

STATE OF MICHIGAN  
MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY  
OFFICE OF THE DIRECTOR

In the matter of administrative proceedings  
against **RECONSERVE OF MICHIGAN, INC.**,  
a corporation organized under the laws of the  
State of Michigan and doing business at  
170 Angell Street, in the City of Battle Creek,  
County of Calhoun, State of Michigan

AQD No. 2024-09

SRN: N8081

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STIPULATION FOR ENTRY OF FINAL ORDER  
BY CONSENT

This proceeding resulted from allegations by the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Air Quality Division (AQD) against ReConserve of Michigan, Inc. (Company), a corporation organized under the laws of the State of Michigan and doing business at 170 Angell Street, Battle Creek, County of Calhoun, State of Michigan, with State Registration Number (SRN) N8081 (Facility). EGLE alleges that the Company is in violation of Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, MCL 324.5501 *et seq.*, Mich Admin Code, R 336.1901 (Rule 901) and Permit to Install (PTI) 184-08B. Specifically, EGLE alleges that the Company failed to adequately implement the fugitive dust plan and allowed fugitive dust fallout in violation of Rule 901, as cited herein and in Violation Notices dated May 12, 2023, October 4, 2023, and December 5, 2023. The Company and EGLE 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 EGLE stipulate as follows:

1. The Natural Resources and Environmental Protection Act (NREPA) 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 the NREPA (Part 55), MCL 324.5501 *et seq.*, provides for air pollution control regulations in this State.
3. Executive Order 2019-06 renamed the Michigan Department of Environmental Quality as EGLE, and EGLE has all statutory authority, powers, duties, functions, and responsibilities to administer and enforce all provisions of Part 55.

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

5. The termination of this matter by a Consent Order pursuant to Section 5528 of Part 55, MCL 324.5528, is proper and acceptable.

6. The Company and EGLE 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.

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

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. Rules

9.A On and after the Effective Date of this Consent Order, the Company shall comply with Rule 901.

##### 10. Fugitive Dust Plan

10.A On and after the Effective Date of this Consent Order, the Company shall comply with the Fugitive Dust Plan (FDP) approved by the AQD on February 21, 2024, and any subsequent revision. The Company or AQD may request revisions to the FDP plan when appropriate based upon changes in process, as a corrective action to a cited violation, or other circumstances. Any revisions to the FDP plan while this Consent Order is effective shall be approved in writing by the AQD Kalamazoo District Supervisor.

##### 11. Submittal of Records

11.A On and after the Effective date of this Consent Order, the Company shall submit, on a monthly basis, record-keeping information utilizing the forms attached to this Consent Order as Exhibit A. This information shall be submitted to the AQD Kalamazoo District Supervisor within fifteen (15) days following the end of the calendar month in which the data was collected.

#### GENERAL PROVISIONS

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

13. 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.

14. 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 Environment, Great Lakes, and Energy, Accounting Services Division, Cashier's Office, P.O. Box 30657, Lansing, Michigan 48909-8157, a settlement amount of \$28,800.00, which includes the AQD costs for investigation and enforcement. The total sum of \$28,800.00 shall be made in twelve (12) equal monthly payments of \$2,400.00 beginning within thirty (30) days of the Effective Date of this Consent Order. The second through twelfth payment shall be due on the 1<sup>st</sup> day of each month following the first payment. To ensure proper credit, all payments made pursuant to this Consent Order shall include the "Payment Identification Number AQD40331" 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.

15. On and after the Effective Date of this Consent Order, if the Company fails to comply with paragraph 9.A of this Consent Order, the Company is subject to a stipulated fine of up to \$3,000.00 per violation. Stipulated penalties may only be assessed if an EGLE inspection confirms each violation of 9.A. On and after the Effective Date of this Consent Order, if the Company fails to comply with paragraph 10.A or 11.A of this Consent Order, the Company is subject to a stipulated fine of up to \$750.00 per violation per day. The amount of the stipulated fines imposed pursuant to this paragraph shall be within the discretion of EGLE. Stipulated fines submitted under this Consent Order shall be made by check, payable to the State of Michigan within thirty (30) days after written demand and shall be mailed to the Michigan Department of Environment, Great Lakes, and Energy, 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 AQD40331-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.

16. 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 EGLE 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.

17. If the Company fails to pay any part of the settlement amount assessed in paragraph 14 or any stipulated fines assessed pursuant to paragraph 15 under this Consent Order by the due date, the Company shall pay a late payment penalty of \$50.00 per day for each day that the settlement amount or stipulated fines are past due.

18. The Company agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 14. The Company also agrees not to contest the legal basis for any stipulated fines assessed pursuant to paragraph 15 of this Consent Order but reserves the right to dispute in a court of competent jurisdiction the factual basis upon which a demand by EGLE of stipulated fines is made. In addition, the Company agrees that said fines have not been assessed by EGLE pursuant to Section 5529 of Part 55, MCL 324.5529, and therefore are not reviewable under Section 5529 of Part 55.

19. This compliance program is not a variance subject to the 12-month limitation specified in Section 5538 of Part 55, MCL 324.5538.

20. This Consent Order shall remain in full force and effect for a period of at least two (2) years. Thereafter, this Consent Order shall terminate only upon written notice of termination issued by the AQD Director. Prior to issuance of a written notice of termination, the Company shall submit a request to the AQD Director at the Michigan Department of Environment, Great Lakes, and Energy, 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 Kalamazoo 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 Director. If after the minimum period of this

Consent Order the AQD does not receive a request to terminate, the AQD Director reserves the right to terminate this Consent Order and may independently determine that the terms and conditions of this Consent Order have been met.

21. In the event Company sells or transfers the Facility, 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 of such transaction, the Company shall also notify the AQD Kalamazoo 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.

22. Prior to the Effective Date of this Consent Order and pursuant to the requirements of Sections 5511 and 5528(3) of Part 55, MCL 324.5511 and MCL 5528(3), the public was notified of a 30-day public comment period and was provided the opportunity for a public hearing.

23. Section 5530 of Part 55, MCL 324.5530, may serve as a source of authority but not a limitation under which this Consent Order may be enforced. Further, Part 17 of the NREPA, MCL 324.1701 *et seq.*, and all other applicable laws and any other legal basis or applicable statute may be used to enforce this Consent Order.

24. The Company hereby stipulates that entry of this Consent Order is a result of an action by EGLE to resolve alleged violations at its Facility located at 170 Angell Street, Battle Creek, Michigan. The Company further stipulates that it will take all lawful actions necessary to fully comply with this Consent Order. If the Company files for bankruptcy in the future the Company shall not discharge its compliance obligations beyond what is 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.

**RECONSERVE OF MICHIGAN, INC.**

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Signature

Dated: \_\_\_\_\_

Approved as to Content:

Approved as to Form:

\_\_\_\_\_  
Annette Switzer, Director  
AIR QUALITY DIVISION  
DEPARTMENT OF ENVIRONMENT,  
GREAT LAKES, AND ENERGY

\_\_\_\_\_  
Margaret Bettenhausen, First Assistant  
AIR AND WATER SECTION  
ENVIRONMENT, NATURAL RESOURCES,  
AND AGRICULTURE DIVISION  
DEPARTMENT OF ATTORNEY GENERAL

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

FINAL ORDER

The Director of the Air Quality Division having had opportunity to review this Consent Order and having been delegated authority to enter into Consent Orders by the Director of the Michigan Department of Environment, Great Lakes, and Energy pursuant to the provisions of Part 55 of the NREPA and otherwise being fully advised on the premises,

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

MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

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Annette Switzer, Director  
Air Quality Division

Effective Date: \_\_\_\_\_

ReConserve of Michigan, Inc. (N8081)

Air Permit Record Keeping

Daily Record Keeping

Inspection Employee:

Inspection Date	Procedure	Inspection Results	Follow-Up Required	
			Yes	No
Roadways/Yard	Evaluate plant roadways to determine if there are abnormal fugitive dust emissions; identify any potential sources that could cause fugitive dust emissions (spills or materials accumulating on roadways); ensure sweeper in good condition; ensure speed limit signs legible; ensure no trackout onto Angell Street; report any trucks that are not completely enclosed.	<input type="checkbox"/> Roadways Clear (No Fugitive Dust) <input type="checkbox"/> Sweeping Required: _____ Number of Sweepings per day  <input type="checkbox"/> Other, See General Notes Below		
Raw Material Bay	Observe any opening of the raw material building and ensure fugitive dust not escaping; cleanup any spilled material that is close to a building opening.	<input type="checkbox"/> No Fugitive Dust Emissions Observed <input type="checkbox"/> Emissions Observed Explain Source of Emissions: _____ <input type="checkbox"/> Tarp raw material that was not moved into raw bay as soon as possible <input type="checkbox"/> Other, See General Notes Below		
Drying Operations RTO Cyclone	Observe any opening of the dryer building for fugitive dust; cleanup any spilled material that is close to a building opening; check that outdoor RTO and cyclone components and ductwork are in good condition (no dents; no leaking at potential openings).	<input type="checkbox"/> No Fugitive Dust Emissions Observed <input type="checkbox"/> Emissions Observed Explain Source of Emissions: _____ <input type="checkbox"/> Other, See General Notes Below		
Storage Silos -Grain #1 -Grain #2 -Ag Lime  Bin Vent Filters	Observe storage silo operations (especially during a loading event) for fugitive dust escaping; if fugitive dust observed, check filters; replace filters in stock as necessary; ensure conveying enclosures have no dents, no leaks in seams, etc.; if abnormal visible emissions are observed, list specific cause and immediate countermeasure in General Notes Below. Weekly complete 360 degree fugitive dust inspection.	<input type="checkbox"/> No Fugitive Dust Emissions Observed <input type="checkbox"/> No Fugitive Dust Emissions observed during weekly 360 degree inspection <input type="checkbox"/> Storage silos are not overfilled <input type="checkbox"/> Normal Emissions Observed Explain Source of Emissions: _____ <input type="checkbox"/> Abnormal Emissions Observed, VE Incident Form Completed <input type="checkbox"/> Filters Replaced <input type="checkbox"/> Other, See General Notes Below		
Mill Operations  RotoChopper Baghouse	Observe any opening of the milling building and ensure fugitive dust not escaping; cleanup any spilled material that is close to a building opening; ensure RotoChopper is using its baghouse; observe RotoChopper Baghouse Stack for visible emissions; if abnormal visible emissions are observed, list specific cause and immediate countermeasure in General Notes Below.	<input type="checkbox"/> No Fugitive Dust Emissions Observed <input type="checkbox"/> Normal Emissions Observed Explain Source of Emissions: _____ <input type="checkbox"/> Abnormal Emissions Observed, VE Incident Form Completed <input type="checkbox"/> Baghouse Repaired <input type="checkbox"/> Other, See General Notes Below		
Finished Feed	Observe any opening of the finished feed bay or loadout building for fugitive dust; cleanup any spilled material that is close to a building opening; verify load out building overhead doors are in working condition; check that baghouse and cyclone components and ductwork are in good condition (no dents; no leaking at potential openings); verify no visible emissions from baghouse stack or cyclone stack. Review batch scale enclosure panel installation and correct.	<input type="checkbox"/> No Fugitive Dust Emissions Observed <input type="checkbox"/> Load out building overhead doors are in working condition. <input type="checkbox"/> Batch scale enclosure panel installation correct. <input type="checkbox"/> Emissions Observed Explain Source of Emissions: _____ _____ <input type="checkbox"/> Other, See General Notes Below		
Paper Removal	Observe indoor and outdoor paper removal components; ensure fugitive dust not escaping; cleanup any spilled material that is close to a building opening or outside by the cyclone.	<input type="checkbox"/> No Fugitive Dust Emissions Observed <input type="checkbox"/> Emissions Observed Explain Source of Emissions: _____ _____ <input type="checkbox"/> Other, See General Notes Below		

General Notes:

(Remark on any special observations, equipment malfunctions, preventive maintenance work (including any repairs made), fugitive emissions, operations information, and list method of tarping raw material, etc.)

**VISIBLE EMISSIONS INCIDENT**

EU \_\_\_\_\_

This form must be completed for each day abnormal visible emissions were observed.

Date:	
Observer's Name:	
Location of Observed Emissions:	
Color of the Emissions:	
Are the Emissions Representative of Normal Operations or are they Abnormal?	
Total Duration of Any Visible Emission Incident: <i>(Observer does not have to document exact start and end times or continue the daily check until it ends; observer may indicate if emissions were continuous during observation period or intermittent; if observer knows exact start and end times, use this information first)</i>	
Suspected Cause of Abnormal Visible Emissions:	
Any Corrective Actions Taken to Minimize/Eliminate Abnormal Visible Emissions, Include Date Corrected:	