

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

In the matter of administrative proceedings  
against: **DEPARTMENT OF  
TECHNOLOGY, MANAGEMENT &  
BUDGET**, a department organized under  
the laws of the State of Michigan and doing  
business at 3111 West St. Joseph Street,  
City of Lansing, County of Ingham, State of  
Michigan

AQD No. 2021-19

SRN/ID: U482004292

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STIPULATION FOR ENTRY OF FINAL ORDER  
BY CONSENT

This proceeding resulted from allegations by the Department of Environment, Great Lakes, and Energy (EGLE), Air Quality Division (AQD) against Department of Technology, Management & Budget (DTMB), which contracted to have asbestos abatement and demolition services performed at the former Newberry State Hospital, on behalf of the Michigan Department of Corrections (MDOC), owner of the former Newberry State Hospital. EGLE alleges that DTMB has violated the National Emission Standards for Hazardous Air Pollutants for asbestos, Title 40 Code of Federal Regulations (CFR), Part 61, Subpart M (Asbestos NESHAP) and Mich Admin Code, R 336.1942 (Rule 942). The alleged violations occurred during asbestos abatement and demolition at 13747 County Road 428, Newberry, Michigan. Specifically, EGLE alleges that DTMB's contractors, and/or its subcontractors, failed to: thoroughly inspect for asbestos prior to demolition, estimate the amount of regulated asbestos-containing material (RACM), remove RACM, adequately wet RACM, deposit asbestos-containing material as soon as practical, use required signage during loading, and update the asbestos notification, as specified in two Violation Notices dated June 8, 2021. The unregistered facility numbers listed on the Violation Notices are: U482004292, U482100455, U482004285, U482003378, U482004132, U482004291, and U482003378. DTMB and EGLE stipulate to the termination of this proceeding by entry of this Consent Order.

DTMB 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. Section 112 of the CAA, provides authority for the Administrator of the United States Environmental Protection Agency (USEPA) to establish emission standards for hazardous air pollutants.

6. The USEPA has promulgated the Asbestos NESHAP, which is set forth in 40 CFR, Part 61, Subpart M, Sections 61.140 through 61.156.

7. The USEPA has delegated authority for administration and enforcement of NESHAP asbestos regulations to EGLE-AQD. This authority was granted in an April 11, 1988, letter from Valduis Adamkus (USEPA Regional Administrator) to Robert Miller (AQD).

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

9. DTMB and EGLE agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by DTMB that the law has been violated.

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

11. DTMB shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in this Consent Order.

#### COMPLIANCE PROGRAM

12. On and after the effective date of this Consent Order, DTMB shall fully comply with the Asbestos NESHAP, which is incorporated by reference and made an enforceable part of this Consent Order.

GENERAL PROVISIONS

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. Within thirty (30) days after the effective date of this Consent Order, DTMB 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 \$5,000.00, which includes the AQD costs for investigation and enforcement. To ensure proper credit, all payments made pursuant to this Consent Order shall include the "Payment Identification Number AQD40273" 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 DTMB by law.

15. On and after the effective date and until the termination of this Consent Order, if DTMB fails to comply with paragraph 12 of this Consent Order, DTMB is subject to stipulated fines 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 EGLE. Stipulated fines submitted under this Consent Order shall be made by check, payable to the "State of Michigan" within thirty (30) days of 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 AQD40273-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 DTMB'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 DTMB 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, DTMB 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. DTMB agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 14. DTMB 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, DTMB agrees that said fines have not been assessed by EGLE pursuant to Section 5529 of Part 55 and therefore are not reviewable under Section 5529 of Part 55.

19. This Consent Order shall remain in full force and effect for a period of at least 2 years. Thereafter, this Consent Order may be terminated only upon the issuance of a written notice of termination issued by the AQD Director. Prior to issuance of a written notice of termination, DTMB 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 DTMB 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; (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.

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 Part 55 may serve as a source of authority but not a limitation under which this 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 DTMB to enter into this Consent Order and to execute and legally bind DTMB to it.

DEPARTMENT OF TECHNOLOGY, MANAGEMENT & BUDGET

MICHELE LANGE      ACTING DIRECTOR

Print Name and Title

Michele Lange  
Signature

12/09/2021  
Date

The above signatory subscribed and sworn to before me this 9<sup>th</sup> day of December, 2021

Tonya E. Gonzalez  
Notary Public, State of Michigan  
Ingham County  
My Commission Expires 09/13/2027  
Acting in the County of Ingham

Tonya E. Gonzalez  
Notary Public Signature

Tonya E. Gonzalez  
Notary Public Printed Name

My Commission Expires: 9/13/27

Approved as to Content:

Approved as to Form:

Mary Ann Dolehanty  
Mary Ann Dolehanty, Director  
AIR QUALITY DIVISION  
DEPARTMENT OF  
ENVIRONMENT, GREAT LAKES,  
AND ENERGY

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

Dated: January 6, 2022

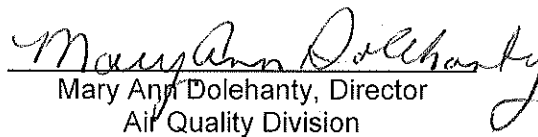
Dated: January 4, 2022

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 Act 451 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

  
Mary Ann Dolehanty, Director  
Air Quality Division

Effective Date: 1/6/22