OHIO E.P.A.
FEB 12 2009

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Gabriel Performance Products, Inc.
725 State Road
P.O. Box 488
Ashtabula, Ohio 44005-0488

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: [signature] Date: 2/12/09

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Gabriel Performance Products, Inc. (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 thereunder.

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 OAC rule 3745-50-10(A).

2. Respondent is the owner and operator of a specialty chemical process development and production facility at 725 State Road in Ashtabula County, Ashtabula, Ohio (Facility).

3. Respondent notified Ohio EPA regarding its hazardous waste activities and was issued generator identification number OHD003913308. Respondent has also been issued Hazardous Waste Installation and Operation Permit #02-04-0078. Respondent is authorized to do business in Ohio.

4. Respondent is a large quantity generator and 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 generates numerous hazardous wastes which are characterized as D001, D002, D003, D018, D028, D038, F003, F005, P005, P022, U003, U007, U008, U041, U328 or U404. Respondent also generates universal waste batteries and lamps and used oil.

5. As a result of a records review, Ohio EPA determined that Respondent had transported or caused to be transported, five containers of hazardous waste to Vexor Technology, Inc. located at 955 West Smith Road, Medina, Ohio (Vexor) on two separate occasions, in violation of ORC § 3734.02(F). On August 17, 2007, Respondent caused the transportation of four 55-gallon drums of ignitable listed hazardous waste (D001/F005) to Vexor, and on April 18, 2008, caused the transportation of one 55-gallon drum of ignitable hazardous waste (D001) to Vexor. Vexor does not hold a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734. On both shipments, the five containers of waste were transported as non-hazardous waste and were accompanied by non-hazardous shipping papers.

6. On May 22, 2008, Ohio EPA performed a compliance evaluation inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:

    a. Failed to adequately evaluate the hazardous waste identified by manifest tracking number 00019355323JJK and provide the proper documentation to meet the Land Disposal Restriction (LDR) Requirements, in violation of OAC rules 3745-52-11 and 3745-270-07(A)(1) and (A)(2);

b. Failed to label/mark universal waste batteries, or a container in which the batteries are contained with one of the following phrases: "Universal Waste-Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)," in violation of OAC rule 3745-273-14(A);

c. Failed to label/mark universal waste lamps with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)" or "Used Lamp(s)," in violation of OAC rule 3745-273-14(E);

d. Failed to label a container of used oil, in violation of OAC rule 3745-279-22(C); and

e. Failed to provide facility personnel an annual review of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the hazardous waste regulations, in violation of OAC rule 3745-54-16(C) and Permit Condition B.6.

7. By letter dated May 28, 2008, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 5. and 6. of these Orders. Also in the May 28, 2008, letter, Ohio EPA notified Respondent that Respondent had abated the violation referenced in Finding No. 6.e. of these Orders.

8. On June 30, July 2, and July 8, 2008, Respondent submitted responses to Ohio EPA's May 28, 2008 letter.

9. Respondent's August 17, 2007, shipment of hazardous waste to Vexor was received back at the Facility on August 31, 2007, and on October 30, 2007, was transported to a facility operating under a hazardous waste facility installation and operation permit.

10. Respondent's April 18, 2008, shipment of hazardous waste to Vexor was received back at the Facility on May 9, 2008, and on June 18, 2008, was transported to a facility operating under a hazardous waste facility installation and operation permit.

11. By letter dated July 9, 2008, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 6.a., 6.b., 6.c., and 6.d, of these Orders.

12. Based on the information submitted by Respondent and because Respondent's hazardous waste was transported to a permitted hazardous waste facility as set forth in Finding Nos. 9. and 10. of these Orders, the

Director has determined that no further action is required of Respondent to abate the violations referenced in Finding No. 5. of these Orders.

13. By letter dated August 25, 2008, Respondent notified Ohio EPA that Respondent had accumulated hazardous waste in hazardous waste Tank 44 from February 14, 2008, through May 30, 2008, in excess of 90 days. Therefore, the Director has determined that Respondent has unlawfully stored hazardous waste without a permit in violation of ORC § 3734.02(E) and (F).

14. Because the hazardous waste was transported on May 30, 2008, to a hazardous waste facility operating under a permit issued in accordance with ORC Chapter 3734, no releases of hazardous waste were observed at Tank 44, and Respondent will continue to store hazardous waste in Tank 44, the Director has determined that closure of the area referenced in Finding No. 13. of these Orders is not required of Respondent at this time.

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 $ 14,400.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734., in accordance with the following provisions:

   a. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA $ 8,660.70 of the above civil penalty amount in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for $ 8,660.70. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying the Respondent and the Facility. A copy of this check shall be submitted in accordance with Section X. of these Orders.

   b. Within 30 days after the effective date of these Orders and in lieu of paying $ 2,880.00 of the $ 14,400.00 civil penalty amount to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $ 2,880.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD). Respondent shall make the payment by tendering an official check made payable to "Treasurer, State

of Ohio" for $ 2,880.00. The official check shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders, and an additional copy of this check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.

c. Should Respondent fail to fund the SEP within the required time frame established in Order No. 1.b., Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 1.b., the amount of $ 2,880.00 in accordance with the procedures in Order No. 1.a.

d. Within 60 days after the effective date of these Orders, and in lieu of payment of $ 2,859.30 of the $ 14,400.00 civil penalty amount to Ohio EPA, Respondent shall perform an additional SEP. This SEP shall consist of purchasing $ 2,859.30 in hazardous material response equipment for the Ashtabula Township Fire Department, to be used primarily during response, containment, and decontamination following a hazardous materials release. Specifically, the response equipment will be comprised of absorbent materials, portable containment pools, drain covers and dikes, as listed in Attachment A of these Orders.

e. Within 30 days after performing the SEP outlined in Order No.1.d., Respondent shall submit to Ohio EPA, documentation of expenditures (e.g. paid invoices, cancelled check, etc.) related to the purchase of hazardous material response equipment for the Ashtabula Township Fire Department. This documentation shall be submitted in accordance with Section X. of these Orders.

f. Should Respondent fail to fund the SEP within the required time frames established in Order No. 1.d., Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 1.d., the amount of $ 2,859.30 in accordance with the procedures in Order No. 1.a.

VI. TERMINATION

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

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any 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 Hazardous Waste Management
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
50 West Town Street
Columbus, Ohio 43215
Attn: Manager, Compliance Assurance Section

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 closure and 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 closure or 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 rights to seek closure and corrective action at the Facility by Respondent, which rights 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.

Not withstanding 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.

IV. 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.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

FEB 12 2009
Date

IT IS SO AGREED:

Gabriel Performance Products, Inc.

Signature

1/20/09
Date

Kenneth R. Allen
Printed or Typed Name

President
Title

Attachment A

QUOTE CONFIRMATION

New Pig Corporation
One Pork Avenue
Tipton PA 16684-0304

New Pig Customer Service:
1-800-HOT-HOGS (468-4647)
Fax 1-800-621-7447

BILL TO:

GABRIEL PERFORMANCE PRODUCTS
725 STATE RD
ASHTABULA, OH 44004

SHIP TO:

GABRIEL PERFORMANCE PRODUCTS
725 STATE RD
ASHTABULA, OH 44004

SOLD TO:

GABRIEL PERFORMANCE PRODUCTS
725 STATE RD
ASHTABULA, OH 44004

CUSTOMER #
3972619

PLACED BY:
DENNIS WOODARD

QUOTE No	PURCHASE ORDER #	ENTER DT	EXPIR DT	TERMS	SHIP VIA
Pg 1					
20171979-00	QUOTE ONLY	12/30/08	03/30/09	N30	WARD TRUCK

ITEM/DESCRIPTION	ORDERED	B/O	U/M	PRICE	EXT
DIVERSION CONTRARY TO U.S. LAW IS PROHIBITED					
CONTACT: DENNIS WOODARD - PHONE: 4409923225 Your PIG® Preferred Discount is 5% off the lowest list price on PIG® Absorbents, Wipers, Kits and PPE Safety. Prices are based on product, quantity, shipping address and commercial packaging & labeling as stated on this quote.					
skm210 654.55 PIG OIL-ONLY ABS SOCKS 3X48IN 12/BOX	13		BOX	50.35	
PAK925-OR 474.00	6		EA	79.00	

Attachment A (cont.)

PIG PORTABLE CNMT POOL ORANGE 20-GAL EACH			
flt214	4	EA	120.00
480.00			
PIG CURB STYLE DRN INSRT OIL/SEDIMENT EACH			
PAK926-OR	3	EA	109.00
327.00			
PIG PORTABLE CNMT POOL ORANGE 66-GAL EACH			
plr201	1	EA	94.00
94.00			
DRAINBLOCKER DRAIN COVER 18IN SQ EACH			
plr224	1	EA	156.00
156.00			
DRAINBLOCKER DRAIN COVER 24IN SQ EACH			
plr233	1	EA	83.00
83.00			
DRAINBLOCKER DRAIN COVER 12IN ROUND EACH			
plr240	1	EA	139.00
139.00			
DRAINBLOCKER DRAIN COVER 20IN ROUND EACH			
plr230	1	EA	233.00
233.00			
SPILLBLOCKER DIKE 10FT ROUGH SURFACE EACH			
plr213	1	EA	149.00
149.00			
PIG DOORBLOCKER DIKE 2INX4FT EACH			

SUB TOTAL	2789.55
Freight Out	69.75
TOTAL U. S. Dollars	2859.30