

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND
ENERGY,

Plaintiff,

Case No. 2021-154-CE

HON. WANDA M. STOKES

v

CLANCY EXCAVATING CO.,

Defendant.

Charles A. Cavanagh (P79171)
Assistant Attorney General
Attorney for Plaintiff
Michigan Department of Attorney General
Environment, Natural Resources, and
Agriculture Division
P.O. Box 30755
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CONSENT JUDGMENT

The Plaintiff in this case is the Michigan Department of Environment, Great Lakes, and Energy (EGLE). The Defendant is Clancy Excavating Co. (Clancy), a Michigan corporation. Clancy owns and operates a concrete crushing and re-processing plant located at 29950 Little Mack Avenue, Roseville, Michigan (Facility).

In the complaint, EGLE alleges that Clancy violated Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act (NREPA),

MCL 324.5501 *et seq.* (Part 55), and the terms of Clancy's Permit to Install, PTI No. 589-87A.

The Parties agree that settling this action is in the public interest. They consent to entry of this Consent Judgment without further litigation as the most appropriate means of resolving the allegations in the complaint. As evidenced by the signatures below, the Parties agree to, and shall be bound by, the terms and conditions of this Consent Judgment.

Clancy neither admits nor denies liability with respect to any issue addressed in the companion complaint. Nor does Clancy admit or deny any factual allegations or legal conclusions stated or implied in the companion complaint.

NOW THEREFORE, before taking any testimony, and without trial of any issue of fact or law, and upon consent of the Parties, it is hereby ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION AND VENUE

1.1 This Court has jurisdiction over the subject matter of this action pursuant to MCL 324.5530 and MCL 600.605.

1.2 This Court has personal jurisdiction over Clancy pursuant to MCL 600.711 and MCL 600.715.

1.3 Venue is appropriate pursuant to MCL 324.5530(5) and MCL 600.1631.

1.4 The Court determines that the terms and conditions of this Consent Judgment are reasonable, adequately resolve the environmental issues raised in the complaint, and properly protect the interests of the people of the State of Michigan.

II. APPLICATION

2.1 The provisions of this Consent Judgment shall be binding on the Parties to this action, their officers, agents, employees, successors and assigns. No change or changes in the ownership or corporate status or other legal status of Clancy, including, but not limited to, any transfer of assets or of real or personal property, shall in any way alter Clancy's responsibilities under this Consent Judgment.

2.2 The signatories to this Consent Judgment certify that they are authorized to execute this Consent Judgment and to legally bind the Parties they represent.

III. OBJECTIVES OF THIS CONSENT JUDGMENT

3.1 The objectives of this Consent Judgment are to settle the claims raised in the complaint and ensure that, when the compliance requirements specified in this Consent Judgment have been implemented, Clancy will be in compliance with the applicable requirements of its air quality permit (PTI No. 589-87A), including any revisions or amendments, and corresponding federal and state regulations and rules.

IV. DEFINITIONS

- 4.1 Whenever the terms set forth below are used in this Consent Judgment, including attached exhibits, the following definitions shall apply:
- a. "EGLE" means the Michigan Department of Environment, Great Lakes, and Energy.
 - b. "AQD" means the Air Quality Division for the Michigan Department of Environment, Great Lakes, and Energy.
 - c. "Clancy" or "Defendant" means Clancy Excavating Co.
 - d. "Effective Date" means the date of entry of this Consent Judgment by the Court as recorded on the Court docket or, if the Court instead issues an order approving this Consent Judgment, the date such order is recorded on the Court docket, whichever occurs first.
 - e. "Paragraph" means a portion of this Consent Judgment identified by an Arabic number.
 - f. "Part 55 of the NREPA" means Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, MCL 324.5501 *et seq.*
 - g. "Parties" mean the Michigan Department of Environment, Great Lakes, and Energy and Clancy Excavating, Co.
 - h. "Section" means a portion of this Consent Judgment identified by a Roman numeral.

V. COMPLIANCE REQUIREMENTS

5.1 Clancy shall comply with all terms and conditions included in its Permit to Install, PTI No. 589-87A, including any revisions or amendments. PTI No. 589-87A is attached as **Exhibit A** and is hereby incorporated by reference as an enforceable part of this Consent Judgment.

5.2 Clancy shall not operate the process equipment and control devices designated as "EUPLANT" in PTI No. 589-87A at its crushing plant unless the nuisance minimization plan for fugitive dust is implemented and maintained in accordance with the terms of PTI No. 589-87A and this Consent Judgment. A copy of the nuisance minimization plan for fugitive dust is included in PTI No. 589-87A and is hereby incorporated by reference as an enforceable part of this Consent Judgment. (Exhibit A.)

5.3 Within 30 days from the Effective Date of this Consent Judgment, Clancy shall submit a workplan to EGLE for review and approval for the modification of rumble strips at the southern exit of the Facility. The workplan shall contain, at a minimum, the following:

- a. The requirement that all truck traffic be routed over rumble strips to have their tires cleaned prior to exiting the southern exit of the Facility.
- b. The plans and specifications detailing the modification of the rumble strips. Modification may include utilization of the existing rumble strips at the southern exit of the Facility coupled with the installation

of additional sections of rumble strips (e.g. milled, rubber mats, etc.).

The modification shall result in rumble strips at the southern exit of the Facility that have, at a minimum, the following specifications:

- i. A total length (exclusive of aprons) of at least 50 feet or of a sufficient length to permit at least five revolutions of the largest truck tire entering or exiting the Facility, whichever is greater.
- ii. Grooves that are at least 2 inches deep.
- iii. A width of at least 10 feet.

5.4 By December 1, 2021, Clancy shall modify the rumble strips at the southern exit of the Facility in accordance with the workplan approved by EGLE.

5.5 Clancy shall prevent all truck traffic from exiting the northern exit of the Facility unless it has installed rumble strips in conformance with the EGLE-approved workplan identified in paragraph 5.6, below.

5.6 If Clancy chooses to use the northern exit of the Facility, then Clancy shall submit a workplan to EGLE for review and approval. The workplan shall include, at a minimum:

- a. The requirement that all truck traffic be routed over rumble strips to have their tires cleaned prior to exiting at the northern exit of the Facility.
- b. The location of the proposed rumble strips.
- c. The plans and specifications of rumble strips to be installed at the northern exit of the Facility, which shall, at a minimum:

- i. Have a total length (exclusive of aprons) of at least 50 feet or of sufficient length to permit at least five tire revolutions of the largest truck tire entering or exiting the Facility, whichever is greater.
- ii. Have a depth of groove of at least 2 inches.
- iii. Be set back at least 75 feet from the curb of Little Mack Avenue.
- iv. Be at least 10 feet wide.

5.7 Clancy shall sweep or clean all rumble strips installed at the Facility as needed to ensure the rumble strips are effective. Sweepings or cleanings shall occur at least once during the operational day and the end of each operational day, and at any additional frequencies necessary to prevent track out on Little Mack Avenue.

5.8 Clancy shall create and maintain logs of its daily cleanings of the rumble strips for at least five years and shall make these records available to EGLE upon written or verbal request.

5.9 Clancy shall repair all rumble strips as necessary to maintain their effectiveness. Clancy shall inspect all rumble strips at the beginning of each day to verify that the rumble strips have not been damaged or impaired. If damaged or impaired, Clancy shall repair or replace the rumble strips within 10 days. Clancy shall create and maintain logs of its daily inspections and any necessary repairs of the rumble strips for at least five years and shall make these records available to EGLE upon written or verbal request.

5.10 Truck traffic opacity at the crushing plant shall not exceed 10 percent opacity and shall be achieved by keeping all unpaved yard roads wet and by sweeping paved yard areas at least once per day. Cleaning of dirt and aggregate track out due to truck traffic from the facility shall be performed as needed on Little Mack Avenue, including, but not limited to, at the end of each operational day. Clancy shall create and maintain daily logs of watering and sweeping for at least five years and shall make these records available to EGLE upon written or verbal request.

VI. REVIEW AND APPROVAL OF SUBMITTALS

6.1 For the workplans identified in Section V, above, and any other document required by this Consent Judgment to be submitted to EGLE for review and approval, the following process and terms of approval outlined in this Section shall apply.

6.2 The workplans required by Section V, above, shall contain all the information required by the applicable paragraphs of this Consent Judgment.

6.3 **Initial Submission.** Upon submission of the workplans required by Section V, above, and any other document submitted for review and approval, EGLE shall promptly, in writing: (1) approve, in whole or in part, the submission; (2) approve, in whole or in part, the submission upon specific conditions; (3) disapprove, in whole or in part, the submission, requiring Clancy to correct the deficiencies; or (4) any combination of the foregoing.

6.4 **Resubmissions.** Upon receipt of a notice of approval in part; approval, in whole or in part, upon specified conditions; disapproval in whole or in part; or any combination of the foregoing, Clancy shall, within 30 days or such longer time as specified by EGLE in such notice, correct the deficiencies and resubmit the workplan or other document to EGLE for approval. Failure by Clancy to resubmit an approvable workplan or document that corrects the deficiencies identified by EGLE shall constitute a violation of this Consent Judgment.

6.5 Upon EGLE approval, or approval upon specific conditions, the workplans required by Section V, above, shall be incorporated by reference into this Consent Judgment and shall be an enforceable part of this Consent Judgment.

6.6 Any delays caused by Clancy's failure to submit an approvable workplan or other document in conformance with this Consent Judgment shall in no way affect or alter Clancy's responsibility to comply with any other provisions of this Consent Judgment.

6.7 No informal advice, guidance, suggestions, or comments by EGLE regarding the workplan or any other document shall be construed as relieving Clancy of its obligation to obtain written approval when required by this Consent Judgment.

VII. DISPUTE RESOLUTION

7.1 The dispute resolution procedures of this Section VII shall be the exclusive mechanism to resolve disputes arising under this Consent Judgment and shall apply to all provisions of this Consent Judgment.

7.2 Informal Dispute Resolution. Any dispute that arises under this Consent Judgment shall in the first instance be the subject of informal negotiations between the Parties. The dispute shall be considered to have arisen when a Party sends a written Notice of Dispute describing the matter in dispute. The period of informal negotiations shall not exceed 30 days from the date the dispute arises, but it may be extended by written agreement of the Parties. If the Parties cannot resolve a dispute by informal negotiations, then EGLE shall provide a written statement of its position regarding the dispute to Clancy within 30 days following the period of informal negotiations. EGLE's position shall be considered binding unless, within 30 days after EGLE provides the written statement of its position, Clancy invokes the formal dispute resolution procedures set forth in paragraph 7.3, below.

7.3 Formal Dispute Resolution. Clancy shall invoke formal dispute procedures, within the time period provided in the paragraph 7.2, above, by serving on EGLE a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Clancy's position and any supporting documentation relied upon by Clancy.

7.4 EGLE shall serve its Statement of Position within 45 days after receiving Clancy's Statement of Position. EGLE's Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting EGLE's position, and any supporting documentation relied upon by EGLE. EGLE's

Statement of Position shall be binding on Clancy unless Clancy files a motion for judicial review of the dispute in accordance with paragraph 7.5, below.

7.5 Clancy may seek judicial review of the dispute by filing with the Court and serving on EGLE, in accordance with Section XII (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within 30 days after receipt of EGLE's Statement of Position pursuant to the preceding paragraph. The motion shall contain a written statement of Clancy's position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested, and any schedule within which the dispute must be resolved to insure orderly implementation of this Consent Judgment.

7.6 EGLE shall respond to Clancy's motion within the time period allowed by the Michigan Court Rules.

7.7 Standard of Review. In any dispute regarding this Consent Judgment for which Clancy seeks judicial review pursuant to Paragraph 7.5, the provisions, clauses, terms, and conditions contained in this Consent Judgment (including its appendices) shall be reviewed according to applicable principles of law.

7.8 The invocation of dispute resolution procedures under this Section VII (Dispute Resolution) shall not of itself extend or postpone any obligation of Clancy under this Consent Judgment, unless and until final resolution of the dispute so provides. Notwithstanding the invocation of the dispute resolution procedures, stipulated penalties, with any applicable interest, shall accrue from the first day of any failure or refusal to comply with any term or condition of this Consent

Judgment, but payment shall be stayed pending resolution of the dispute. In the event, and to the extent, that Clancy does not prevail on the disputed issue, stipulated penalties and any applicable interest shall be paid within 10 calendar days in the manner provided for in Paragraph 11.2 of this Consent Judgment. Clancy shall not be assessed stipulated penalties for disputes resolved in its favor.

VIII. RECORDKEEPING

8.1 Upon written or verbal request by an authorized representative of the EGLE, Clancy shall make available to EGLE specifically requested records, plans, logs, and other documents required to be maintained under this Consent Judgment or pursuant to Part 55 of the NREPA, the administrative rules promulgated pursuant to Part 55 of the NREPA, or PTI No. 589-87A, including any revisions or amendments. Documents required by this Consent Judgment shall be retained by Clancy for at least a period of five (5) years from the date of generation of the record unless otherwise required by this Consent Judgment or by Part 55 of the NREPA, the administrative rules promulgated pursuant to Part 55 of the NREPA, or PTI No. 589-87A, including any revisions or amendments.

8.2 All records kept by Clancy shall be legible.

8.3 Clancy may keep electronic copies of the records required under this Section VII as portable document format (PDF) files with the *.pdf extension. Electronic copies of records are subject to the same requirements as physical records, including retention periods, storage at the site, availability to EGLE, and legibility.

IX. RIGHT OF ENTRY

9.1 Clancy shall allow any authorized, duly credentialed, representative or contractor of EGLE to enter the premises of the Facility and park only in designated parking at reasonable times for the purpose of monitoring compliance with the provisions of this Consent Judgment. EGLE representatives must first announce themselves to Clancy's main office upon arrival. EGLE shall not be permitted to drive a vehicle on the Clancy property unless with the permission of Clancy and in the company of a Clancy employee. This paragraph in no way limits the authority of EGLE to conduct tests and inspections pursuant to the NREPA and the rules promulgated thereunder, or any other applicable statutory provision.

X. CIVIL FINE

10.1 Within 30 days after the Effective Date of this Consent Judgment, Clancy shall pay a civil fine of \$1,500.00 to EGLE. Payment shall be made in the form of a certified check or cashier's check and made payable to the "State of Michigan." Payment shall be sent to: Michigan Department of Environment, Great Lakes, and Energy Accounting Services Division, Cashier's Office P.O. Box 30657 Lansing, MI 48909-8157. To ensure proper credit, the check shall reference *Michigan Department of Environment, Great Lakes, and Energy v. Clancy Excavating Co.*, and Payment Identification Number AQD40271.

XI. STIPULATED PENALTIES

11.1 Stipulated Penalties. In the event that Clancy fully complies with the terms and conditions of this Consent Judgment, stipulated penalties shall not be

assessed. However, Clancy shall pay stipulated penalties for failure to comply with the terms of this Consent Judgment as follows:

- a. Clancy shall pay a stipulated penalty of \$3,000.00 per violation for failure to comply with Section V, Compliance Program, and Section X, Civil Fine, of this Consent Judgment.
- b. Clancy shall pay a stipulated penalty of \$500.00 per violation per day for failure to comply with any other provision of this Consent Judgment.

11.2 Clancy shall pay all accrued stipulated penalties within 30 days after written demand by EGLE. Payment shall be made in the form of a certified check or cashier's check and made payable to the "State of Michigan." Payment shall be sent to: Michigan Department of Environment, Great Lakes, and Energy Accounting Services Division, Cashier's Office P.O. Box 30657 Lansing, MI 48909-8157. To ensure proper credit, the check shall reference *Michigan Department of Environment, Great Lakes, and Energy v. Clancy Excavating Co.*, and Payment Identification Number AQD40271.

11.3 Payment of stipulated penalties shall not alter or modify in any way Clancy's obligation to comply with the terms and conditions of this Consent Judgment.

11.4 The provisions of this Section shall not bar EGLE from seeking any additional remedies or sanctions available to it for any violation of this Consent Judgment or any other provision of applicable law.

11.5 EGLE, at its discretion, may seek stipulated penalties or statutory civil fines for any violation of this Consent Judgment that is also a violation of any provision of applicable federal and state law, rule, regulation, permit, or EGLE Administrative Order. However, EGLE is precluded from seeking both a stipulated penalty under this Consent Judgment and a statutory civil fine for the same violation.

11.6 To ensure timely payment of any stipulated penalties assessed pursuant to this Consent Judgment, Clancy shall pay an interest penalty to the State of Michigan each time it fails to make a complete or timely payment under this Consent Judgment. The interest payment shall be determined pursuant to MCL 600.6013(8) using the full increment of amount due as principal, calculated from the due date specified in this Consent Judgment until the date that delinquent payment is finally paid in full. Payment of an interest penalty by Clancy shall be made to the State of Michigan in accordance with Paragraph 11.2 of this Consent Judgment. Interest payments shall be applied first toward the most overdue amount or outstanding interest penalty owed by Clancy before any remaining balance is applied to subsequent payment amount or interest penalty.

11.7 By no later than 30 days after receipt of a written demand for stipulated penalties, Clancy may dispute liability for any or all stipulated penalties demanded by invoking the dispute resolution procedures of Section VII (Dispute Resolution).

XII. NOTICES

12.1 Any submittal, notice, report, or documentation required by this

Consent Judgment shall be submitted to the attention of:

For EGLE: Joyce Zhu, Warren District Supervisor
Michigan Department of Environment, Great Lakes, and
Energy
Air Quality Division
Warren District Office
27700 Donald Court
Warren, Michigan 48092-2793
ZhuJ@michigan.gov

Jenine Camilleri, Enforcement Unit Manager
Michigan Department of Environment, Great Lakes, and
Energy
Air Quality Division
Constitution Hall
525 West Allegan
P.O. Box 30260
Lansing, Michigan 48909-7760
CamilleriJ@michigan.gov

For Clancy: Marc K. Shaye, Esq. P20309
Marc K. Shaye Attorney at Law, PLLC
32500 Scenic Lane
Franklin, MI 48025
shayemk@aol.com

Either party may substitute for those designated to receive such notices by providing prior written notice to the other party.

XIII. RECORD RETENTION

13.1 Until five years after the termination of this Consent Judgment, Clancy shall retain, and shall instruct its contractors, agents, and representatives to preserve, all non-identical copies of records, documents, or other information (including records, documents, and other information in electronic form) in its or its

contractors', agents', or representatives' possession or control that materially relate in any manner to Clancy's performance of its obligations under this Consent Judgment.

XIV. GENERAL PROVISIONS

14.1 Third Parties. This Consent Judgment does not limit or affect the rights of Clancy or EGLLE against any third parties.

14.2 Severability. Should any provision of this Consent Judgment be declared by a court of competent jurisdiction to be inconsistent with state or federal law and, therefore, unenforceable, the remaining provisions shall remain in full force and effect.

14.3 Modification. Any party to this Consent Judgment may petition the Court for modification of this Consent Judgment prior to the expiration of the effective period. Any modification must be in writing and approved by the Court. No party may petition the Court for a modification of this Consent Judgment without first having made a good faith effort to reach an agreement with the other party on the terms of any such modification.

14.4 Other Laws. This Consent Judgment in no way affects Clancy's responsibility to comply with any other applicable state, federal, or local laws or regulations, or with any order of this or any other Court.

14.7 Sale or Transfer. In the event Clancy sells or transfers the Facility, it shall advise any purchaser or transferee of the existence of this Consent Judgment in connection with such sale or transfer. Within 30 calendar days, Clancy shall also

notify EGLE, in writing, of such sale or transfer, the identity and address of any purchaser or transferee, and confirm the fact that notice of this Consent Judgment has been given to the purchaser and/or transferee. The purchaser and/or transferee of this Consent Judgment must agree, in writing, to assume all the obligations of this Consent Judgment. A copy of that agreement shall be forwarded to EGLE within 30 days of assuming the obligations of this Consent Judgment.

XV. TERMINATION

15.1 This Consent Judgment shall terminate ten years after the Effective Date provided that Clancy submits to EGLE a written request to terminate the Consent Judgment. This written request shall include a summary of the activities performed to comply with the provisions of the Consent Judgment, certify that the civil fine and any stipulated penalties owed to EGLE under Section X and Section XI of this Consent Judgment have been paid in full, and that Clancy is in full compliance with all other provisions of the Consent Judgments. Thereafter, provided full compliance with the provisions of this Consent Judgment has been achieved, EGLE shall file with the clerk a Satisfaction of Judgment pursuant to MCR 2.620(1).

XVI. RETENTION OF JURISDICTION

16.1 Prior to the termination of this Consent Judgment under Section XV, this Court shall retain jurisdiction over this action to modify or enforce the terms of this Consent Judgment, to assess stipulated fines, or to take any action necessary or appropriate for construction or implementation of this Consent Judgment.

IT IS SO ORDERED THIS 30 DAY OF July, 2021.

WANDA M. STOKES

Honorable Wanda M. Stokes
Circuit Court Judge

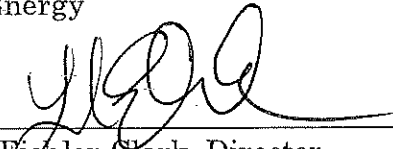
P-44485

STIPULATION

The parties hereby stipulate to the entry of the forgoing Consent Judgment. Notice and hearing on entry of the above order is waived.

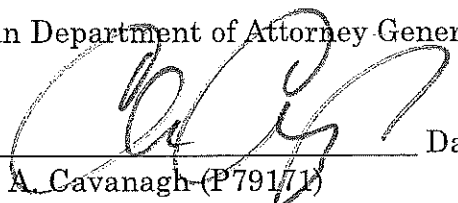
FOR PLAINTIFF

Michigan Department of Environment, Great Lakes,
and Energy

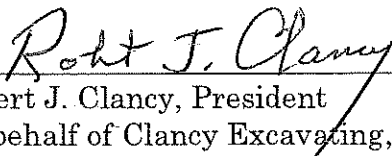
By:  Dated: 7/27/21, 2021
Liesl Eichler Clark, Director
Department of Environment, Great Lakes, and Energy

Approved as to form:

Michigan Department of Attorney General

By:  Dated: 7-28-, 2021
Charles A. Cavanagh (P79171)
Assistant Attorney General
Environment, Natural Resources,
and Agriculture Division
Attorney for Plaintiff

FOR DEFENDANT

By:  Dated: July 19, 2021
Robert J. Clancy, President
On behalf of Clancy Excavating, Co.

LF: Clancy Excavating Company, Inc. (EGLE v) CC/AG# 2018-0226518-B/Consent Judgment 2021-07-13

EXHIBIT A

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

September 23, 2015

PERMIT TO INSTALL
589-87A

ISSUED TO
Clancy Excavating Co.

LOCATED AT
29950 Little Mack
Roseville, Michigan

IN THE COUNTY OF
Macomb

STATE REGISTRATION NUMBER
B1774

The Air Quality Division has approved this Permit to Install, pursuant to the delegation of authority from the Michigan Department of Environmental Quality. This permit is hereby issued in accordance with and subject to Section 5505(1) of Article II, Chapter I, Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. Pursuant to Air Pollution Control Rule 336.1201(1), this permit constitutes the permittee's authority to install the identified emission unit(s) in accordance with all administrative rules of the Department and the attached conditions. Operation of the emission unit(s) identified in this Permit to Install is allowed pursuant to Rule 336.1201(6).

DATE OF RECEIPT OF ALL INFORMATION REQUIRED BY RULE 203: July 13, 2015	
DATE PERMIT TO INSTALL APPROVED: September 23, 2015	SIGNATURE:
DATE PERMIT VOIDED:	SIGNATURE:
DATE PERMIT REVOKED:	SIGNATURE:

PERMIT TO INSTALL

Table of Contents

Section	Page
Alphabetical Listing of Common Abbreviations / Acronyms	2
General Conditions.....	3
Special Conditions.....	5
Emission Unit Summary Table.....	5
Special Conditions for EUPLANT.....	6
Appendix A.....	8

Common Abbreviations / Acronyms

Common Acronyms		Pollutant / Measurement Abbreviations	
AQD	Air Quality Division	acfm	Actual cubic feet per minute
BACT	Best Available Control Technology	BTU	British Thermal Unit
CAA	Clean Air Act	°C	Degrees Celsius
CAM	Compliance Assurance Monitoring	CO	Carbon Monoxide
CEM	Continuous Emission Monitoring	CO _{2e}	Carbon Dioxide Equivalent
CFR	Code of Federal Regulations	dscf	Dry standard cubic foot
COM	Continuous Opacity Monitoring	dscm	Dry standard cubic meter
Department/ department	Michigan Department of Environmental Quality	°F	Degrees Fahrenheit
EU	Emission Unit	gr	Grains
FG	Flexible Group	HAP	Hazardous Air Pollutant
GACS	Gallons of Applied Coating Solids	Hg	Mercury
GC	General Condition	hr	Hour
GHGs	Greenhouse Gases	HP	Horsepower
HVLP	High Volume Low Pressure*	H ₂ S	Hydrogen Sulfide
ID	Identification	kW	Kilowatt
IRSL	Initial Risk Screening Level	lb	Pound
ITSL	Initial Threshold Screening Level	m	Meter
LAER	Lowest Achievable Emission Rate	mg	Milligram
MACT	Maximum Achievable Control Technology	mm	Millimeter
MAERS	Michigan Air Emissions Reporting System	MM	Million
MAP	Malfunction Abatement Plan	MW	Megawatts
MDEQ	Michigan Department of Environmental Quality	NMOC	Non-methane Organic Compounds
MSDS	Material Safety Data Sheet	NO _x	Oxides of Nitrogen
NA	Not Applicable	ng	Nanogram
NAAQS	National Ambient Air Quality Standards	PM	Particulate Matter
NESHAP	National Emission Standard for Hazardous Air-Pollutants	PM ₁₀	Particulate Matter equal to or less than 10 microns in diameter
NSPS	New Source Performance Standards	PM _{2.5}	Particulate Matter equal to or less than 2.5 microns in diameter
NSR	New Source Review	pph	Pounds per hour
PS	Performance Specification	ppm	Parts per million
PSD	Prevention of Significant Deterioration	ppmv	Parts per million by volume
PTE	Permanent Total Enclosure	ppmw	Parts per million by weight
PTI	Permit to Install	psia	Pounds per square inch absolute
RACT	Reasonable Available Control Technology	psig	Pounds per square inch gauge
ROP	Renewable Operating Permit	scf	Standard cubic feet
SC	Special Condition	sec	Seconds
SCR	Selective Catalytic Reduction	SO ₂	Sulfur Dioxide
SNCR	Selective Non-Catalytic Reduction	TAC	Toxic Air Contaminant
SRN	State Registration Number	Temp	Temperature
TEQ	Toxicity Equivalence Quotient	THC	Total Hydrocarbons
USEPA/EPA	United States Environmental Protection Agency	tpy	Tons per year
VE	Visible Emissions	µg	Microgram
		µm	Micrometer or Micron
		VOC	Volatile Organic Compounds
		yr	Year

*For HVLP applicators, the pressure measured at the gun air cap shall not exceed 10 psig.

-GENERAL CONDITIONS

1. The process or process equipment covered by this permit shall not be reconstructed, relocated, or modified, unless a Permit to Install authorizing such action is issued by the Department, except to the extent such action is exempt from the Permit to Install requirements by any applicable rule. **(R 336.1201(1))**
2. If the installation, construction, reconstruction, relocation, or modification of the equipment for which this permit has been approved has not commenced within 18 months, or has been interrupted for 18 months, this permit shall become void unless otherwise authorized by the Department. Furthermore, the permittee or the designated authorized agent shall notify the Department via the Supervisor, Permit Section, Air Quality Division, Michigan Department of Environmental Quality, P.O. Box 30260, Lansing, Michigan 48909-7760, if it is decided not to pursue the installation, construction, reconstruction, relocation, or modification of the equipment allowed by this Permit to Install. **(R 336.1201(4))**
3. If this Permit to Install is issued for a process or process equipment located at a stationary source that is not subject to the Renewable Operating Permit program requirements pursuant to R 336.1210, operation of the process or process equipment is allowed by this permit if the equipment performs in accordance with the terms and conditions of this Permit to Install. **(R 336.1201(6)(b))**
4. The Department may, after notice and opportunity for a hearing, revoke this Permit to Install if evidence indicates the process or process equipment is not performing in accordance with the terms and conditions of this permit or is violating the Department's rules or the Clean Air Act. **(R 336.1201(8), Section 5510 of Act 451, PA 1994)**
5. The terms and conditions of this Permit to Install shall apply to any person or legal entity that now or hereafter owns or operates the process or process equipment at the location authorized by this Permit to Install. If the new owner or operator submits a written request to the Department pursuant to R 336.1219 and the Department approves the request, this permit will be amended to reflect the change of ownership or operational control. The request must include all of the information required by subrules (1)(a), (b), and (c) of R 336.1219 and shall be sent to the District Supervisor, Air Quality Division, Michigan Department of Environmental Quality. **(R 336.1219)**
6. Operation of this equipment shall not result in the emission of an air contaminant which causes injurious effects to human health or safety, animal life, plant life of significant economic value, or property, or which causes unreasonable interference with the comfortable enjoyment of life and property. **(R 336.1901)**
7. The permittee shall provide notice of an abnormal condition, start-up, shutdown, or malfunction that results in emissions of a hazardous or toxic air pollutant which continue for more than one hour in excess of any applicable standard or limitation, or emissions of any air contaminant continuing for more than two hours in excess of an applicable standard or limitation, as required in Rule 912, to the Department. The notice shall be provided not later than two business days after start-up, shutdown, or discovery of the abnormal condition or malfunction. Written reports, if required, must be filed with the Department within 10 days after the start-up or shutdown occurred, within 10 days after the abnormal conditions or malfunction has been corrected, or within 30 days of discovery of the abnormal condition or malfunction, whichever is first. The written reports shall include all of the information required in Rule 912(5). **(R 336.1912)**
8. Approval of this permit does not exempt the permittee from complying with any future applicable requirements which may be promulgated under Part 55 of 1994 PA 451, as amended or the Federal Clean Air Act.
9. Approval of this permit does not obviate the necessity of obtaining such permits or approvals from other units of government as required by law.
10. Operation of this equipment may be subject to other requirements of Part 55 of 1994 PA 451, as amended and the rules promulgated thereunder.

11. Except as provided in subrules (2) and (3) or unless the special conditions of the Permit to Install include an alternate opacity limit established pursuant to subrule (4) of R 336.1301, the permittee shall not cause or permit to be discharged into the outer air from a process or process equipment a visible emission of density greater than the most stringent of the following. The grading of visible emissions shall be determined in accordance with R 336.1303. **(R 336.1301)**
 - a) A six-minute average of 20 percent opacity, except for one six-minute average per hour of not more than 27 percent opacity.
 - b) A visible emission limit specified by an applicable federal new source performance standard.
 - c) A visible emission limit specified as a condition of this Permit to Install.

12. Collected air contaminants shall be removed as necessary to maintain the equipment at the required operating efficiency. The collection and disposal of air contaminants shall be performed in a manner so as to minimize the introduction of contaminants to the outer air. Transport of collected air contaminants in Priority I and II areas requires the use of material handling methods specified in R 336.1370(2). **(R 336.1370)**

13. The Department may require the permittee to conduct acceptable performance tests, at the permittee's expense, in accordance with R 336.2001 and R 336.2003, under any of the conditions listed in R 336.2001. **(R 336.2001)**

SPECIAL CONDITIONS

EMISSION UNIT SUMMARY TABLE

The descriptions provided below are for informational purposes and do not constitute enforceable conditions.

Emission Unit ID	Emission Unit Description (Process Equipment & Control Devices)	Flexible Group ID
EUPLANT	<p>A combination of process equipment (screens, crushers, feeders, conveyors, etc.) used to reduce larger materials down to smaller sizes, classify and sort materials into various product types, material handling and transporting of material to storage areas. Control methods include equipment water sprays.</p> <p>Truck traffic for delivery of material products to customers; truck traffic from delivery of raw materials, and loader traffic associated with processing equipment, storage pile handling and loading delivery trucks.</p> <p>Open area stock piles of various material sizes and product types. Water spray of material products are used when necessary for material storage piles.</p>	NA

The following conditions apply to: EUPLANT

DESCRIPTION: A combination of process equipment (screens, crushers, feeders, conveyors, etc.) used to reduce larger materials down to smaller sizes, classify and sort materials into various product types, material handling and transporting of material to storage areas. Control methods include equipment water sprays.

Truck traffic for delivery of material products to customers; truck traffic from delivery of raw materials, and loader traffic associated with processing equipment, storage pile handling and loading delivery trucks.

Open-area stock piles of various material sizes and product types. Water spray of material products are used when necessary for material storage piles.

Flexible Group ID: NA

POLLUTION CONTROL EQUIPMENT: Water sprays on crushers; application of water, calcium chloride, or other approved fugitive dust control compounds on site roadways; and application of water on storage piles.

I. EMISSION LIMITS

1. Visible emissions from each concrete crusher shall not exceed 10 percent opacity. (R 336.1301, R 336.2803, R 336.2804, 40 CFR 52.21 (c) & (d), 40 CFR 60.670)

II. MATERIAL LIMITS

1. The permittee shall not process any asbestos tailing or asbestos containing waste materials in EUPROCESS pursuant to the National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61 Subpart M. (40 CFR Part 61 Subpart M)

III. PROCESS/OPERATIONAL RESTRICTIONS

1. The permittee shall not operate EUPLANT unless the nuisance minimization plan for fugitive dust for all plant roadways, the plant yard, all material storage piles, and all material handling operations specified in Appendix A has been implemented and is maintained. (R 336.1371, R 336.1372, R 336.1901, Act 451 324.5524)

IV. DESIGN/EQUIPMENT PARAMETERS

1. The permittee shall not operate any concrete crusher in EUPLANT unless the crusher's water spray system is installed, maintained and operated in a satisfactory manner as listed in Appendix A. (R 336.1901, R 336.1910, R 336.2803, R 336.2804, 40 CFR 52.21 (c) & (d))
2. Not later than 90 days after the date of issuance of this Permit to install, the permittee shall equip each truck exit from EUPLANT with rumble strips. The rumble strips shall be of sufficient length to effectively remove dirt from truck tires. (R 336.1901, R 336.1910, R 336.2803, R 336.2804, 40 CFR 52.21 (c) & (d))

V. TESTING/SAMPLING

Records shall be maintained on file for a period of five years. (R 336.1201(3))

1. Within 60 days after achieving maximum production rate, but not later than 180 days after commencement of trial operation, the permittee shall evaluate visible emissions from EUPROCESS, at owner's expense, in accordance with federal Standards of Performance for New Stationary Sources 40 CFR Part 60 Subparts A and OOO. The permittee must have prior approval from the AQD for visible emission observation procedures. Verification of visible emissions includes the submittal of a complete report of opacity observations to the AQD within 45 days following the last date of the evaluation. (R 336.1301, 40 CFR Part 60 Subparts A & OOO)

VI. MONITORING/RECORDKEEPING

Records shall be maintained on file for a period of five years. (R 336.1201(3))

NA

VII. REPORTING

NA

VIII. STACK/VENT RESTRICTIONS

NA

IX. OTHER REQUIREMENTS

1. The permittee shall comply with all provisions of the federal Standards of Performance for New Stationary Sources as specified in 40 CFR Part 60 Subparts A and OOO, as they apply to EUPROCESS. (40 CFR Part 60 Subparts A & OOO)

Footnotes:

¹This condition is state only enforceable and was established pursuant to Rule 201(1)(b).

APPENDIX A
Nuisance Minimization Plan
Fugitive Dust

I. Site Roadways / Plant Yard

- A. The dust on the site roadways and the plant yard shall be controlled by applications of water, calcium chloride or other acceptable and approved fugitive dust control compounds. Applications of dust suppressants shall be done as often as necessary to meet all applicable emission opacity limits, which generally requires the site roadways and plant yard to be kept wet when there is truck traffic.
- B. All paved roadways and the plant yard shall be swept as needed between application of dust suppressants, generally at least twice per week.
- C. Any material spillage on roads shall be cleaned up immediately.
- D. Speed of vehicles shall be posted conspicuously and limited to 5 miles per hour.
- E. Some heavy duty hauling routes may be paved with bituminous materials.

II. Truck Traffic

- A. On-site vehicles shall be loaded to prevent their contents from dropping, leaking, blowing or otherwise escaping. This shall be accomplished by loading so that no part of the load shall come in contact within 6 inches of the top of any side board, side panel or tailgate. Otherwise, the truck shall be tarped.
- B. Truckers will be notified to trim loads and clean wheels and truck bodies prior to exiting the site. Trimming of loads will be done manually. Cleaning of wheels will be accomplished with the use of rumble strips at each truck exit. The rumble strips shall be cleaned as needed to maintain their effectiveness, generally at least once per day.
- C. Speed of vehicles shall be posted conspicuously and limited to 5 miles per hour.

III. Storage Piles and Crusher Operations

- A. Stockpiling of all nonmetallic minerals shall be performed to minimize drop distance and control potential dust problems.
- B. Stockpiles shall be watered on an as needed basis in order to meet an opacity limit of 5 percent. Equipment to apply water or dust suppressant shall be available at the site or on call for use at the site within a given operating day. A record of all watering/dust suppressant applications shall be kept on file and be made available to the AQD upon request.

IV. Record Keeping

- A. The permittee shall keep a record of all applications of dust suppressants, roadway sweepings, rumble strip cleanings, and plant yard sweepings on file for the most recent five-year period and make the record available to the AQD upon request.
- B. The permittee shall keep a daily throughput log recording the amount of material processed through the crushing plant on file for the most recent five-year period and make the log available to the AQD upon request.

V. AQD/MDEQ Inspection

- A. The provisions and procedures of this plan are subject to adjustment by written notification from the AQD if, following an inspection, the AQD finds the fugitive dust requirements and/or permitted opacity limits are not being met.



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RECEIVED

AUG 05 2021

ENRA DIVISION

