

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

In the matter of administrative proceedings
against: **MR. TYLER ROYCE**, an individual
doing business at 115 and 117 South
Kalamazoo Street in the City of White
Pigeon, County of St. Joseph, State of
Michigan

AQD No. 2021-17

SRN/ID: U752102615

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 Mr. Tyler Royce (Royce), an individual doing business at 115 and 117 South Kalamazoo Street, White Pigeon, Michigan. EGLE alleges that Royce 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 the asbestos demolition at 115 and 117 South Kalamazoo Street, White Pigeon, Michigan. Specifically, EGLE alleges that Royce failed to provide notification prior to demolition and thoroughly inspect for asbestos prior to demolition, as specified in a Violation Notice dated June 1, 2021. Royce and EGLE stipulate to the termination of this proceeding by entry of this Consent Order.

Royce 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 Valdus 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. Royce and EGLE agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by Royce 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. Royce 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, Royce 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, Royce 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 \$1,500.00 which includes the 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 "Payment Identification Number AQD40270" 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 Royce by law.

15. On and after the effective date of this Consent Order, if Royce fails to comply with paragraph 12 of this Consent Order, Royce is subject to stipulated fines of up to \$7,500.00 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 AQD40270-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 Royce'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 Royce 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, Royce 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. Royce agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 14. Royce 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, Royce 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, Royce 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 Royce 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.

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 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.

22. Royce hereby stipulates that entry of this Consent Order is a result of an action by EGLE to resolve alleged violations at 115 and 117 South Kalamazoo Street, White Pigeon, Michigan. Royce further stipulates that it will take all lawful actions necessary to fully comply with this Consent Order, even if Royce files for bankruptcy in the future. Royce will not seek discharge of the settlement amount and any stipulated fines imposed hereunder in any future bankruptcy proceedings, and Royce will take necessary steps to ensure that the settlement amount and any future stipulated fines are not discharged. Royce, 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 Royce to the extent allowed by applicable bankruptcy law.

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

MR. TYLER ROYCE

Mr Tyler Royce Property owner
Print Name and Title

[Signature]
Signature

10/7/21
Date

The above signatory subscribed and sworn to before me this 7 day of October, 2021.

Jean Ann Tefft
NOTARY PUBLIC - STATE OF MICHIGAN
County of St. Joseph
My Commission Expires 10/3/2024
Acting in the County of St. Joseph

Jean Ann Tefft
Notary Public Signature
Jean Ann Tefft
Notary Public Printed Name

My Commission Expires: 10/03/2024

Approved as to Content:

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

Dated: 10/25/21

Approved as to Form:

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

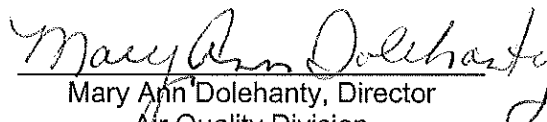
Dated: 10/19/2021

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: 10/25/21