

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND
ENERGY,

Plaintiff,

No. 2024-720-CE

HON. WANDA M. STOKES

v

SJ DESIGN & CONSTRUCTION, LLC,

Defendant.

Jennifer Matuja (P58226)
Assistant Attorney General
Attorney for Plaintiff
Environment, Natural Resources, and
Agriculture Division
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CONSENT JUDGMENT

The Plaintiff in this case is the Michigan Department of Environment, Great Lakes, and Energy (EGLE). The Defendant is SJ Design & Construction, LLC (Defendant), a Michigan limited liability company that was dissolved on June 6, 2023.

In the Complaint, EGLE alleges that Defendant has violated Part 55, Air Pollution Control, of Michigan's Natural Resources and Environmental Protection

Act (NREPA), MCL 324.5501 *et seq.*, and the administrative rules promulgated pursuant to Part 55 of the NREPA.

EGLE and Defendant (the Parties) agree that settling this action is in the public interest. The Parties consent to entry of this Consent Judgment (Judgment), without further litigation, as the most appropriate means of resolving the allegations in the Complaint. As evidenced by the signatures below, the Parties agree to, and shall be bound by, the terms and conditions of this Judgment.

NOW THEREFORE, before taking any testimony and without trial of any issue of fact or law, and upon consent of the Parties, it is hereby ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION AND VENUE

1.1 This Court has jurisdiction over the subject matter of this action pursuant to Sections 5530 of the Michigan Natural Resources and Environmental Protection Act (NREPA), MCL 324.5530, and Section 605 of the Revised Judicature Act (RJA), MCL 600.605. This Court has personal jurisdiction over Defendant pursuant to Section 711 of the RJA, MCL 600.711.

1.2 Venue in this Court is proper pursuant to Section 5530(5) of the NREPA, MCL 324.5530(5).

1.3 The Court has determined that the terms and conditions of this Judgment are reasonable, adequately resolve the environmental issues raised herein, and properly protect the interests of the people of the State of Michigan.

II. APPLICATION

2.1 The provisions of this Judgment shall be binding on the Parties to this action, their officers, agents, employees, successors, and assigns. No change or changes in the ownership or corporate status or other legal status of Defendant, including, but not limited to, any transfer of assets or of real or personal property, shall in any way alter Defendant's responsibilities under this Judgment.

2.2 The signatories to this Judgment certify that they are authorized to execute this Judgment and to legally bind the Parties they represent.

III. STATEMENT OF PURPOSE

3.1 In entering this Judgment, the Parties' mutual intent is to settle the violations alleged in the complaint in a manner and under terms satisfactory to the Parties. The Parties also intend to resolve the Default Judgment entered in Case No. 20-627-CE.

IV. DEFINITIONS

4.1 Whenever the terms set forth below are used in this Judgment, including attached exhibits, the following definitions shall apply:

- a. "Defendant" means SJ Design and its agent, Salem Jiddou.
- b. "Effective Date" means the date of entry of this Judgment by the Court as recorded on the Court docket or, if the Court instead issues an order approving this Judgment, the date such order is recorded on the Court docket, whichever occurs first.

- c. "EGLE" means the Michigan Department of Environment, Great Lakes, and Energy.
- d. "Judgment" means this Consent Judgment.
- e. "Paragraph" means a portion of this Judgment identified by an Arabic number.
- f. "NREPA" means the Natural Resources and Environmental Protection Act, MCL 324.5501 *et seq.*
- g. "Parties" means the Michigan Department of Environment, Great Lakes, and Energy and SJ Design & Construction, LLC, through its agent Salem Jiddou.
- h. "Section" means a portion of this Judgment identified by a Roman numeral.

V. COMPLIANCE REQUIREMENTS

5.1 Defendant shall comply with all terms and conditions included in this Judgment.

5.2 Plaintiff and Defendant agree to file the Stipulated Order for Resolution of the Default Judgment, attached as Exhibit A, upon receiving a case number in this case. As outlined in the Stipulated Order, in addition to the instant case, compliance with all terms and conditions in this Judgment shall also satisfy the Default Judgment issued against Defendant in Case No. 20-627-CE.

5.3 Defendant shall not violate the National Emission Standards for Hazardous Air Pollutants for Asbestos 40 CFR Part 61, Subpart M, 61.140 *et seq.*

(Asbestos NESHAP), and Rule 942 of Michigan's Air Pollution Control Rules, Mich Admin Code, R 336.1942, which adopts by reference the Asbestos NESHAP, and shall not engage in demolition of buildings without first surveying the buildings for the presence of asbestos and notifying EGLE of the demolition.

5.4 In the event that Defendant violates the Asbestos NESHAP or Rule 942, Defendant agrees that such violation subjects it to contempt sanctions entered by the Court.

VI. DISPUTE RESOLUTION

6.1 The dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under this Judgment and shall apply to all provisions of this Judgment.

6.2 Informal Dispute Resolution. Any dispute that arises under this Judgment shall in the first instance be the subject of informal negotiations between the Parties. The dispute shall be considered to have arisen when a Party sends a written Notice of Dispute describing the matter in dispute. The period of informal negotiations shall not exceed thirty (30) days from the date the dispute arises, but it may be extended by written agreement of the Parties. If the Parties cannot resolve a dispute by informal negotiations, then EGLE shall provide a written statement of its position regarding the dispute to Defendant within thirty (30) days following the period of informal negotiations. EGLE's position shall be considered binding unless, within thirty (30) days after EGLE provides the written statement of its position,

Defendant invokes the formal dispute resolution procedures set forth in Paragraph 6.3, below.

6.3 Formal Dispute Resolution. Defendant shall invoke formal dispute procedures, within the time period provided in Paragraph 6.2, above, by serving on EGLE a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Defendant's position and any supporting documentation relied upon by Defendant.

6.4 EGLE shall serve its Statement of Position within forty-five (45) days after receiving Defendant's Statement of Position. EGLE's Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting EGLE's position, and any supporting documentation relied upon by EGLE. EGLE's Statement of Position shall be binding on Defendant unless Defendant files a motion for judicial review of the dispute in accordance with paragraph 6.5, below.

6.5 Defendant may seek judicial review of the dispute by filing with the Court and serving on EGLE, a motion requesting judicial resolution of the dispute. The motion must be filed within thirty (30) days after receipt of EGLE's Statement of Position pursuant to the preceding paragraph. The motion shall contain a written statement of Defendant's position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the

relief requested, and any schedule within which the dispute must be resolved to insure orderly implementation of this Judgment.

6.6 EGLE shall respond to Defendant's motion within the time period allowed by the Michigan Court Rules.

6.7 Standard of Review. In any dispute regarding this Consent Judgment for which Defendant seeks judicial review pursuant to Paragraph 6.5, the provisions, clauses, terms, and conditions contained in this Judgment shall be reviewed according to applicable principles of law and the Rules of Construction.

6.8 The invocation of dispute resolution procedures under this Section VI (Dispute Resolution) shall not of itself extend or postpone any obligation of Defendant under this Judgment, unless and until final resolution of the dispute so provides. Notwithstanding the invocation of the dispute resolution procedures, stipulated penalties, with any applicable interest, shall accrue from the first day of any failure or refusal to comply with any term or condition of this Judgment, but payment shall be stayed pending resolution of the dispute. In the event, and to the extent that Defendant does not prevail on the disputed issue, stipulated penalties and any applicable interest shall be paid within thirty (30) calendar days in the manner provided for in Paragraph 8.3 of this Judgment. Defendant shall not be assessed stipulated penalties or interest of any kind for disputes resolved in its favor.

VII. CIVIL FINE

7.1 Defendant shall pay a total of \$15,000.00 to EGLE. One installment of \$7,500.00 is due within 30 days after entry by the Court. The remaining installment of \$7,500.00 is due on or before January 31, 2025.

7.2 If Defendant fails to pay either installment by the dates specified, then EGLE may seek stipulated penalties in addition to the fine.

7.3 Payment shall be made in the form of a certified check or cashier's check and made payable to the "State of Michigan." Payment shall be sent to:

Michigan Department of Environment, Great Lakes, and Energy
Accounting Services Division, Cashier's Office
P.O. Box 30657
Lansing, MI 48909-8157

To ensure proper credit, the check shall reference *Michigan Department of Environment, Great Lakes, and Energy v SJ Design & Construction, LLC*, and Payment Identification Number AQD-40328.

7.4 If any portion of the civil fine due to EGLE is not paid when due, then Defendant shall pay interest in the amount past due, accruing from the due date through the date of payment, at the rate specified in MCL 600.6013(8), in addition to stipulated penalties.

VIII. STIPULATED PENALTIES

8.1 On and after the Effective Date of this Consent Judgment, Defendant expressly agrees to pay to EGLE a stipulated penalty of \$1,000.00 per day for failure to pay either of the installments by the dates specified in this Consent Judgment.

8.2 If Defendant participates in any way with demolition of property in violation of the terms of this Consent Judgment, the Asbestos NESHAP, or Rule 942, Defendant agrees to pay a stipulated penalty to EGLE of \$10,000.00 per violation. This stipulated penalty is in addition to any contempt finding the Court may make and sanctions the Court may enter as a result of Defendant's actions.

8.3 Defendant shall pay all accrued stipulated penalties within thirty (30) days after written demand by EGLE. Payment shall be made in the form of a certified check or cashier's check and made payable to the "State of Michigan."

Payment shall be sent to:

Michigan Department of Environment, Great Lakes, and Energy
Accounting Services Division, Cashier's Office
P.O. Box 30657
Lansing, MI 48909-8157

To ensure proper credit, the check shall reference *Michigan Department of Environment, Great Lakes, and Energy v SJ Design & Construction, LLC*, and Payment Identification Number AQD-40328.

8.4 Payment of stipulated penalties shall not alter or modify in any way Defendant's obligation to comply with the terms and conditions of this Judgment.

8.5 The provisions of this Section shall not bar EGLE from seeking any additional remedies or sanctions available to it for any violation of this Judgment or any other provision of applicable law.

8.6 EGLE, at its discretion, may seek stipulated penalties or statutory civil fines for any violation of this Judgment that is also a violation of any provision of applicable federal or state law, rule, regulation, permit, or EGLE Administrative

Order. However, EGLE is precluded from seeking both a stipulated penalty under this Judgment and a statutory civil fine for the same violation.

8.7 To ensure timely payment of any stipulated penalties assessed pursuant to this Judgment, Defendant shall pay an interest penalty to the State of Michigan each time it fails to make a complete or timely payment under this Judgment. The interest payment shall be determined pursuant to MCL 600.6013(8) using the full increment of amount due as principal, calculated from the due date specified in this Judgment until the date that delinquent payment is finally paid in full. Interest payments shall be applied first toward the most overdue amount or outstanding interest penalty owed by Defendant before any remaining balance is applied to subsequent payment amount or interest penalty.

8.8 By no later than thirty (30) days after receipt of a written demand for stipulated penalties, Defendant may dispute liability for any or all stipulated penalties demanded by invoking the dispute resolution procedures of Section VI (Dispute Resolution).

IX. GENERAL PROVISIONS

9.1 Third Parties. This Judgment does not limit or affect the rights of Defendant or EGLE against any third parties.

9.2 Severability. Should any provision of this Judgment be declared by a court of competent jurisdiction to be inconsistent with state or federal law and, therefore, unenforceable, the remaining provisions shall remain in full force and effect.

9.3 Modification. Any party to this Judgment may petition the Court for modification of this Judgment prior to the expiration of the effective period. Any modification must be in writing and approved by the Court. No party may petition the Court for a modification of this Judgment without first having made a good faith effort to reach an agreement with the other party on the terms of any such modification.

9.4 Other Laws. This Judgment in no way affects Defendant's responsibility to comply with any other applicable state, federal, or local laws or regulations, or with any order of this or any other Court.

9.5 Settlement. This Judgment is in full settlement and satisfaction of all matters alleged in the Complaint.

X. TERMINATION

10.1 This Judgment shall terminate five (5) years after the Effective Date provided that Defendant submits to EGLE a written request to terminate the Judgment and proof that it has complied with the conditions of this Judgment. This written request shall include a summary of the activities performed to comply with the provisions of the Judgment, certify that the civil fine and any stipulated penalties owed to EGLE under Section VII (Civil Fine) and Section VIII (Stipulated Penalties) of this Judgment have been paid in full, and that Defendant is in full compliance with all other provisions of the Judgment. Thereafter, provided full compliance with the provisions of this Judgment has been achieved, EGLE shall file with the clerk a Satisfaction of Judgment pursuant to MCR 2.620(1).

XI. RETENTION OF JURISDICTION

11.1 Prior to the termination of this Judgment under Section X, this Court shall retain jurisdiction over this action to modify or enforce the terms of this Judgment, to assess stipulated fines, or to take any action necessary or appropriate for construction or implementation of this Consent Judgment.

XII. SIGNATORIES

12.1 The signatories to this Judgment certify that they are authorized to execute this Judgment and to legally bind the Parties they represent to the requirements of this Judgment.

IT IS SO ORDERED THIS 14th DAY OF November, 2024.

This judgment is FINAL and closes the case.

WANDA M. STOKES

Honorable Wanda M. Stokes
Circuit Court Judge

STIPULATION

The parties hereby stipulate to entry of this Judgment.

FOR PLAINTIFF:

Michigan Department of Environment, Great Lakes, and Energy

By: Phillip D. Roos
Phil Roos, Director
Michigan Department of Environment,
Great Lakes, and Energy

Dated: 10/30/2024

By: /s/ Jennifer Matuja
Jennifer Matuja (P58226)
Assistant Attorney General
Attorney for Plaintiff

Dated: 10/29/24

FOR DEFENDANT:

By: Klint Kesto
Klint Kesto (P69711)
Attorney for Defendant

Dated: 10-28-24

By: Salem Jiddou
SJ Design and Construction, LLC
Salem Jiddou (Owner/Agent)
Defendant

Dated: 10/28/2024

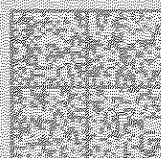
LF: SJ Design & Construction (EGLE)/AG# 2023-0379902-B/Consent Judgment 2024-10-15



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