

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF THE DIRECTOR

In the matter of administrative proceedings )  
against the CITY OF DETROIT WATER )  
AND SEWERAGE DEPARTMENT, )  
WASTEWATER TREATMENT PLANT )  
doing business at 9300 West Jefferson )  
Avenue, in the City of Detroit, County of )  
Wayne, State of Michigan )

AQD No. 17-2006

SRN: B2103

STIPULATION FOR ENTRY OF FINAL ORDER  
BY CONSENT

This proceeding resulted from allegations by the Michigan Department of Environmental Quality ("MDEQ") Air Quality Division ("AQD") against the City of Detroit Water and Sewerage Department, ("DWSD"), located at 9300 West Jefferson Ave. in the City of Detroit, County of Wayne, State of Michigan, with State Registration Number ("SRN") B2103. The MDEQ alleges that DWSD is in violation of the Michigan Administrative Code ("MAC"), 2002 AACRS R 336.1901("Rule 901"). Specifically, the MDEQ alleges that DWSD has emitted particulate emissions to such an extent as to cause "unreasonable interference with the comfortable enjoyment of life and property", as cited herein and in the Letter of Violation ("LOV") dated September 16,2004. DWSD and MDEQ stipulate to the termination of this proceeding by entry of a Stipulation for Entry of a Final Order by Consent ("Consent Order").

The Company and MDEQ stipulate as follows:

1. The Natural Resources and Environmental Protection Act, 1994 PA 451, ("Act 451"), MCL 324.101 et seq is an act that controls pollution to protect the environment and natural resources in the State.
2. Article II, Pollution Control, Part 55 of Act 451 ("Part 55"), MCL 324.5501 et seq provides for air pollution control regulations in this State.
3. The Michigan Department of Natural Resources ("MDNR") is authorized pursuant to Section 5503 of Part 55 to administer and enforce all provisions of Part 55. Section 301 of Part 3 provides the authority to the Director of the MDNR to delegate powers and duties.

4. The MDEQ was created as a principal department within the Executive Branch of the State of Michigan pursuant to Executive Order 1995-18. All statutory authority, powers, duties, functions and responsibilities of the MDNR AQD were transferred to the Director of the MDEQ ("Director").

5. The Director has delegated authority to the Chief of the AQD ("AQD Chief") to enter into this Consent Order.

6. The termination of this matter by a Consent Order pursuant to Section 5528 of Part 55 is proper and acceptable.

7. The Company and the MDEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the Company that the law has been violated.

8. This Consent Order becomes effective on the date of execution ("effective date of this Consent Order") by the AQD Chief.

9. The Company shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in this Consent Order.

#### COMPLIANCE PROGRAM AND IMPLEMENTATION SCHEDULE

##### 10. Final Emission Limitations

Within 30 days of the effective date of this Consent Order, DWSD shall prepare and implement a malfunction abatement plan to prevent, detect, and correct malfunctions or equipment failures relating to the incineration process at the facility resulting in emissions exceeding any applicable emission limitation. This plan shall address all emission points through which emissions from the incineration process could be emitted to the ambient air. In addition, all air-cleaning devices in use at the facility shall be installed, maintained, and operated in a satisfactory manner and in accordance with these applicable rules and regulations. This plan shall be attached to, incorporated by reference, and made enforceable under this Consent Order. Any subsequent MDEQ approved revisions to the malfunction abatement plan shall supersede the previously approved plan, and shall be attached to, incorporated by reference, and made enforceable under this Consent Order.

11. This Consent Order in no way affects the DWSD's responsibility to comply with any other applicable state and federal, or local laws or regulations, including without limitation, any amendments to the federal Clean Air Act, 42 USC 7401 *et seq.*, Act 451, Part 55 or their rules and regulations, or to the State Implementation Plan.

12. This Consent Order constitutes a civil settlement and satisfaction as to the resolution of the violations specifically addressed herein; however, it does not resolve any criminal action that may result from these same violations.

13. Within thirty (30) days after the effective date of this Consent Order, DWSD shall pay to the General Fund of the State of Michigan, in the form of a check made payable to the "State of Michigan" and delivered to the Michigan Department of Environmental Quality, Financial and Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909-8157, a settlement amount of \$7,000.00, which includes AQD costs for investigation and enforcement. This total settlement amount shall be paid within thirty (30) days of the effective date of this Consent Order. To ensure proper credit, all payments made pursuant to this Consent Order shall include the Agreement Identification No. AQD 3266 on the face of the check. This settlement amount is in addition to any fees, taxes, or other fines that may be imposed on DWSD by law.

14. On and after the effective date of this Consent Order, if DWSD fails to comply with paragraph 10 of this Consent Order, DWSD shall pay a stipulated fine of \$3,000.00 per violation. On and after the effective date of this Consent Order, if DWSD fails to comply with any other provision of this Consent Order, DWSD shall pay a stipulated fine of \$500.00 per violation. Stipulated fines submitted under this Consent Order shall be by check, payable to the State of Michigan within thirty (30) days of written demand and shall be delivered to the Michigan Department of Environmental Quality, Financial and Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909-8157. To ensure proper credit, all payments shall include the Agreement Identification No. AQD 3266 on the face of the check. Payment of stipulated fines shall not alter or modify in any way DWSD's obligation to comply with the terms and conditions of this Consent Order.

15. The AQD, at its discretion, may seek stipulated fines or statutory fines for any violation of this Consent Order which is also a violation of any provision of applicable federal and state law, rule, regulation, permit, or MDEQ administrative order. However, the AQD is precluded from seeking both a stipulated fine under this Consent Order and a statutory fine for the same violation.

16. To ensure timely payment of the settlement amount assessed in paragraph 13 and any stipulated fines assessed pursuant to paragraph 14 of this Consent Order, DWSD shall pay an interest penalty to the State of Michigan each time it fails to make a complete or timely payment under this Consent Order. The interest penalty shall be determined at a rate of twelve percent (12%) per year compounded annually, using the full increment of amount due as principal, calculated from the due date

specified in this Consent Order until the date that delinquent payment is finally paid in full. Payment of an interest penalty by DWSD shall be made to the State of Michigan in accordance with paragraph 14 of this Consent Order. Interest payments shall be applied first towards the most overdue amount or outstanding interest penalty owed by DWSD before any remaining balance is applied to subsequent payment amount or interest penalty.

17. DWSD agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 13. DWSD also agrees not to contest the legal basis for any stipulated fines assessed pursuant to paragraph 14 of this Consent Order, but reserves the right to dispute in a court of competent jurisdiction the factual basis upon which a demand by MDEQ of stipulated fines is made. In addition, DWSD agrees that said fines have not been assessed by the MDEQ pursuant to Section 5529 of Part 55 and therefore are not reviewable under Section 5529 of Part 55.

18. This compliance program is not a variance subject to the 12 month limitation specified in Section 5538 of Part 55.

19. This Consent Order shall remain in full force and effect for a period of at least five (5) years. Thereafter, the Consent Order shall terminate only upon written notice of termination issued by the AQD Chief. Prior to issuance of a written notice of termination, DWSD shall submit a request, to the AQD Chief at the Michigan Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, consisting of a written certification that DWSD has fully complied with all the requirements of this Consent Order and has made all payments including all stipulated fines required by this Consent Order. Specifically, this certification shall include: (i) the date of compliance with each provision of the compliance program and the date any payments or stipulated fines were paid; (ii) a statement that all required information has been reported to the Southeast Michigan District Supervisor; (iii) confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the facility; and, (iv) such information as may be requested by the AQD Chief.

20. In the event DWSD sells or transfers the facility, with SRN B2103, it shall advise any purchaser or transferee of the existence of this Consent Order in connection with such sale or transfer. Within thirty (30) calendar days, DWSD shall also notify the AQD Southeast Michigan District Supervisor, 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 Order has been given to the purchaser and/or transferee. The purchaser and/or transferee must agree, in writing, to assume all of the obligations of this Consent

Order. A copy of that agreement shall be forwarded to the AQD Southeast Michigan District Supervisor within thirty (30) days of assuming the obligations of this Consent Order.

21. Prior to the effective date of this Consent Order and pursuant to the requirements of Sections 5511 and 5528(3) of Part 55, the public was notified of a 30-day public comment period and was provided the opportunity for a public hearing.

22. Section 5530 of Part 55 may serve as a source of authority but not a limitation under which the Consent Order may be enforced. Further, Part 17 of Act 451 and all other applicable laws and any other legal basis or applicable statute may be used to enforce this Consent Order.

The undersigned certifies that he/she is fully authorized by the Company to enter into this Consent Order and to execute and legally bind the Company to it.

**CITY OF DETROIT WATER AND SEWERAGE DEPARTMENT,  
WASTEWATER TREATMENT PLANT**

Victor M. Mercado Director  
Print Name and Title

Vict M. Mercado Date: 5/30/06  
Signature

The above signatory subscribed and sworn to before me this 30th day of May, 2006.

Debra L. Ragland  
Notary Public

DEBRA L RAGLAND  
Notary Public - Michigan  
Wayne County  
My Commission Expires Mar 2, 2012  
Acting in the County of Wayne

Approved as to Content:

Approved as to Form:

G. Vinson Hellwig  
G. Vinson Hellwig, Chief  
AIR QUALITY DIVISION  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

Alan F. Hoffman  
Alan F. Hoffman, Section Head  
ENVIRONMENTAL REGULATION SECTION  
ENVIRONMENT, NATURAL RESOURCES,  
AND AGRICULTURE DIVISION  
DEPARTMENT OF ATTORNEY GENERAL

Dated: 6/27/06


Dated: 6/19/06

FINAL ORDER

The Chief of the Air Quality Division having had opportunity to review the Consent Order and having been delegated authority to enter into Consent Orders by the Director of the Michigan Department of Environmental Quality pursuant to the provisions of Part 55 of Act 451 and otherwise being fully advised on the premises,

HAS HEREBY ORDERED that the Consent Order is approved and shall be entered in the record of the MDEQ as a Final Order.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

  
G. Vinson Hellwig, Chief  
Air Quality Division

Dated: 6/27/06