

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
WASTE AND HAZARDOUS MATERIALS DIVISION

In the matter of administrative proceedings  
against Michigan Disposal, Inc.,  
d.b.a. Michigan Disposal Waste Treatment Plant,  
a corporation organized under the laws of  
the State of Michigan and doing business at  
49350 North I-94 Service Drive,  
City of Belleville, County of Wayne,  
State of Michigan

Site ID No. MID 000 724 831

WHMD Fast Track Order No. 111-02-09

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CONSENT ORDER

This proceeding results from allegations specified in a Letter of Warning ("LOW") issued on August 8, 2008, and in a Violation Notice ("VN") issued on November 14, 2008, by staff of the Department of Environmental Quality ("DEQ"), Waste and Hazardous Materials Division ("WHMD"). The DEQ alleges that Michigan Disposal, Inc., d.b.a. Michigan Disposal Waste Treatment Plant (the "Respondent"), a Michigan corporation, doing business at 49350 North I-94 Service Drive, Belleville, Michigan, is in violation of Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, Michigan Compiled Laws ("MCL") 324.11101 *et seq.* ("NREPA"); the corresponding provisions under Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended; and the administrative rules promulgated under these statutes. The Respondent and the DEQ agree to resolve the alleged violations set forth in the LOW by entry of this Consent Order.

I. STIPULATIONS

The Respondent and the DEQ stipulate as follows:

- 1.1 Pursuant to its authority under Part 111 and MCL 324.105, the DEQ has promulgated administrative rules pertinent to the identification, generation, treatment, storage,

disposal, and transportation of hazardous wastes in Michigan. These rules are set forth in the 2008 *Michigan Register* 5, R 299.9101 *et seq.*

- 1.3 On October 30, 1986, the State of Michigan was granted final authorization by the Administrator of the United States Environmental Protection Agency ("U.S. EPA"), pursuant to Section 3006(b) of the federal Resource Conservation and Recovery Act of 1976 ("RCRA"), Title 42 of the United States Code ("U.S.C."), Section 6926(b), to administer a hazardous waste program in Michigan in lieu of the federal program, Title 40 of the Code of Federal Regulations ("CFR"), Part 272, Subpart X, 51 *Federal Register* 36804 (October 16, 1986). This authorization is periodically updated to maintain authorization. Section 3008 of the RCRA, 42 U.S.C., Section 6928, provides that the U.S. EPA may enforce state regulations in those states authorized to administer a hazardous waste program.
- 1.4 The Respondent is a person as defined by MCL 324.301(h) and R 299.9106(i). The Respondent owns and operates a facility at 49350 North I-94 Service Drive, Belleville, Michigan, that generates, treats, and stores hazardous waste and liquid industrial waste (the "Facility"). The Respondent is a Michigan corporation.
- 1.5 On November 19, 1980, an initial notification of hazardous waste activity for the Facility was filed with the U.S. EPA pursuant to Section 3010 of the RCRA. On March 30, 1990, September 30, 1999, and October 31, 2007, the DEQ issued hazardous waste management facility operating licenses to the Respondent ("Operating License"). The Respondent's Site ID No. is MID 000 724 831.
- 1.6 The Director of the DEQ is authorized by MCL 324.11151(1) to issue orders to comply. Accordingly, the Director has authority to issue and enter into this Consent Order to comply by consent with the Respondent.
- 1.7 The Respondent stipulates to the issuance and entry of this Consent Order and that entry of the Consent Order is proper and acceptable. This Consent Order shall be considered a final order of the DEQ and shall become effective on the date it is signed by the Chief of the WHMD, delegee of the Director, pursuant to MCL 324.301(b).

- 1.8 The Respondent agrees to fully and strictly comply with all provisions of Part 111, the administrative rules promulgated pursuant to Part 111, and all other applicable state and federal statutes.
- 1.9 The Respondent and the DEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the Respondent of the allegations contained in the LOW or VN or that the law has been violated.

## II. DEQ APPROVAL OF SUBMITTALS

- 2.1 The Respondent shall ensure that any work plan, proposal, or other document ("Work Plan") required to be submitted by this Consent Order will be complete and technically adequate such that the Work Plan meets any applicable statutory and regulatory requirements and the specific terms of this Consent Order when initially submitted. For any Work Plan that is required to be submitted by the Respondent to the DEQ by this Consent Order, the following process and terms of approval shall apply. The DEQ may approve, disapprove, or approve with specified modifications, any required Work Plan. Upon DEQ approval, or approval with modifications, of a Work Plan, such Work Plan shall become a part of this Consent Order and shall be enforceable in accordance with the provisions of this Consent Order. In the event that the DEQ approves a Work Plan with modifications, the DEQ shall state each specific modification and the basis for each modification, in writing. In the event that the DEQ disapproves a Work Plan, the DEQ shall notify the Respondent of the specific reasons for the disapproval, in writing. Within ten (10) business days of receipt of the DEQ's disapproval letter, the Respondent shall amend and submit a revised Work Plan that addresses the reasons for the DEQ's disapproval unless the notice of disapproval specifies a longer period. Failure by the Respondent to submit an approvable Work Plan within the ten (10) business day schedule shall subject the Respondent to the enforcement provisions of this Consent Order including, but not limited to, the imposition of additional civil penalties. Any delays caused by the Respondent's failure to submit an approvable Work Plan shall in no way affect the Respondent's responsibility to comply with any deadlines specified in this Consent Order.

### III. COMPLIANCE PROGRAM

- 3.1 The Respondent shall achieve and maintain compliance with the requirements specified below in accordance with the following schedule.

#### Hazardous Waste Management Facility Preparedness and Prevention

- 3.2 On and after the effective date of this Consent Order, the Respondent shall ensure the facility is maintained and operated in a manner that minimizes the possibility of fire, explosion, or release of hazardous waste or hazardous waste constituents, as required by Condition II.E of the Operating License, R 299.9606(1), and 40 CFR, Part 264, Subpart C.

#### Hazardous Waste Management Facility Operating License Modification

- 3.3 On and after the effective date of this Consent Order, the Respondent shall request a modification to their Operating License pursuant to and prior to projected changes to the name of the Licensee, as required by Condition I.D.1 of the Operating License, R 299.9519, and 40 CFR, Part 270, Subpart D.

### IV. REPORTING

- 4.1 The Respondent shall submit all items required in Section III to Mr. Lawrence AuBuchon, Southeast Michigan District Supervisor, WHMD, DEQ, 27700 Donald Court, Warren, Michigan 48092-2793. The cover letter with each submittal shall identify the specific paragraph and requirement of this Consent Order that the submittal is intended to satisfy.

### V. RETENTION OF RECORDS

- 5.1 Upon request by an authorized representative of the DEQ, the Respondent shall make available to the DEQ all records, plans, logs, and other documents required to be maintained under this Consent Order or pursuant to Part 111, or the Part 111 administrative rules. All such documents shall be retained at the Facility for at least a

period of three (3) years from the date of generation of the record, unless a longer period of record retention is required by Part 111, Part 121, the RCRA, or their rules.

#### VI. RIGHT OF ENTRY

- 6.1 The Respondent shall allow any authorized representative or contractor of the DEQ, upon presentation of proper credentials, to enter upon the premises of the Facility at all reasonable times for the purpose of monitoring compliance with the provisions of this Consent Order. This paragraph in no way limits the authority of the DEQ to conduct tests and inspections pursuant to the NREPA, its rules, or any other applicable statutory provision.

#### VII. FINES AND PENALTIES

- 7.1 No later than thirty (30) days after entry of this Consent Order, the Respondent shall pay the sum of **\$10,400** to the General Fund of the State of Michigan, by check made payable to the "State of Michigan" and delivered to the DEQ, Revenue Control Unit, P.O. Box 30657, Lansing, Michigan 48909-8157, or hand delivered to the DEQ, Revenue Control Unit, 5<sup>th</sup> Floor, South Tower, 525 West Allegan Street, Lansing, Michigan 48933, in settlement of the DEQ's claim for a civil fine arising from the violations alleged in the above-referenced LOW and VN. To ensure proper credit, all payments made pursuant to this Consent Order must include Payment Identification Number WHM 1083.
- 7.2 To ensure timely payment of the civil fine set forth in Paragraph 7.1, above, the Respondent shall pay an interest penalty to the State of Michigan each time it fails to make a complete or timely payment. This interest penalty shall be based on the rate set forth at MCL 600.6013(6), using the full increment of amount due as principal, and calculated from the due date for the payment until the delinquent payment is finally made in full. Payment of an interest penalty by the Respondent shall be made to the "State of Michigan" in accordance with Paragraph 7.1, above.
- 7.3 The Respondent agrees not to contest the legality of the civil fine or any interest paid pursuant to Paragraphs 7.1 and 7.2, above.

## VIII. GENERAL PROVISIONS

- 8.1 With respect to any violations not specifically addressed and resolved by this Consent Order, the DEQ reserves the right to pursue any other remedies to which it is entitled for any failure on the part of the Respondent to comply with the requirements of the NREPA and its rules.
- 8.2 Notwithstanding any other provision of this Consent Order, an enforcement action may be brought by the DEQ pursuant to Part 111 or other statutory authority where the generation, storage, transportation, treatment, or disposal of hazardous waste at the Respondent's Facility may present an imminent and substantial hazard to the health of persons or to the natural resources or is endangering or causing damage to public health or the environment.
- 8.3 The DEQ and the Respondent consent to enforcement of this Consent Order in the same manner and by the same procedures for all final orders entered pursuant to Part 111, MCL 324.11101 *et seq.*
- 8.4 This Consent Order in no way affects the Respondent's responsibility to comply with any other applicable local, state, or federal laws or regulations including, without limitation, any corrective action or similar requirements applicable to the Respondent's Facility pursuant to Part 111, the RCRA, and their rules.
- 8.5 Nothing in this Consent Order is or shall be considered to affect any liability the Respondent may have for natural resource damages caused by the Respondent's ownership and/or operation of the Facility. The State of Michigan does not waive any rights to bring an appropriate action to recover such damages to the natural resources.
- 8.6 The provisions of this Consent Order shall apply to and be binding upon the Respondent, the DEQ, and their successors and assigns. The Respondent shall give notice of this Consent Order to any prospective successor in interest prior to transfer of ownership and shall notify the DEQ of such proposed sale or transfer.

## IX. TERMINATION

9.1 This Consent Order shall remain in full force and effect until expressly terminated by a written Notice of Termination issued by the Chief of the WHMD. The Respondent may request that the Chief of the WHMD issue a written Notice of Termination at any time after achieving compliance with this Consent Order. Such a request shall consist of a written certification that the Respondent has fully complied with all of the requirements of this Consent Order and payment of any fines and penalties required in this Consent Order. Specifically, this certification shall include:

9.1.1 the date of compliance with each provision of the Compliance Program in Section III and the date that any fines or penalties were paid;

9.1.2 a statement that all required information has been reported to the District Supervisor; and

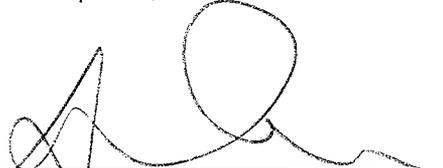
9.1.3 confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the Facility.

Additional relevant information may also be requested by the Chief of the WHMD.

SIGNATORIES

The undersigned CERTIFY they are fully authorized by the party they represent to enter into this Consent Order to comply by consent and to EXECUTE and LEGALLY BIND that party to it.

Michigan Disposal, Inc.

By:   
Scott Maris  
Vice President

Date: 6/5/09

Department of Environmental Quality

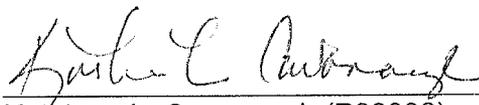
Steven E. Chester  
Director

By:   
George W. Bruchmann, Chief  
Waste and Hazardous Materials Division

Date: 6/26/09

APPROVED AS TO FORM:

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Date: 6-25-09