



**Environmental
Protection Agency**

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

December 28, 2011

CERTIFIED MAIL

Mr. Adnan Mansour
d.b.a. Kinsman Marathon #9537
12502 Kinsman Road
Cleveland, Ohio 44120

Re: Final Findings and Orders for: the Stage II
vapor control system rule violations at the
gasoline dispensing facility located at
12502 Kinsman Road, Cleveland, Ohio

Dear Mr. Mansour:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,

Thomas J. Kalman, P.E.
Acting Assistant Chief, SIP Development and Enforcement
Division of Air Pollution Control

TJK/ef

xc: Carol Hester, PIC
Erica Fetty, DAPC
Brenda Case, Fiscal Office (Agency # 13)
Marcus Glasgow, Legal Office
Jim Kavalec, DAPC
Linda Kimmy, CDAQ
Dave DeChant, CDAQ

OHIO E.P.A.
DEC 28 2011
ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Adnan Mansour : Director's Final Findings
d.b.a. Kinsman Marathon #9537 : and Orders
12502 Kinsman Road :
Cleveland, Ohio 44120 :

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Adnan Mansour, d.b.a. Kinsman Marathon #9537 ("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 heirs and successors in interest liable under Ohio law. No change in ownership of the facility (as hereinafter defined) 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 rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a gasoline dispensing facility ("GDF") located at 12502 Kinsman Road, in Cleveland, Cuyahoga County, Ohio (Facility ID# 1318007557). On November 5, 2008, Respondent submitted a permit-by-rule notification ("PBR") to Ohio EPA for this GDF. This GDF is subject to the requirements of Ohio Administrative Code ("OAC") Rule 3745-21-09(DDD) concerning Stage II vapor control systems.

2. The Cleveland Division of Air Quality ("CDAQ") is the contractual agent for Ohio EPA in Cuyahoga County for the administration of Ohio's air pollution rules and laws.

3. 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. OAC Rule 3745-21-09(DDD) was adopted by the Director pursuant to ORC Chapter 3704.

4. OAC Rule 3745-21-09(DDD)(1)(b) states, in part, that no owner or operator of a subject GDF may cause, allow, or permit the transfer of gasoline from a stationary tank at a GDF into a motor vehicle unless a vapor control system is installed, operated, and maintained in accordance with the manufacturer's specifications and the applicable California Air Resources Board ("CARB") certification, and is free from defect.

5. OAC Rule 3745-21-09(DDD)(1)(c) states, in part, that no owner or operator of a subject GDF may cause, allow, or permit the transfer of gasoline from a stationary tank at a GDF into a motor vehicle unless the vapor control system successfully passes the testing requirements contained in OAC Rule 3745-21-09(DDD)(2).

6. OAC Rule 3745-21-09(DDD)(2)(f) requires the owner or operator of a GDF to perform and comply with any vapor control system tests specified in the applicable CARB certification. As part of the required CARB testing for the above-mentioned GDF, an air-to-liquid ("A/L") ratio test and a static leak test are required to be performed annually and any fueling point not capable of demonstrating compliance with the performance standards of the A/L ratio test is deemed to be defective and is required to be removed from service.

7. On October 26, 2010, Respondent conducted the Stage II compliance tests at this GDF. During the October 26, 2010 Stage II compliance tests, the static leak test failed as well as the A/L ratio test for dispensers 3 and 4. Respondent was transferring gasoline into motor vehicles prior to and after the failed static leak and A/L ratio tests. The failure to properly install, operate, and maintain the vapor control system and to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). By letters dated November 1 and December 20, 2010, CDAQ notified Respondent of these violations.

8. On December 29, 2010, Respondent conducted static leak and A/L ratio retests at this GDF. Respondent passed the A/L ratio test for dispensers 3 and 4 but failed the static leak test. Respondent was transferring gasoline into motor vehicles prior to and after the failed static leak test. The failure to properly install, operate, and maintain the vapor control system and to successfully pass the testing requirements in

OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On January 20, 2011, Respondent conducted and passed a static leak retest at this GDF. By letters dated January 4, February 4, and February 7, 2011, CDAQ notified Respondent of the aforementioned violations.

9. On November 22, 2011, Respondent conducted the Stage II compliance tests at this GDF. During the November 22, 2011 Stage II compliance tests, the A/L ratio test passed while the static leak test failed due to a broken drop tube. Respondent was transferring gasoline into motor vehicles prior to and after the failed static leak test. The failure to properly install, operate, and maintain the vapor control system and to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On November 29, 2011, Respondent conducted and passed a static leak retest at this GDF. By letters dated November 28 and December 1, 2011, CDAQ notified Respondent of these violations.

10. 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. For the next two ozone-producing seasons (i.e., April 1, 2012 – October 31, 2012 and April 1, 2013 – October 31, 2013), starting two weeks prior to the start of the ozone-producing season, i.e., by March 15, 2012 and March 15, 2013, and continuing until October 31, 2012 and October 31, 2013, respectively, Respondent shall conduct weekly inspections of the Stage II vapor control system at this GDF, checking for leaks, malfunctions or other damage to the system and shall keep records of these inspections and any repairs made. The inspections shall be recorded in an inspection log or checklist. Copies of the inspection logs or checklists shall be submitted to CDAQ during the middle and at the end of each ozone-producing season. Specifically, copies of the weekly inspection records for the period from March 15 through July 31 shall be submitted by August 14 of that year. Copies of the weekly inspection records for August 1 through October 31 shall be submitted by November 14 of that year.

2. For the next two ozone-producing seasons (i.e., April 1, 2012 – October 31, 2012 and April 1, 2013 – October 31, 2013), Respondent shall perform static leak and A/L ratio tests at this GDF prior to the beginning (during March) of each ozone-producing season and during August of each ozone-producing season. Respondent shall notify CDAQ of such testing at least fourteen (14) days prior to any test. The results of these tests shall be submitted to Ohio EPA within fourteen (14) days after completion of the tests.

3. Respondent shall pay the amount of eight thousand four hundred and forty dollars (\$8,440) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment shall be made by official checks made payable to "Treasurer, State of Ohio" for six thousand seven hundred and fifty-two dollars (\$6,752) of the total amount, which shall be paid in installments per the following schedule:

a. Within sixty (60) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand one hundred and twenty-five dollars (\$1,125);

b. Within ninety (90) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand one hundred and twenty-five dollars (\$1,125);

c. Within one hundred and twenty (120) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand one hundred and twenty-five dollars (\$1,125);

d. Within one hundred and fifty days (150) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand one hundred and twenty-five dollars (\$1,125);

e. Within one hundred and eighty days (180) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand one hundred and twenty-five dollars (\$1,125); and

f. Within two hundred and ten days (210) after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand one hundred and twenty-seven dollars (\$1,127).

4. In lieu of paying the remaining one thousand six hundred and eighty-eight dollars (\$1,688) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$1,688 to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment on or within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$1,688. The official check shall be submitted to Brenda Case, or her successor, together with a letter

identifying the Respondent and Fund 5CD0, to the above-stated address.

5. A copy of each of the above checks shall be sent to Thomas Kalman, Acting 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 time frame set forth in Order 4, Respondent shall immediately pay to Ohio EPA \$1,688 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 the purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice president or his duly authorized representative.

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:

Cleveland Division of Air Quality
75 Erieview Plaza, Suite 200
Cleveland, Ohio 44114
Attn: Linda Kimmy

and to:

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

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 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

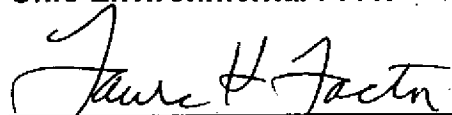
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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.

ORDERED AND AGREED:

Ohio Environmental Protection Agency



Scott J. Nally
Director

12-27-11
Date

AGREED:

**Adnan Mansour,
d.b.a. Kinsman Marathon #9537**



Signature

12-13-11
Date