, high intensity discharge lamps, lead acid batteries, mercury containing devices and other universal wastes could be generated. These require recycling or proper disposal. Guidance to the management of universal waste may be found at the following link: http://epa.ohio.gov/portals/32/pdf/New_Universal_Waste_Guidance.pdf.

Failure to list specific deficiencies in this communication does not relieve the parties from the responsibility of complying with all applicable laws and regulations. Please be advised that present or past instances of non-compliance can continue as subjects of pending or future enforcement actions.

SHERMAN INDUSTRIES, INC.
JULY 27, 2010
PAGE – 6 –

The Division of Hazardous Waste Management (DHWM) has copies of the rules and other information on the DHWM's web page at: <http://www.epa.ohio.gov/dhwm/>. Please find a copy of an updated Cessation of Regulated Operations Checklist enclosed. Should you have any questions, please call me at (330) 963-1146 or email me at ron.shadrach@epa.state.oh.us.

Sincerely,



Ronald J. Shadrach
District Representative
Division of Hazardous Waste Management

RS:ddw

ec: Frank Popotnik, DHWM, NEDO
Marlene Kinney DHWM, NEDO
Natalie Oryshkewych, DHWM, NEDO

cc: Ralph McGinnis, DHWM, CO
Harry Sarvis, DHWM, CO
Todd Anderson, DHWM, Legal, CO
Nils Widing, Complete Waste Disposal, w/attachments
Lake County LEPC
Willoughby Fire Department