BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
MAR 14 2007
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Gas and Oil, Inc. 1276 Krumroy Road Akron, Ohio 44306	: : :	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: 3-14-07

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Gas and Oil, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 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's facilities (as hereinafter identified) 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 3704 and the regulations promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates gasoline dispensing facilities ("GDFs") located at 1475 Massillon Road, Akron, Ohio ("Gas and Oil #2"), 745 Archwood Avenue, Akron, Ohio ("Gas and Oil #3"), 3849 S. Main Street, Akron, Ohio ("Gas and Oil #15"), and 455 West Turkeyfoot Lake Road, Akron, Ohio ("Gas and Oil #19"). These GDFs are each an "air contaminant source" as defined by Ohio Administrative Code ("OAC") Rule 3745-35-01(B)(1) and emit "volatile organic compounds" as defined by OAC Rule 3745-21-01(B)(6).

2. The Gas and Oil #2, Gas and Oil #3, Gas and Oil #15, and Gas and Oil #19 GDFs are located in one of the counties listed in OAC Rule 3745-21-09(A)(4) and each

dispenses more than ten thousand gallons of gasoline per month on average. Furthermore, Respondent receives less than fifty percent of its annual income from the marketing of gasoline and is not considered to be an independent small business marketer of gasoline, pursuant to OAC Rule 3745-21-01(H)(10).

3. Respondent's GDFs, identified in Finding 1, are subject to the Stage II vapor control requirements of OAC Rule 3745-21-09(DDD).

4. Pursuant to OAC Rule 3745-21-09(DDD)(1), no owner or operator of a GDF may cause, allow, or permit the transfer of gasoline from a stationary storage tank into a motor vehicle, after the date specified in OAC Rule 3745-21-04(C)(64), unless the requirements of OAC Rule 3745-21-09(DDD)(1)(a-d) are met. OAC Rule 3745-21-09(DDD)(1)(a-d) requires the installation, testing and operation of a California Air Resources Board ("CARB") certified vapor control system during any transfer of gasoline from a stationary storage tank into a motor vehicle. "CARB certification" and "CARB certified" mean subject to executive orders, approval letters, equipment test procedures issued by CARB for phase I and phase II vapor control systems, parts, components, and test procedures used at GDFs.

5. OAC Rule 3745-21-09(DDD)(1)(b) requires, in part, that the Stage II vapor control system be installed, operated and maintained in accordance with the manufacturer's certifications and the applicable CARB certification. OAC Rule 3745-21-09(DDD)(1)(c) requires, in part, that the owner or operator must successfully pass the testing requirements contained in OAC Rule 3745-21-09(DDD)(2) prior to operation of the GDF.

6. OAC Rule 3745-21-09(DDD)(2)(d) requires, in part, that full testing of the Stage II vapor control system be completed at intervals not to exceed five years. OAC Rule 3745-21-09(DDD)(2)(f) requires, in part, that the testing required by the CARB certification be performed at the frequency specified in such certification. OAC Rule 3745-21-09(DDD)(2)(c) requires, in part, the owner or operator of a GDF to submit a test notification not later than thirty days prior to testing and test results within thirty days following the completion of the tests to Ohio EPA or its delegated local air agency.

7. OAC Rule 3745-35-02 prohibits any person from operating an air contaminant source unless a Permit to Operate ("PTO") has been applied for and obtained, except as provided by rule or law.

8. ORC § 3704.05(G) states, in part, that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704.

Gas and Oil #2 GDF:

9. On December 23, 1996, Ohio EPA issued a PTO for the Gas and Oil #2 GDF. The PTO specified that Respondent have the static leak and dynamic pressure

performance tests identified in OAC Rule 3745-21-09(DDD)(2) performed at five-year intervals and the static leak test performed at annual intervals. Also, the PTO specified that the results of any tests performed pursuant to OAC Rule 3745-21-09(DDD)(2) be kept for not less than three years and made available for review upon request. This PTO expired on December 23, 1999.

10. On March 22, 1999, the Akron Regional Air Quality Management District ("ARAQMD"), a contractual representative of Ohio EPA in Summit County, conducted an annual inspection as a follow-up to a complaint regarding a spill on March 17, 1999 at this GDF. During this inspection, ARAQMD was informed by Respondent that it had repaired a pump and replaced nozzles after the above-referenced spill. ARAQMD found no deficiencies associated with the equipment at this GDF on this date. However, ARAQMD noticed that there were no annual test results on file for the calendar years 1996 and 1997, in violation of OAC Rule 3745-21-09(DDD)(3)(f), record-keeping requirements of the PTO, and ORC § 3704.05(C) and (G).

11. On September 10, 1999, ARAQMD sent Respondent a Notice of Violation ("NOV") letter for the violation that was discovered during the March 22, 1999 inspection. ARAQMD cited Respondent for violations of OAC Rule 3745-21-09(DDD)(3), for not maintaining annual test results for 1996 and 1997. ARAQMD requested Respondent to submit the test results within fourteen (14) days of receipt of the NOV.

12. By a letter dated September 14, 1999, Respondent replied to ARAQMD's September 10, 1999 NOV. In this letter, Respondent explained that this GDF had not been tested in 1996 and 1997, and therefore, no test results were available. These omissions were violations of OAC Rule 3745-21-09(DDD)(2)(f), the PTO and ORC § 3704.05(C) and (G).

13. On August 29, 2000, ARAQMD conducted an annual inspection of Respondent's GDF. Based on the information available, ARAQMD discovered that Respondent had failed the annual testing in 2000 while continuing to operate and had yet to repair and retest, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G).

14. On January 30, 2001, ARAQMD sent a NOV to Respondent as a follow-up to its August 29, 2000 inspection of the GDF. ARAQMD requested Respondent to perform the annual Stage II testing for 2000 or 2001 and submit a PTO renewal application for the GDF as soon as possible.

15. On February 14, 2001, Respondent successfully tested its Stage II vapor control system for the 5-year intervals. The test results were submitted to ARAQMD on March 14, 2001.

16. On February 20, 2001, ARAQMD sent Respondent a notice of expiration of the PTO. In this notice, ARAQMD reminded Respondent of its continuing violation of OAC Rule 3745-35-02 and requested it to submit a renewal PTO application as expeditiously as possible.

17. On March 19, 2001, ARAQMD sent Respondent a letter to notify of its violation of OAC Rule 3745-21-09(DDD)(2)(d) for not completing testing within a five-year interval by the required deadline of September 18, 2000 (5 years from the date of previous five-year interval testing).

18. On August 13, 2002, Respondent submitted a renewal PTO application to ARAQMD for the GDF.

19. On September 11, 2002, Ohio EPA issued a PTO to Respondent for Gas and Oil #2 GDF.

20. On September 12, 2002, Respondent successfully tested its Stage II vapor control system to meet its annual testing requirement. The test results were submitted to ARAQMD on September 25, 2002.

21. On July 10, 2003, ARAQMD sent Respondent a follow-up letter to its July 1, 2003 inspection of Respondent's Gas and Oil #2 GDF. In this letter, ARAQMD informed Respondent that one of the nozzles was not CARB certified and that it should be replaced immediately or put out of service. Operation of the GDF with non-CARB certified equipment was in violation of OAC Rule 3745-21-09(DDD)(1)(b), the PTO, and ORC § 3704.05(C) and (G). Respondent quickly corrected the violation by replacing the above-mentioned nozzle with a CARB certified nozzle.

22. On May 20, 2004, ARAQMD hand-delivered a NOV to Respondent as a follow-up to its annual inspection of Respondent's Gas and Oil #2 GDF on March 25, 2004, and an administrative hearing of violations at Respondent's Gas and Oil #2 GDF and other Gas and Oil facilities at ARAQMD's office on May 20, 2004. Regarding Respondent's Gas and Oil #2, ARAQMD cited Respondent for its violation of OAC Rule 3745-21-09(DDD)(1)(c) due to the failure to test its Stage II vapor control system in 2003 and continued operation of the GDF. ARAQMD gave Respondent to June 15, 2004 to respond to the violations cited and to provide further documentation to dispute the violations noted in the NOV. No further information was received from Respondent since the issuance of the May 20, 2004 NOV.

23. From February 14, 2002 to September 12, 2002, and September 12, 2003 to September 1, 2006, Respondent failed to timely test the Stage II vapor control system annually, in violation of OAC Rule 3745-21-09(DDD), the testing requirements of the PTO, and ORC § 3704.05(C) and (G). Also, from September 18, 2000 (due date for a five-year interval test) to February 14, 2001 (date that a five-year interval test was last performed), Respondent failed to timely test Stage II vapor control at the five-year interval, in violation of OAC Rule 3745-21-09(DDD)(2)(d), the testing requirements of the PTO, and ORC § 3704.05(C) and (G). Respondent continued to operate the GDF without successfully passing the testing requirements in OAC Rule 3745-21-09(DDD)(2) and the PTO, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G). In addition, from December 23, 1999 to September 11, 2002, Respondent operated emissions unit G001 without a PTO, in violation of OAC Rule 3745-35-02 and ORC § 3704.05(G).

Gas and Oil #3 GDF:

24. On July 2, 1999, ARAQMD received a notification from Respondent regarding its purchase of Gas and Oil #3 from Duty Oil on May 19, 1999. In this notification, Respondent requested a PTO application from ARAQMD.

25. On June 19, 2000, Respondent submitted to ARAQMD a PTO application for this GDF; however, this application was returned due to incompleteness.

26. On July 17, 2000, Respondent performed Stage II vapor control system tests at this GDF to determine compliance with the testing requirements in OAC Rule 3745-21-09(DDD)(2) prior to commencing of its operation. However, this test was unsuccessful due to one of dispensers not working properly. On August 2, 2000, Respondent retested its Stage II vapor control system and passed the testing requirements in OAC Rule 3745-21-09(DDD)(2). The results of the July 17 and August 2, 2000 tests were submitted to ARAQMD on October 30, 2000.

27. On July 31, 2000, Respondent resubmitted a PTO application for Gas and Oil #3 GDF to ARAQMD.

28. On July 31, 2001, Respondent successfully tested the Stage II vapor control system at this location to meet its annual testing requirement. The test results were submitted to ARAQMD by Respondent on August 6, 2001.

29. On August 21, 2001, Ohio EPA issued a PTO to Respondent for Gas and Oil #3. The PTO specified that Respondent have the static leak and dynamic pressure performance tests identified in OAC Rule 3745-21-09(DDD)(2) performed at five-year intervals and the static leak test performed at annual intervals. The PTO specified that the results of any tests performed pursuant to OAC Rule 3745-21-09(DDD)(2) be kept for not less than three years and made available for review upon request. Also, the PTO required Respondent to employ only CARB certified equipment in its vapor control system.

30. On December 12, 2001, ARAQMD sent a letter as a follow-up to its inspection of Gas and Oil #3 on December 10, 2001. In this letter, ARAQMD requested Respondent to replace one of the nozzles immediately due to not being CARB certified, and to keep a copy of the PTO available at the GDF. Respondent was in violation of OAC Rule 3745-21-09(DDD)(1)(b), the terms and conditions of its PTO, and ORC § 3704.05(C) and (G) for not using a CARB certified nozzle. Respondent was also in violation of the record-keeping requirements specified in its PTO, OAC Rule 3745-21-09(DDD)(3), and ORC § 3704.05(C) and (G) for not keeping a copy of the PTO available at the GDF.

31. On September 23, 2002, ARAQMD sent a letter as a follow-up to its inspection of Gas and Oil #3 on September 17, 2002. In this letter, ARAQMD informed Respondent that the Stage II vapor control system test results for 2000, a copy of PTO,

and a certificate of Stage II vapor control system training needed to be kept at the GDF. Failure to keep such records was a violation of OAC Rule 3745-21-09(DDD)(3) and the PTO and ORC § 3704.05(C) and (G). Further, ARAQMD also reminded Respondent to perform the annual Stage II vapor control system test at this GDF immediately because the test deadline had already passed in July 2002.

32. On November 14, 2003, ARAQMD sent a certified letter to Respondent as a follow-up to its inspection of the GDF on October 30, 2003. ARAQMD requested Respondent to submit the annual test results for the calendar years 2002 and 2003. ARAQMD requested Respondent to perform the Stage II vapor control system test as soon as possible if the vapor control system was not tested in 2002 and 2003.

33. On May 20, 2004, ARAQMD issued a NOV to Respondent as a follow-up to its annual inspection of Respondent's Gas and Oil #3 GDF on March 3, 2004, and an administrative hearing of violations at Respondent's Gas and Oil #2 and other Gas and Oil facilities at ARAQMD's office on May 20, 2004. Regarding Respondent's Gas and Oil #3, ARAQMD cited Respondent with violations of OAC Rule 3745-21-09(DDD)(1)(c) for not testing its Stage II vapor control system for the calendar years 2002 and 2003 and continuing to operate the GDF. ARAQMD gave Respondent until June 15, 2004 to respond to the violations cited and to provide further documentation to dispute any violation noted in the NOV. No further information was received from Respondent since the issuance of the May 20, 2004 NOV.

34. Concerning Gas and Oil #3 GDF, from August 2, 2002 to September 1, 2006, Respondent failed to test the Stage II vapor control system annually and continued to operate the GDF, in violation of OAC Rules 3745-21-09(DDD)(2)(f) and 3745-21-09(DDD)(1)(c), the testing requirements specified in its PTO, and ORC § 3704.05(C) and (G).

Gas and Oil #15:

35. In 1997, Ohio EPA issued a PTO to Respondent for Gas and Oil #15 GDF. At the time of PTO issuance, since Respondent claimed the status of being an independent small business marketer of gasoline (only for this location) and that the monthly throughput of this GDF was under 50,000 gallons, the PTO exempted Respondent from the installation of a Stage II vapor control system.

36. On February 5, 1999, Respondent installed and successfully tested its Stage II vapor control system at this location to meet its annual testing requirement. The test results were submitted by Respondent on March 29, 1999. Since the test results were submitted to ARAQMD for more than thirty after completion of the test, Respondent was in violation of OAC Rule 3745-21-09(DDD)(2)(c) and ORC § 3704.05(G).

37. On January 12, 2001, ARAQMD sent Respondent a letter as a follow-up to its inspection of the GDF on December 21, 2000. In this letter, ARAQMD informed Respondent that there was no information available during the inspection regarding the annual Stage II vapor control system test for the calendar year 2000. Since there was no

information available regarding the annual Stage II vapor control system test for the calendar year 2000, Respondent was in violation of OAC Rule 3745-21-09(DDD)(3), the record-keeping requirements specified in its PTO, and ORC § 3704.05(C) and (G). ARAQMD also requested Respondent to submit a PTO renewal application as soon as possible because Respondent's PTO for this GDF had expired on August 14, 2000. Respondent operated its GDF without a PTO since August 14, 2000, in violation of OAC Rule 3745-35-02 and ORC § 3704.05(G).

38. On August 24, 2000, Respondent successfully tested its Stage II vapor control system to meet its annual testing requirement. The results of this test were submitted to ARAQMD on December 10, 2001. Since the test results were submitted to ARAQMD by more than thirty days after completion of the test, Respondent was in violation of OAC Rule 3745-21-09(DDD)(2)(c) and ORC § 3704.05(G).

39. On March 8, 2001, ARAQMD sent Respondent a letter as a follow-up to its inspection of Gas and Oil #15 GDF on February 26, 2001. In this letter, ARAQMD continued to remind Respondent to submit a PTO renewal application as soon as possible for this GDF.

40. On August 13, 2002, Respondent submitted a renewal PTO application to ARAQMD for the Gas and Oil #15 GDF.

41. On August 15, 2002, ARAQMD sent Respondent a letter as a follow-up to its inspection of the facility on May 29, 2002. In this letter, ARAQMD informed Respondent to replace two of the nozzles immediately since they were not CARB certified. Respondent was in violation of OAC Rule 3745-21-09(DDD)(1)(b), the terms and conditions of its PTO, and ORC § 3704.05(C) and (G) for operating the GDF with non-CARB certified nozzles.

42. On September 11, 2002, Ohio EPA issued a PTO to Respondent for the Gas and Oil #15 GDF. The PTO specified that Respondent have the static leak and dynamic pressure performance tests identified in OAC Rule 3745-21-09(DDD)(2) performed at five-year intervals and the static leak test performed at annual intervals. Also, the PTO specified that the results of any tests performed pursuant to OAC Rule 3745-21-09(DDD)(2) be kept for not less than three years and made available for review upon request.

43. On September 12, 2002, Respondent successfully tested its Stage II vapor control system to meet its annual testing requirement. The results of this test were submitted to ARAQMD on September 25, 2002.

44. On July 10, 2003, ARAQMD sent Respondent a letter as a follow-up to its inspection of the facility on June 24, 2003. In this letter, ARAQMD reminded Respondent to update the certificate of training with a more current one and keep in the file at the GDF a copy of the results of the Stage II vapor control system testing that was completed in 2002. The failure to maintain these records was a violation of OAC Rule 3745-21-09(DDD)(3), the PTO, ORC § 3704.05(C) and (G).

45 On May 20, 2004, ARAQMD issued a NOV to Respondent as a follow-up to its annual inspection of Respondent's Gas and Oil #15 GDF on March 25, 2004, and an administrative hearing of violations at Respondent's Gas and Oil #15 GDF and other Gas and Oil facilities which was held at ARAQMD's office on May 20, 2004. Regarding Respondent's Gas and Oil #15, ARAQMD cited Respondent for its violation of OAC Rule 3745-21-09(DDD)(1)(c) when it had not tested its Stage II vapor control system for calendar year 2003 and continued operation of the GDF. The testing of the Stage II vapor control system exceeded twelve (12) months from the previous year's testing. ARAQMD gave Respondent to June 15, 2004 to respond to violations cited and to provide further documentation to dispute any violation noted in the NOV. No further information was received from Respondent since the issuance of the May 20, 2004 NOV.

46. Concerning the Gas and Oil #15 GDF, from September 12, 2003 to September 1, 2006, Respondent failed to timely test Stage II vapor control system annually and continued operating the GDF, in violation of OAC Rules 3745-21-09(DDD)(2)(f) and 3745-21-09(DDD)(1)(c), the testing requirements specified in the PTO, and ORC § 3704.05(C) and (G). Also, since February 5, 2004, Respondent failed to timely test Stage II vapor control system at the five-year interval and continue operating the GDF, in violation of OAC Rules 3745-21-09(DDD)(2)(d) and 3745-21-09(DDD)(1)(c), the testing requirements specified in the PTO, and ORC § 3704.05(C) and (G).

Gas and Oil #19:

47. On June 12, 1998, Respondent submitted a PTO application to ARAQMD for the Gas and Oil #19 GDF. Also, on this date, Respondent successfully tested its Stage II vapor control system to meet its annual testing requirement.

48. On August 13, 1998, Ohio EPA issued a PTO to Respondent for its Gas and Oil #19 GDF. The PTO specified that Respondent have the static leak and dynamic pressure performance tests identified in OAC Rule 3745-21-09(DDD)(2) performed at five-year intervals and the static leak test performed at annual intervals.

49. On July 22, 1999, ARAQMD sent Respondent a letter as a follow-up to its inspection of this GDF on May 21, 1999. In this letter, ARAQMD reminded Respondent to maintain a copy of past test results, PTOs and the Stage II vapor control training certificates available at the GDF for future review. No equipment deficiencies were noted during this inspection. The failure to maintain these records was a violation of OAC Rule 3745-21-09(DDD)(3), the PTO, ORC § 3704.05(C) and (G).

50. On August 2, 1999, Respondent successfully tested its Stage II vapor control system to meet its annual testing requirement. The results of this test were submitted late to ARAQMD on September 20, 1999, in violation of OAC Rule 3745-21-09(DDD)(2)(c) and ORC § 3704.05(G).

51. On July 31, 2001, Respondent successfully tested its Stage II vapor control system to meet its annual testing requirement. The results of this test were submitted to ARAQMD on August 6, 2001.

52. On September 28, 2001, ARAQMD sent Respondent a letter as a follow-up to its annual inspection of the facility on August 17, 2001. In this letter, ARAQMD reminded Respondent to submit the test results as soon as possible if Respondent had performed the annual test on its Stage II vapor control system in 2000. No response was received from Respondent regarding this letter.

53. On December 10, 2002, ARAQMD sent Respondent a letter as a follow-up to its annual inspection of the facility on November 21, 2002. In this letter, ARAQMD requested Respondent to immediately replace three of the nozzles because these nozzles were not CARB certified. Respondent operated the GDF with non-CARB certified equipment, in violation of OAC Rule 3745-21-09(DDD)(1)(b), the terms and conditions of its PTO, and ORC § 3704.05(C) and (G). ARAQMD also requested Respondent to submit the test results as soon as possible if Respondent had performed the tests on its Stage II vapor control system for the years 2000 and 2002. No response was received from Respondent regarding this letter.

54. On July 10, 2003, ARAQMD sent Respondent a letter as a follow-up to its annual inspection of the facility on June 24, 2003. In this letter, ARAQMD requested Respondent to immediately replace one of the nozzles because it was not CARB certified. Operation of the GDF with non-CARB certified equipment was in violation of OAC Rule 3745-21-09(DDD)(1)(b), the PTO, and ORC § 3704.05(C) and (G). In this letter, ARAQMD reminded Respondent to submit the test results for the years 2000 and 2002. Respondent did not respond to this letter.

55. On May 20, 2004, ARAQMD issued a NOV to Respondent as a follow-up to its annual inspection of Respondent's Gas and Oil #19 GDF on March 25, 2004, and an administrative hearing of violations at Respondent's Gas and Oil #19 GDF and other Gas and Oil facilities, which was held at ARAQMD's office on May 20, 2004. Regarding Respondent's Gas and Oil #19, ARAQMD cited Respondent for its violation of OAC Rule 3745-21-09(DDD)(2)(f) when it had not tested its Stage II vapor control system for calendar years 2000, 2002 and 2004. ARAQMD reminded Respondent that its PTO would expire on August 13, 2004. No further information was received from Respondent since the issuance of the May 20, 2004 NOV.

56. Concerning the Gas and Oil #19 GDF, from August 2, 2000 to July 31, 2001 and from July 31, 2002 to September 1, 2006, Respondent failed to timely test the Stage II vapor control system annually, in violation of OAC Rule 3745-21-09(DDD)(2)(f), the testing requirements specified in the PTO, and ORC § 3704.05(C) and (G). Also, since June 12, 2003, Respondent failed to timely test Stage II vapor control system at the five-year interval, in violation of OAC Rule 3745-21-09(DDD)(2)(d), the testing requirements

specified in the PTO, and ORC § 3704.05(C) and (G). Respondent continued to operate the GDF without successfully passing the testing requirements in OAC Rule 3745-21-09(DDD)(2) and the PTO, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G). In addition, since August 13, 2004, Respondent operated emissions unit G001 after its PTO had expired, in violation of OAC Rule 3745-35-02 and ORC § 3704.05(G).

57. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. By not later than ninety (90) days after the effective date of these Orders, Respondent shall conduct, or have conducted, tests as follows: (a) annual test of the Stage II vapor control system for Gas and Oil #2 GDF, (b) annual test, and the five-year interval test (which will be due on August 21, 2006 for the 5-year interval) for the Stage II vapor control system at Gas and Oil #3 GDF, and (c) annual and five-year interval tests for Gas and Oil #15 GDF and Gas and Oil #19 GDF. These tests shall be conducted using the appropriate test methods specified by CARB and identified in the PTOs for these GDFs. By not later than thirty (30) days prior to any tests required pursuant to paragraphs (DDD)(2)(a) and (DDD)(2)(d) of OAC Rule 3745-20-09, Respondent shall submit a test notification to ARAQMD. The test notification shall describe the proposed test methods and procedures, the time and date of the tests, and the person who will be conducting the tests. Failure to submit such notification prior to the tests may result in the Ohio EPA's refusal to accept the results of the tests. Personnel from ARAQMD shall be permitted to witness the tests, examine the testing equipment, and acquire data and information during the tests. After completion of any tests, Respondent shall complete the post test inspection form contained in appendix C of Rule 3745-21-10 of the Administrative Code, and a comprehensive written report on the results of the tests shall be submitted to ARAQMD within thirty days following the completion of the tests.

2. By not later than thirty (30) days after the effective date of these Orders, Respondent shall submit an approvable PTO renewal application for emissions unit G001 at Gas and Oil #19 GDF.

3. Respondent shall pay the amount of ten thousand dollars ($10,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within ninety (90) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for eight thousand dollars ($8,000) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

4. In lieu of paying the remaining two thousand dollars ($2,000) of civil penalty, Respondent shall, within ninety (90) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $2,000 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for $2,000. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD, to the above-stated address.

5. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049

6. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 4, Respondent shall immediately pay to Ohio EPA $2,000 of the civil penalty in accordance with the procedures in Order 3.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-77-01(GG)(1) for a corporation or a duly authorized representative of Respondent as that term is defined in the above-referenced rule.

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 facilities.

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 mutual 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:

Akron Regional Air Quality Management District
CitiCenter - Suite 904
146 South High Street
Akron, Ohio 44308
Attention: Susan Anderson

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Thomas Kalman, Manager, Enforcement Section

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

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all 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, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for the 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 the 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 said 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.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Director

2/27/07
Date

IT IS SO AGREED:

Gas and Oil, Inc.

Signature

1/30/07
Date

Joseph Monesky
Printed or Typed Name

Pres.
Title