



STATE OF MISSISSIPPI

PHIL BRYANT
GOVERNOR

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

TRUDY D. FISHER, EXECUTIVE DIRECTOR

May 21, 2014

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Mr. Bill Whitfield
Copeland, Cook, Taylor & Bush
P.O. Box 10
Gulfport, MS 39502-0010

**Re: Garden Park Medical Center
Agreed Order No. 6415 14**

Dear Mr. Whitfield:

Enclosed you will find a copy of Agreed Order No. 6415 14, which has been executed by the Executive Director of the Mississippi Department of Environmental Quality, Trudy Fisher, on behalf of the Mississippi Commission on Environmental Quality.

The enclosed Order assesses a civil penalty. The penalty payment, when due, should be made by check payable to the Mississippi Department of Environmental Quality and returned in the enclosed, self-addressed envelope to the MDEQ Fees Division at P.O. Box 2339, Jackson, MS 39225.

If you have any questions regarding your obligations under the enclosed order, please contact Chris Wells at (601) 961-5545.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Sanders".

Chris Sanders, P.E.
Chief, Environmental Compliance and Enforcement Division

Enclosure
cc: Chris Wells

Agency Interest No. 56576
ENF20130002

OFFICE OF POLLUTION CONTROL

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO.

6415 14

GPCH-GP, INC. d/b/a GARDEN PARK MEDICAL CENTER
15200 COMMUNITY ROAD
GULFPORT, MISSISSIPPI 39503

RESPONDENT

AGREED ORDER

COME NOW the Mississippi Commission on Environmental Quality (Commission), acting through the staff and Executive Director of the Mississippi Department of Environmental Quality (MDEQ), Complainant, and GPCH-GP, Inc. d/b/a Garden Park Medical Center, Respondent, in the above captioned cause and agree as follows:

1.

By letter dated August 26, 2013, Respondent was contacted by Complainant and notified of the following alleged violations as the result of an unannounced compliance evaluation inspection at its facility located at 15200 Community Road, Gulfport, Mississippi in Harrison County:

- A. § 40 C.F.R. 262.34 Accumulation time for Hazardous Waste. (a) A generator may accumulate hazardous waste on-site for 90 days or less without a permit provided that: (2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container. *Respondent failed to label two hazardous waste containers with an accumulation start date.*
- B. § 40 C.F.R. 262.34 Accumulation time. (d) (5) (ii) The generator must post the following information next to the telephone: (A) The name and telephone number of the emergency coordinator. (B) Location of the fire extinguishers and spill

control material, and if present, fire alarm. *Respondent's call list was not legible in the less-than-90-day storage area.*

- C. § 40 C.F.R. 279.22 Used oil storage. (c) Labels (1) Containers and above-ground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil." *Respondent failed to label two separate containers with the words "Used Oil" to indicate the contents.*
- D. § 40 C.F.R. 279.22 Used oil storage. (d) Response to releases. Upon detection of a release of used oil to the environment, Respondent must clean up and manage properly the released used oil and other materials. *Inspectors noted oil staining near Respondent's Used Oil storage tank.*
- E. § 40 C.F.R. 262.34 Accumulation time. (c)(1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste provided he complies with § 265.173 (a): A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste. *Inspectors observed five open containers of hazardous waste where materials were not being added or removed, a hazardous waste containing medical device in the open, and a satellite accumulation container for acutely hazardous waste that held greater than one quart.*
- F. § 40 C.F.R. 262.34 Accumulation time. (d)(4) A generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the generator complies with the requirements of subpart C of part 265. § 40 C.F.R. 265.31 Maintenance and operation of facility: Facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous constituents. *Inspectors noted five instances where hazardous wastes were being improperly disposed of by Respondent.*
- G. § 40 C.F.R. 262.34 (a)(1)(i) A generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided

that the generator complies with the requirements of subpart § 40 C.F.R.

265.177(a): Incompatible wastes, or incompatible wastes and materials, must not be placed in the same container. *Inspectors noted a container where Respondent had not separated aerosols and liquids.*

- H. § 40 C.F.R. 262.11 Hazardous waste determination. A person who generates a solid waste must determine if that waste is a hazardous waste. *Inspectors noted three instances where Respondent had failed to accurately determine that a solid waste was a hazardous waste.*
- I. Section 17-17-27(4) of the Solid Wastes Disposal Law of 1974, Miss. Code Ann. § 17-17-27(4) (Section 3005 of RCRA, 42 U.S.C. § 6925) for illegally disposing of a hazardous wastes without a permit or interim status. *Inspectors noted two instances where Respondent had failed to accurately determine that a solid waste was a hazardous waste and had disposed of that waste improperly.*
- J. § 40 C.F.R. 268.7 Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities. (a)(1) A generator of hazardous waste must determine if the waste has to be treated before it can be land disposed. (40 C.F.R. §§ 268.7, 268.9, and 268.40(a)) *Respondent was disposing of D001 hazardous waste onto the land without determining the applicable treatment standards; was disposing of D001 hazardous waste before the treatment standards were met for the characteristic waste; and failed to comply with the notice, certification, and waste analysis requirements in the referenced sections.*
- K. § 40 C.F.R. 262.34 Accumulation time. (c)(2) A generator who accumulates either hazardous waste or acutely hazardous waste must mark the container holding excess accumulation of hazardous waste with the date the excess amount began accumulation. *Inspectors observed two hazardous wastes containers that were not dated.*
- L. § 40 C.F.R. 262.34 Accumulation time. (a)(1)(ii) A generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that waste is placed in tanks and the generator complies with the applicable requirements of subparts J, AA, BB, and CC of § 265.

Respondent was storing hazardous waste in a storage container functioning as a tank and was not complying with applicable requirements of subparts J, AA, BB, and CC of § 265.

- M. § 40 C.F.R. 262.34 Accumulation time. (a)(3) A generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that each container is labeled or marked clearly with the words, "Hazardous Waste." *Respondent failed to label a storage container functioning as a tank that contained hazardous waste with the words, "Hazardous Waste."*
- N. § 40 C.F.R. 273.15(c) A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. *Respondent failed to date containers holding universal waste.*
- O. § 40 C.F.R. 273.13(d)(1) a small quantity handler of universal wastes is required to contain its universal waste lamps within closed containers. *Inspectors observed containers holding universal waste that were not closed.*
- P. § 40 C.F.R. 273.14(e) a small quantity handler of universal waste is required to contain its universal waste lamps in containers clearly marked with the words "Universal Waste-Lamp(s)" or "Used Lamp(s)." *Inspectors observed containers holding universal waste that were not labeled.*
- Q. § 40 C.F.R. 262.34 Accumulation time. (a)(4) A generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the generator complies with § 265.16 (a)-(e). *Respondent failed to provide training records for all personnel who handle hazardous waste at the time of the inspection.*
- R. § 40 C.F.R. 262.34 Accumulation time. (a)(1)(i) which incorporates § 265.53(a) and (b). A copy of the contingency plan and all revisions to the plan must be (a) Maintained at Respondent: and (b) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services. *Respondent failed to maintain a copy*

of Respondent's Contingency Plan on site at the time of the inspection.

- S. § 40 C.F.R. 265.52(c)-(f) These regulations require that Respondent specific Contingency Plan include a (c) description of the arrangement agreed to by the local police departments, fire departments, hospitals, contractors, and State and Local emergency response teams to coordinate services, (d) list the names, addresses, and phone numbers of all persons qualified to act as emergency coordinator and that this list must be kept up to date, (e) a list of all the emergency equipment at Respondent, and (f) an evacuation plan for Respondent personnel.

Respondent's Contingency Plan did not contain all required components.

- T. § 40 C.F.R. 262.40(a) a generator of hazardous waste must keep a copy of each manifest signed in accordance with § 262.23(a) for three years, or until he receives a signed copy from the designated facility which received the waste.

Respondent was unable to provide a complete record of manifests at the time of the inspection.

- U. § 40 C.F.R. 262.34 Accumulation time. (a)(1)(i) which incorporates § 265.174 This regulation requires weekly inspections of areas where containers holding hazardous waste are stored. *Respondent failed to provide a written log of weekly inspections at the time of inspection.*

An administrative conference was conducted on February 14, 2014, at which time Respondent provided documentation which Respondent contended demonstrated correction of all alleged violations.

2.

In lieu of a formal enforcement hearing concerning the violations alleged, Complainant and Respondent agree to this settlement and acknowledge as follows:

- A. Respondent agrees to pay and Complainant agrees to accept a civil penalty in the total amount of \$87,180.00. Respondent shall pay this penalty to MDEQ within forty-five (45) days after this Agreed Order has been executed by the MDEQ Executive Director. The settlement payment shall be submitted to:

Mississippi Department of Environmental Quality
Attn: Jennifer Parish

P.O. Box 2339
Jackson, MS 39225

3.

Nothing in this Agreed Order shall limit the rights of MDEQ or the Commission in the event Respondent fails to comply with this Agreed Order. This Agreed Order shall be strictly construed to apply to those matters expressly resolved herein and shall not be construed as an admission by Respondent of the violations alleged above.

4.


Nothing contained in this Agreed Order shall limit the rights of MDEQ or the Commission to take subsequent enforcement or other actions against Respondent for violations not addressed herein and for future violations of environmental laws, rules, and regulations.

5.

Respondent understands and acknowledges that it is entitled to an evidentiary hearing before the Commission pursuant to Miss. Code Ann. § 49-17-31, and that it has made an informed waiver of that right and has entered voluntarily into this Agreed Order.

ORDERED, this the 19 day of May, 2014.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: 
TRUDY D. FISHER
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the 8th day of May, 2014.

GPCH-GP, INC. d/b/a GARDEN PARK MEDICAL CENTER

BY: Brenda M. Waltz

TITLE: CEO

STATE OF Mississippi

COUNTY OF Harrison

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named Brenda M. Waltz who first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the C.E.O. of Garden Park Medical Center and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 8th day of May, 2014.

Arlene C. Skerrit
NOTARY PUBLIC

My Commission expires: September 6, 2015

