BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
DEC 10 2014
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Gene's Body Shop, LLC
256 West Main Street
Andover, Ohio 44003

Respondent

Director's Final Findings and Orders

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: Dinya Lassiter Date: 12-10-14

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Gene's Body Shop, LLC (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.13 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facility shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734. and the rules promulgated there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

2. Respondent operates an automotive vehicle collision repair facility located at 256 West Main Street, Andover, Ashtabula County, Ohio 44003 (Facility).

3. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent is a conditionally exempt small quantity generator of hazardous waste and has been assigned EPA ID number OHR000177725. The hazardous wastes generated by Respondent at the Facility include hazardous waste spent lacquer thinner from the Facility's painting process, D001 (ignitable), D035 (methyl ethyl ketone), F003 (ignitable) and F005 (ignitable and toxic) as defined in OAC rules 3745-51-21, 3745-51-24 and 3745-51-31 (hazardous wastes from non-specific sources) and hazardous waste spent rags from general use at the Facility, D001 (ignitable), as defined in OAC rule 3745-51-21. Respondent is also a "small quantity handler of universal waste" and generates spent "lamps," as those terms are defined in OAC rule 3745-273-09.

4. On August 15, 2013, Ohio EPA conducted a complaint investigation and compliance evaluation inspection at the Facility. The complaint alleged mismanagement of Respondent's hazardous paint related waste. As a result of the inspection, Ohio EPA determined that Respondent, *inter alia*:

   a. Caused hazardous waste to be transported to an unauthorized facility, in violation of ORC § 3734.02(F). Specifically, Respondent transported hazardous waste spent lacquer thinner (D001, D035, F003 and F005) to another body shop for approximately ten years;

   b. Unlawfully established and operated a hazardous waste treatment and disposal facility without a hazardous waste installation and operation permit, in violation of ORC § 3734.02(E) and (F). Specifically, Respondent treated and disposed of hazardous waste spent lacquer thinner described in Finding No. 3. of these Orders by using it as an accelerant to burn brush in a fire pit at the Facility;

   c. Failed to evaluate wastes generated at the Facility to determine if they are hazardous, in violation of OAC rule 3745-52-11. Specifically, Respondent failed to evaluate the spent lacquer thinner and spent rags generated at the Facility;

   d. Failed to store universal waste spent lamps in containers that are structurally sound, adequate to prevent breakage and compatible with the contents of the lamps, in violation of OAC rule 3745-273-13(D)(1); and

   e. Failed to label or mark universal waste lamps with the words required by the rule, in violation of OAC rule 3745-273-14(E).

5. By letter dated September 5, 2013, Respondent was notified of the violations referenced in Finding No. 4. of these Orders. Additionally, Ohio EPA notified Respondent the spent lacquer thinner was a hazardous waste, at a minimum, for ignitability (D001), as defined in OAC rule 3745-51-21 and listed due to Toluene (F005), as defined in OAC rule 3745-51-31.

6. By electronic mail dated September 20, 2013, Respondent provided photographs showing the proper management of the universal waste spent lamps in response to the violations referenced in Findings. Nos. 4.d. and 4.e. of these Orders.

7. In October and November 2013, Respondent and Ohio EPA had multiple communications concerning the violations referenced in Findings Nos. 4.a. through 4.c. of these Orders. These communications included information regarding the cleanup process at the fire pit where hazardous waste was treated and disposed of, as referenced in Finding No. 4.b. of these Orders. Specifically Respondent, through its consultant, provided Ohio EPA information regarding the removal and sampling of debris and ash found in the fire pit, the plan for proper off-site management of the debris and ash based upon sampling results, and the confirmation soil sampling results from the fire pit. Furthermore, Respondent, through its consultant, provided information regarding sample analysis results for wastes generated by Respondent at the Facility, as described in Finding No. 4.c. of these Orders, and details of future management of the spent lacquer thinner generated at the Facility, in response to Finding No. 4.a. of these Orders.

8. By letter dated November 1, 2013, Respondent, through its consultant, provided Ohio EPA with a comprehensive response to the violations referenced in Finding No. 4. of these Orders. This response included manifests demonstrating the lawful, off-site management of the hazardous waste generated by the cleanup of the fire pit area, spent rags and spent lacquer thinner.

9. Based upon the results of the soil sampling performed in conjunction with the cleanup of the fire pit referenced in Findings Nos. 7. and 8. of these Orders, the Director has determined that Respondent has met the closure performance standard requirements of OAC rule 3745-55-11(A) and (B) and no further action is required to abate the violation referenced in Finding No. 4.b. of these Orders.

10. By letter dated November 13, 2013, Ohio EPA notified Respondent that no further action is required of Respondent with regard to the violation referenced in Finding No. 4.a. of these Orders, and that the violations referenced in Findings Nos. 4.c. through 4.e. of these Orders were abated by Respondent.

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated there under according to the following compliance schedule:

1. Respondent shall pay Ohio EPA the amount of $6,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734 and will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28 pursuant to the following schedule:

    a. Within 60 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $500.00;

    b. Within 120 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $500.00;

    c. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $500.00;

    d. Within 240 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $500.00;

    e. Within 300 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $500.00;

    f. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $500.00;

    g. Within 420 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $500.00;

    h. Within 480 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $500.00;

    i. Within 540 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $500.00;

    j. Within 600 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $500.00;

k. Within 660 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $500.00; and

l. Within 720 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $500.00;

Respondent shall make each payment by tendering an official check made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent and the Facility. *A copy of each check shall be sent to Ohio EPA Division of Materials and Waste Management, Supervisor, Administrative Processing Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.*

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check[s] required by Section V. of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's Facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Materials and Waste Management
2110 E. Aurora Road
Twinsburg, Ohio 44087
Attn: DMWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Enforcement Supervisor
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:

Enforcement Supervisor
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
50 West Town Street
Columbus, Ohio 43215

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform corrective action at the Facility at some time in the future, pursuant to ORC

Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal or equitable claim or defense with respect to any final action of the Director regarding such corrective action. Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek corrective action at the Facility by Respondent, which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

RECEIVED
OHIO EPA
2014 NOV 28 AM 9:58
LEGAL OFFICE

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Craig W. Butler
Director

IT IS SO AGREED:

Gene's Body Shop, LLC

Eugene N. Nipple Jr.
Rebecca L. Nipple
Signature

11/24/14
Date

EUGENE N. NIPPLE JR.
REBECCA L. NIPPLE
Printed or Typed Name

CO-OWNER
Title