H & H Fillin Station
Hardin Co.

OhioEPA

State of Ohio Environmental Protection Agency

Northwest District Office

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

RE: Former H&H Fillin Station
~~OHC 100 000 242~~ OHR000152165
Hardin County
DHWM, NWDO
Complaint 2108
Notice of Violation

October 8, 2008

Mr. Jim Harpel
523 North High Street
Kenton, OH 43326

Dear Mr. Harpel:

On July 16, 2008, I, representing the Ohio Environmental Protection Agency (Ohio EPA), investigated a complaint at the former H&H Fillin Station (H&H) property located at 401 Courtright Street, Mc Guffey, Ohio. According to the complaint received by Ohio EPA on July 2, 2002, the complainant alleged that six 55-gallon drums containing used oil were abandoned behind the facility.

Upon arrival to the site, Ohio EPA became aware that this former filling station was out of business. No one was at the property. However, Ohio EPA located your son, Mitchel Harpel, and spoke with him. Mitchel provided Ohio EPA with your contact information and some information concerning the site.

At the time of the inspection, Ohio EPA found no evidence to substantiate the complaint and the complaint was closed. This resulted in Ohio EPA's letter dated July 30, 2008. However, more information concerning this site was found while updating Ohio EPA's database.

On November 13, 2003, Timothy Killeen of Ohio EPA's Division of Hazardous Waste Management (DHWM), investigated the same complaint at this site. During his inspection, Mr. Killeen cited three violations which are explained in greater detail below. These violations are still outstanding. Ohio EPA understands that the original Notice of Violation (NOV) was sent to Mr. Benjamin Hopkins and that you may not have owned the property at the time the violations were cited. However, violations remain with a property regardless of the property owner.

I contacted you via phone on September 2, 2008. I tried to explain that out of the three violations cited by Mr. Killeen in the November 20, 2003, NOV, one of these violations can be abated after my site visit on July 16, 2008. The two other violations remain outstanding. These violations pertain to the used oil containers (that are no longer at the facility) and the used oil contaminated soil. In the phone conversation you referenced a "No Further Action Letter" you received from the state. Without reviewing that letter, Ohio EPA can only assume that this letter was pertaining to the underground storage tanks. If this is the case, that letter came from the State Fire Marshall's Office and has nothing to do with the outstanding violations of Ohio's hazardous waste rules.

The following is a summary of the violations cited in the November 20, 2003, NOV and the facility's compliance with respect to each violation. In order to correct these violations you must do the following and send me the required information **within 30 days of receipt of this letter:**

1. **Ohio Administrative Code (OAC) Rule 3745-52-11, Waste Evaluation:** "Any person who generates a waste, as defined in rule 3745-51-02 of the Administrative Code, must determine if that waste is a hazardous waste..."

   H&H has not thoroughly evaluated the oil to determine whether hazardous characteristics and constituents are present prior to it being disposed of on the ground. Specifically, the soil contaminated with used oil must be evaluated.

   In order to abate this violation, a representative sample of the stained soil must be chemically analyzed for Resource Conservation and Recovery Act (RCRA) metals and volatile organic compounds (VOCs) including BTEX (benzene, ethyl benzene, toluene, and xylene). H&H will need to contract the services of an environmental laboratory to analyze this material.

   Due to the cost of sampling and analyzing this material, H&H has the option of analyzing the waste for total RCRA metals and total VOCs. However, based on the results of these tests, a Toxicity Characteristic Leaching Procedure (TCLP) test for RCRA metals and TCLP test for VOCs may also be required. A copy of the analytical results must be submitted to Ohio EPA **within 30 days of receipt of this letter.**

   If the used oil contaminated area has been cleaned up, H&H must submit written documentation that includes a statement that H&H has cleaned up the contaminated soil, where the soil was sent, when the clean up took place, and any hazardous waste manifests, receipts, or bills of lading showing the disposal of the contaminated soil. Also, if the soil has been cleaned up then Ohio EPA needs to meet a facility representative at the site to ensure the area listed in the NOV is clean and the staining has not been covered up by clean stone.

2. **OAC Rule 3745-279-22(C)(1), Used oil storage requirements for generators:** "Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

   H&H failed to label the containers clearly with the words "Used Oil." Specifically, the five drums of used oil were not marked or labeled.

   On July 16, 2008, Ohio EPA visited the site to complete an investigation of a complaint. No used oil drums were on site at the time of the complaint investigation.

   Therefore, this violation is considered abated.

3. **OAC Rule 3745-279-22(D)(3), Used oil storage requirements for generators:** "Response to releases. Upon detection of a release of used oil to the environment that is not subject to the requirements of Chapter 1301:7-9 of the Administrative Code and which has occurred after October 20, 1998, a generator must perform the following cleanup steps: (1) Stop the release; (2) Contain the released used oil; (3) Clean up and manage properly the released used oil and other materials; and (4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service."

H&H failed to clean up an area on the property where used oil has been spilled. Six photographs of the area have been enclosed.

In order to abate this violation, H&H must clean up the used oil contaminated soil. The used oil contaminated soil must be properly analyzed as discussed in violation number one. Once it is analyzed, the soil should be sent to a proper disposal facility. A copy of the disposal records should be sent to Ohio EPA.

If the used oil contaminated area has been cleaned up, H&H must submit written documentation that includes a statement that H&H has cleaned up the contaminated soil, where the soil was sent, when the clean up took place, and any hazardous waste manifests, receipts, or bills of lading showing the disposal of the contaminated soil. Also, if the soil has been cleaned up then Ohio EPA needs to meet a facility representative at the site to ensure the area listed in the NOV is clean and the staining has not been covered up by clean stone.

As a courtesy, I have enclosed a copy of the November 20, 2003, NOV and photographs that Mr. Killeen sent to Mr. Benjamin Hopkins after his complaint investigation on November 13, 2003.

Please note that Ohio EPA considers these violations serious in nature and the company's failure to respond to this and past NOVs may result in referral of H&H's violations to our Central Office Enforcement Section for consideration of escalated enforcement.

The Division of Hazardous Waste Management (DHWM) has created an electronic news service to provide you with quick and timely updates on events and news related to hazardous waste activities in Ohio. If you haven't already, we encourage you to sign-up for this free service. You can find more information at the following Web link http://www.epa.state.oh.us/dhwm/listserv.html. Please feel free to share this information with your colleagues.

You can find copies of the rules and other information on the division's web page at http://www.epa.state.oh.us/dhwm. Ohio EPA has helpful information about pollution prevention at the following web address: http://www.epa.state.oh.us/ocapp/ocapp.html.

Should you have any questions or if I can be of assistance, please contact me at (419) 373-3065.

Sincerely,

Kara Reynolds

Kara Reynolds
Environmental Specialist
Division of Hazardous Waste Management
/lb
Enclosures
cc: Colleen Weaver, DHWM, NWDO
Kara Reynolds, DHWM, NWDO
Cindy Lohrbach, DHWM, NWDO
DHWM, NWDO Hardin County File: H&H Service Station

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.