

**STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND AND WATER MANAGEMENT DIVISION**

**Cecil Bradshaw
1150 S. Harbor Drive
Grand Haven, MI 49417**

**LWM 1119
File Number: 06-53-0017-V**

CONSENT AGREEMENT

This Consent Agreement (Agreement) is entered into by and between Cecil Bradshaw and the Land and Water Management Division (LWMD), Michigan Department of Environmental Quality (Department) and shall become effective on the date this Agreement is signed by Cecil Bradshaw and the LWMD (Effective Date). All times for performance of activities under this Agreement shall be calculated from the Effective Date.

RECITALS

By correspondence dated December 20, 2006, the LWMD issued a Notice of Violation (Notice) pursuant to Part 303, Wetlands Protection, and the Floodplain Provisions of Part 31, Water Resources Protection of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended to Cecil Bradshaw. The LWMD alleged within the Notice that Cecil Bradshaw placed fill for the construction of a pathway (Alleged Unauthorized Activities) on property known as 2125 E. Tremyl Road, Freesoil, Michigan and located within T20N, R16W, Section 21, Mason County, Michigan (Property);

The LWMD requested within the Notice (06-53-0017-V) that all Alleged Unauthorized Activities on the Property cease and desist and that the area affected by the Alleged Unauthorized Activities be restored;

Cecil Bradshaw owned or had control of the Property and performed the Alleged Unauthorized Activities without a permit under Part 303 or Part 31,

Cecil Bradshaw and the LWMD acknowledge that prior to construction and development activities occurring on the Property, which included the placement of fill material, there existed approximately 2.0 acres of wetlands regulated (Regulated Wetland) by the State of Michigan under Part 303;

The LWMD and Cecil Bradshaw desire to resolve this dispute without the necessity of additional administrative and/or judicial proceedings; and

This Agreement identifies the necessary actions to be taken by Cecil Bradshaw and the LWMD, and imposes certain conditions upon performance of these actions. Successful completion of the terms of this Agreement will, in the opinion of the LWMD, meet the statutory provisions of Part 303 and Part 31 and thereby resolve those allegations set forth in the Notice.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

COMPLIANCE AND IMPLEMENTATION SCHEDULE

SITE RESTORATION REQUIREMENTS

1. Within 30 days of the Effective Date of this Agreement, Cecil Bradshaw shall remove all unauthorized fill material from the last 75 feet of the riverward end of the pathway on the Property to restore the wetland conditions that had existed prior to the Alleged Unauthorized Activities (Wetland Restoration Area). The Wetland Restoration Area shall be allowed to revegetate naturally from the existing wetland seed bank. All fill shall be removed to a non-wetland, non floodplain location.
2. Within 15 days of completion of the wetland restoration, Cecil Bradshaw shall provide to the LWMD, at the address provided in Paragraph 3 of this Agreement, written notification of completion of the Wetland Restoration activities. The written notification shall include photo documentation of the Wetland Restoration Area.
3. All notices, applications, reports, and any other submittals required to be provided by Cecil Bradshaw to the LWMD within the provisions of this Agreement shall be addressed, unless otherwise indicated, to:

John Arevalo
Michigan Department of Environmental Quality
Land and Water Management Division
2100 West M-32
Gaylord, Michigan 49735

GENERAL PROVISIONS

4. **PROPERTY ACCESS:** LWMD staff shall have access to the Property to inspect and determine compliance with this Agreement. The LWMD shall provide a minimum of a 24 hour advance notice to Cecil Bradshaw prior to inspection of the Property.
5. **SETTLEMENT PENALTY PAYMENT:** Cecil Bradshaw agrees to pay an administrative settlement amount of One Thousand Dollars (\$1,000.00) to the general fund of the State of Michigan. These funds shall be paid within thirty (30) calendar days of the effective date of this Agreement. Payment is to be made by certified check payable to the "State of Michigan." To insure proper credit, the payment made pursuant to this Agreement must include "Payment Identification: LWM-1119. This payment shall be sent to:

Michigan Department of Environmental Quality - OFM
Revenue Control
P.O. Box 30657
Lansing, Michigan 48909-8157

6. **STIPULATED PENALTIES:** Cecil Bradshaw shall pay stipulated penalties of One Hundred (\$100.00) Dollars per day for failure to comply with the provisions of Paragraphs 1 through 5 of this Agreement. Cecil Bradshaw upon receipt of a notice of any violation governed by this provision, shall have a ten (10) day right to cure the violation before the imposition of any penalty under this provision.
7. **STIPULATED PENALTY PAYMENT:** To insure timely payments of any stipulated penalties provided in Paragraph 6 of this Agreement, Cecil Bradshaw shall pay an interest penalty to the State of Michigan for failure to make a timely payment. This interest penalty shall be based upon a rate of 12 percent per year compounded annually, using the full increment of amount due as principal, and calculated from the due date for the payment until the delinquent payment is finally paid in full. All payments associated with this Paragraph 7 shall be paid in the form of a cashiers check payable to the "State of Michigan", and sent to:

Michigan Department of Environmental Quality - OFM
Revenue Control
P.O. Box 30657
Lansing, Michigan 48909-8157
8. **PENALTY PAYMENT DISPUTE:** Cecil Bradshaw agrees not to contest the legal basis for the penalty assessed pursuant to Paragraph 5 of this Agreement. Cecil Bradshaw also agrees not to contest the legal basis for any stipulated fines assessed pursuant to Paragraph 6 of this Agreement, but reserves the right to dispute in a court of competent jurisdiction the factual basis upon which a demand by the LWMD of stipulated fines is made. Cecil Bradshaw and the LWMD agree this does not preclude the possibility of informal resolution of disputed issues directly between Cecil Bradshaw and the LWMD.
9. **RESOLUTION OF LWMD VIOLATION NOTICE:** As part of the successful completion of the terms of this Agreement, the LWMD shall deem resolved the December 20, 2006 Notice and close LWMD complaint number (06-53-0017-V).
10. **OTHER PERMIT REQUIREMENTS:** With respect to the Property, Cecil Bradshaw shall not conduct any activity within regulated wetlands, streams or floodplains except as provided by this Agreement, or as authorized by separate permit issued by the LWMD. This Agreement does not obviate the need to acquire additional state, local, or federal permits as may be required by law.
11. **FORCE MAJEURE:** Cecil Bradshaw shall perform the requirements of this Agreement within the time limits established herein, unless performance is prevented or delayed by events, which constitute a "Force Majeure" event. For the purpose of this Agreement, "Force Majeure" means an occurrence or non-occurrence arising from causes not foreseeable, beyond the control of, and without the fault of, Cecil Bradshaw, such as an "Act of God", untimely review of permit applications or submissions by the LWMD or other applicable authority; and acts or omissions of third parties that could not have been avoided or overcome by Cecil Bradshaw's due diligence, and that delay the performance of an obligation under this Agreement. "Force Majeure" does not include, among other things, unanticipated or increased costs, failure to secure funding, change in financial

circumstances, or failure to obtain a permit or license as a result of Cecil Bradshaw's actions or omissions.

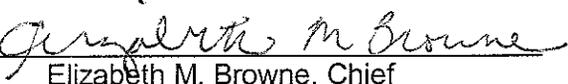
12. **FORCE MAJEURE NOTICE**: Cecil Bradshaw shall notify the LWMD by telephone within 48 hours of discovering any event, which causes delay in their compliance with any provision of this Agreement. Verbal notice shall be followed by written notice within ten calendar days, and shall describe in detail the anticipated length of delay, the precise cause of the delay, the measures taken by Cecil Bradshaw to prevent or minimize the delay, and the timetable by which those measures shall be implemented. Failure of Cecil Bradshaw to comply with the notice requirements above shall render the "Force Majeure" exemption void and of no effect as to the particular incident involved.
13. **ASSIGNMENT OF RIGHTS**: This Agreement shall be binding on the parties, their officers, servants and employees. In the event that Cecil Bradshaw sells or transfers any interest in this Property, Cecil Bradshaw shall retain the obligation to perform any uncompleted work required by this Agreement and shall retain a sufficient interest in the Property necessary for Cecil Bradshaw to complete the work required by this Agreement.
14. **AGREEMENT AMENDMENTS**: This Agreement may be amended or revoked at any time by a written agreement executed by all parties to this Agreement. No change or modification to the Agreement shall be valid unless in writing and signed by all parties to this Agreement.
15. **DISPUTE RESOLUTION**: Both Parties agree to diligently and in good faith pursue informal negotiations to resolve any disputes arising out of this Agreement prior to resorting to judicial enforcement. Such negotiations shall proceed in a timely manner.
16. **DENIAL OF LIABILITY**: Nothing contained in this Consent Agreement shall be construed as an admission of liability or wrong doing by Cecil Bradshaw. The LWMD and Cecil Bradshaw agree that the signing of this Agreement is for settlement purposes only.
17. **AGREEMENT PROVISIONS**: The invalidity or unenforceability of any particular portion of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if invalid or unenforceable provisions were omitted.
18. **GOVERNING LAW**: This Agreement shall be executed and delivered in the State of Michigan and shall be governed by and construed and enforced in accordance with the laws of the State of Michigan.
19. **TERMINATION OF AGREEMENT**: This Agreement may remain in full force for an unspecified time period contingent upon successful completion of all requirements of this Agreement. This Agreement shall terminate only upon written notice of termination issued by the LWMD Chief. Prior to issuance of a written notice of termination, Cecil Bradshaw shall submit a request consisting of a written certification that Cecil Bradshaw has fully complied with all requirements of this Agreement and has made all payments including stipulated penalties required by this Agreement.
20. **ENTIRE AGREEMENT**: This Agreement constitutes the entire Agreement among the parties hereto and contains all of the agreements among said parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto make and execute this Agreement on the date first above written. The undersigned certify they are fully authorized by the party they represent, to enter into this Consent Agreement and to legally bind that party to this Agreement.

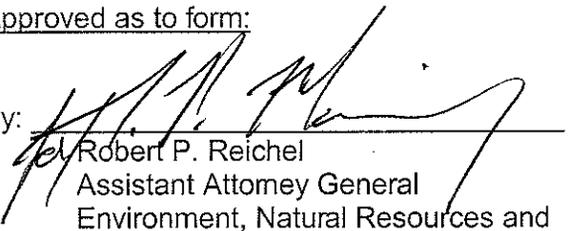
Cecil Bradshaw,

By:  Date: 8/19/09
Cecil Bradshaw

**MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND AND WATER MANAGEMENT DIVISION**

By:  Date: 9/2/09
Elizabeth M. Browne, Chief
Land and Water Management Division

Approved as to form:

By:  Date: 9/2/09
Robert P. Reichel
Assistant Attorney General
Environment, Natural Resources and
Agriculture Division
Department of Attorney General