

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF THE DIRECTOR

In the matter of administrative proceedings)
against **DETROIT THERMAL, LLC**, a)
corporation organized under the laws of the)
State of Ohio and doing business at)
541 Madison Street in the City of Detroit,)
County of Wayne, State of Michigan)
)

AQD No. 24-2016

SRN: B2814

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 Detroit Thermal, LLC (Company), an Ohio corporation doing business at 541 Madison Street in the City of Detroit, County of Wayne, State of Michigan, with State Registration Number (SRN) B2814. The MDEQ alleges that the Company is in violation of Renewable Operating Permit (ROP) MI-ROP-B2814-2014. Specifically, the MDEQ alleges that the Company exceeded the Nitrogen Oxides (NOx) emission limit from EU-BOILER6 and EU-BOILER7, and failed to report deviations and emission exceedances as required in ROP certifications, as cited herein and in a Violation Notice dated November 16, 2015 and February 23, 2016. The Company and MDEQ stipulate to the termination of this proceeding by entry of this 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 this 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 MDEQ was created as a principal department within the Executive Branch of the State of Michigan pursuant to Executive Order 2011-1 and has all statutory authority, powers, duties, functions and responsibilities to administer and enforce all provisions of Part 55.

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

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

6. 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 of any fact or that the law has been violated.

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

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

COMPLIANCE PROGRAM AND IMPLEMENTATION SCHEDULE

9.A. Permit

1. On and after the effective date of this Consent Order, the Company shall comply with the NO_x pound per million British thermal unit (lb/MMBtu) limit for FG-BOILER_6,7, in MI-ROP-B2814-2014, as amended, on an hourly basis.

2. If prior to the termination of this Consent Order the Company is issued a Permit to Install which modifies the NO_x lb/MMBtu limit for FG-BOILER_6,7, then the new limit shall replace the current limit and become enforceable by this Consent Order.

9.B. Reporting

1. On and after the effective date of this Consent Order, the Company shall submit quarterly NO_x excess emissions of reports. The reports shall contain the information referenced in Title 40 Code of Federal Regulations (CFR) 60.7(c) and (d) and in the format prescribed by Figure 1 of 40 CFR 60.7(d). The reports shall be delivered no later than 30 days following the end of each calendar quarter.

GENERAL PROVISIONS

10. This Consent Order in no way affects the Company'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.

11. 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.

12. Within thirty (30) days after the effective date of this Consent Order, the Company 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 mailed to the Michigan Department of Environmental Quality, Accounting Services Division, Cashier's Office, P.O. Box 30657, Lansing, Michigan 48909-8157, a settlement amount of \$62,000.00, which includes AQD costs for investigation and enforcement. This total settlement amount shall be paid within thirty (30) days after the effective date of this Consent Order. To ensure proper credit, all payments made pursuant to this Consent Order shall include the "Payment Identification Number AQD40135" on the front of the check and/or in the cover letter with the payment. This settlement amount is in addition to any fees, taxes, or other fines that may be imposed on the Company by law.

13. On and after the effective date of this Consent Order, if the Company fails to comply with paragraph 9.A.1 or 9.A.2 of this Consent Order, the Company is subject to a stipulated fine of up to \$200.00 per violation, up to \$2,000.00 per day. On and after the effective date of this Consent Order, if the Company fails to comply with paragraph 9.B.1 of this Consent Order, the Company is subject to a stipulated fine of up to \$2,000.00 per violation. The amount of the stipulated fines imposed pursuant to this paragraph shall be within the discretion of the MDEQ. 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 mailed to the Michigan Department of Environmental Quality, Accounting Services Division, Cashier's Office, P.O. Box 30657, Lansing, Michigan 48909-8157. To ensure proper credit, all payments shall include the "Payment Identification Number AQD40135-S" on the front of the check and/or in the

cover letter with the payment. Payment of stipulated fines shall not alter or modify in any way the Company's obligation to comply with the terms and conditions of this Consent Order.

14. 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.

15. To ensure timely payment of the settlement amount assessed in paragraph 12 and any stipulated fines assessed pursuant to paragraph 13 of this Consent Order, the Company 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 payment shall be determined at a rate of interest that is equal to one percent (1%) plus the average interest rate paid at auctions of 5-year United States treasury notes during the six months immediately preceding July 1 and January 1, as certified by the state treasurer, compounded annually, and 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 the Company shall be made to the State of Michigan in accordance with paragraph 13 of this Consent Order. Interest payments shall be applied first towards the most overdue amount or outstanding interest penalty owed by the Company before any remaining balance is applied to subsequent payment amount or interest penalty.

16. The Company agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 12. The Company also agrees not to contest the legal basis for any stipulated fines assessed pursuant to paragraph 13 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, the Company 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.

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

18. This Consent Order shall remain in full force and effect for a period of at least two (2) 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, the Company 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 the Company 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 AQD Detroit 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.

19. In the event the Company sells or transfers the facility, with SRN B2814, 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, the Company shall also notify the AQD Detroit District Office 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. As a condition of the sale, the Company must obtain the consent of the purchaser and/or transferee, in writing, to assume all of the obligations of this Consent Order. A copy of that agreement shall be forwarded to the AQD Detroit District Supervisor within thirty (30) days of assuming the obligations of this Consent Order.

20. 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.

21. 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.

22. The Company hereby stipulates that entry of this Consent Order is a result of an action by MDEQ to resolve alleged violations of its facility located at 541 Madison, Detroit, Michigan. The Company further stipulates that it will take all lawful actions necessary to fully comply with this Consent Order, even if the Company files for bankruptcy in the future. The Company will not seek discharge of the settlement amount and any stipulated fines imposed hereunder in any future bankruptcy proceedings,

and the Company will take necessary steps to ensure that the settlement amount and any future stipulated fines are not discharged. The Company, during and after any future bankruptcy proceedings, will ensure that the settlement amount and any future stipulated fines remain an obligation to be paid in full by the Company to the extent allowed by applicable bankruptcy law.

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.

DETROIT THERMAL, LLC

DAVID M BEAVENS, COO
Print Name and Title

David M Beavens Date: 6.7.16
Signature

The above signatory subscribed and sworn to before me this 7 day of June, 2016.

Krista Felder
Notary Public

Approved as to Content:

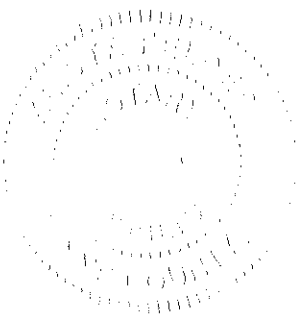
Lynn Fiedler
Lynn Fiedler, Chief
AIR QUALITY DIVISION
DEPARTMENT OF
ENVIRONMENTAL QUALITY

Approved as to Form:

Neil Gordon
Neil Gordon, Section Head
ENVIRONMENTAL REGULATION SECTION
ENVIRONMENT, NATURAL RESOURCES,
AND AGRICULTURE DIVISION
DEPARTMENT OF ATTORNEY GENERAL

Dated: 6/22/16

Dated: 6/16/2016



Notarize the signature of
DAVID M BEAVENS
only
6-7-16

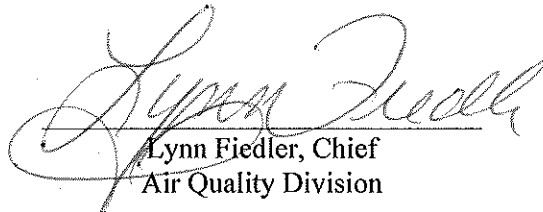
KRISTA FELDER
Notary Public, State of Michigan
County of Wayne
My Commission Expires May, 25, 2018
Acting in the County of Wayne

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


Lynn Fiedler, Chief
Air Quality Division

Effective Date: 6/22/16