

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

In the Matter of:

MDEQ Reference No. DOC-ERD-003

Mechanical Products, Inc.
Jackson, Michigan

Proceeding under the authority vested in the Attorney General by the State of Michigan

**SECOND MODIFICATION
OF THE
ADMINISTRATIVE ORDER BY CONSENT AND AGREEMENT**

This Second Modification of the Administrative Order by Consent and Agreement ("Second Modification") is executed by and between the Michigan Department of Attorney General and the Michigan Department of Environmental Quality ("MDEQ"), collectively referred to as "the State," and MP Jackson, LLC (MP Jackson). This Second Modification shall be effective upon the signature of the Chief of the Remediation and Redevelopment Division, MDEQ. This Second Modification shall be executed in three (3) duplicate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. By execution of this Second Modification, the State and MP Jackson stipulate and agree to be bound by all the terms and conditions herein.

Unless otherwise defined herein, all terms used in this Second Modification shall have the same meaning as defined in the Administrative Order by Consent and Agreement, MDEQ Reference No. DOC-ERD-003, effective date May 10, 1991, or the First Modification, effective date June 22, 2006.

RECITALS

The Parties acknowledge the accuracy of the following facts and circumstances surrounding the making of this Second Modification:

1. On May 10, 1991, the Department of Attorney General for the State of Michigan, and on behalf of the Michigan Department of Natural Resources ("MDNR"), and Mechanical Products, Inc., entered into the Administrative Order by Consent and Agreement, File No. DOC-ERD-003 ("Agreement").
2. On June 22, 2006, the State, Mechanical Products, Inc., and MP Jackson entered into the First Modification of the Agreement ("First Modification").
3. The objectives of the State, Mechanical Products, Inc., and MP Jackson, in entering the First Modification were to: (a) incorporate changes to statutory citations set forth in the Agreement subsequent to the date of the Agreement; (b) remove the requirement for submittal of a feasibility study; and (c) establish a new schedule for response activities to reflect changed circumstances.

4. On August 22, 2006, Mechanical Products, Inc., was dissolved. As specified in the First Modification, on August 10, 1998, MP Jackson assumed all of the duties, obligations, and liabilities of Mechanical Products, Inc., and MP Jackson is the legal successor to Mechanical Products, Inc. MP Jackson continues to operate in Michigan under the assumed name of Mechanical Products Company.
5. In September 2006, pursuant to Section 7.1 of the Agreement, MDEQ notified Mechanical Products, Inc., that the MDEQ's designated project coordinator has been changed from Ms. Lori Aronoff to Mr. Leonard Lipinski.
6. In October 2006, MP Jackson retained a new environmental consultant, Ground Water Solutions, Inc.
7. Pursuant to the terms of the First Modification, MP Jackson continued performance of response activities, which have included groundwater monitoring and operation of the groundwater treatment system involving the use of an air stripper and the discharge of treated groundwater to the Grand River via a drainage ditch pursuant to a National Pollutant Discharge Elimination System permit.
8. Ground Water Solutions, Inc., prepared a report on the Effects of Source Area Soil Interim Response on Ground Water Quality dated June 29, 2007, in which Ground Water Solutions, Inc., concluded that soil concentrations of perchloroethylene (PCE) at the Site were reduced to below the direct contact criteria by *in-situ* chemical oxidation; and, based on groundwater monitoring, that the release of those organic compounds from the source has been reduced.
9. Ground Water Solutions, Inc., submitted a Subdrain 2 Underflow Assessment Report dated January 18, 2008, in which Ground Water Solutions, Inc., concluded that, based on hydraulic data during the period of monitoring for the report, the subdrain was an effective barrier to the migration of volatile organic compound (VOC)-impacted groundwater.
10. Ground Water Solutions, Inc., submitted a Preliminary Mixing Zone Determination Request dated April 8, 2008, in which Ground Water Solutions, Inc.: (1) concluded that there was no unacceptable chronic risk associated with groundwater migrating from the Site to the Grand River, and (2) requested MDEQ concurrence with the mixing zone analysis and approval to discontinue the groundwater extraction system on the Site.
11. On December 18, 2007, the MDEQ received a letter from MP Jackson, through its attorney, stating that it had limited financial means by which to continue to fund response activities at the Site. Upon request, MP Jackson provided additional information to the MDEQ regarding its current financial condition.
12. Based upon the financial information provided by MP Jackson, the MDEQ has determined that MP Jackson has a limited ability to pay for response activities at the Site.
13. In a September 3, 2008, letter, the MDEQ advised MP Jackson it has determined that the remaining known conditions present at the Site do not pose an unacceptable risk provided that MP Jackson performs decommissioning of the current remediation system, including the proper abandonment of monitoring wells, collection trenches and associated components; and places an MDEQ-approved restrictive covenant on the Site.

14. The State has concluded that this Second Modification is appropriate, based in part on the representations, information, and documentation provided by MP Jackson relating to its financial status; and that the response activities to be performed pursuant to this Second modification are necessary for the protection of public health, safety and welfare, and the environment.

TERMS OF AGREEMENT

Accordingly, in consideration of the recitals set forth above, the State and MP Jackson hereby agree that:

15. The term "remedial action" or "RA" is replaced with the term "response activity" throughout the entire Agreement

16. The term "remedial action plan" or "RAP" is replaced with the term "response activity work plan" throughout the entire Agreement

17. MP Jackson's obligation to submit a closure report or remedial action plan (RAP) and implement a RAP under Section VI (Implementation) of the Agreement shall be replaced with the following set of response activities:

MP Jackson shall deliver to the MDEQ for approval the following submissions, or commence or complete the following actions, as appropriate, in accordance with the following schedule:

SCHEDULE

<u>SUBMITTAL /MILESTONE</u>	<u>DUE DATE</u>
Submit a work plan and schedule for shut down and decommission of the remediation system at the Site, including proper abandonment of all monitoring wells, collection trenches, and associated components.	Within 60 days of the effective date of the Second Modification.
Implement the MDEQ-approved work plan to shut down and decommission the remediation system at the Site.	Upon MDEQ approval of the work plan in accordance with the schedule approved by the MDEQ.
Submit a final summary report detailing the shut down and decommission of the remediation system at the Site, including any supporting documentation necessary to demonstrate all required response activities have been performed.	Within 60 days of completion of the MDEQ-approved work plan.

SUBMITTAL /MILESTONE

DUE DATE

Submit a draft restrictive covenant for the property legally described in Attachment A.

Within 60 days of the effective date of the Second Modification.

Record the MDEQ-approved restrictive covenant with the Jackson County Register of Deeds.

Within 21 days of MDEQ approval of the restrictive covenant.

Submit a true copy of the recorded restrictive covenant.

Within 10 days after receipt of the recorded copy of the restrictive covenant from the Jackson County Register of Deeds

18. Section XXII (Reimbursement of Costs) is replaced in its entirety with the following language:

22.1 Within sixty (60) days of the effective date of the Second Modification, MP Jackson shall pay the MDEQ Twenty Thousand Dollars (\$20,000) to resolve all claims for past and future response activity costs incurred by the State associated with the Mechanical Products Site. All payments made pursuant to this Agreement shall be by certified check, made payable to the "State of Michigan – Environmental Response Fund," and shall be sent by first class mail to the Revenue Control Unit at the address listed below.

Revenue Control Unit
Financial and Business Services Division
Michigan Department of Environmental Quality
P.O. Box 30657
Lansing, MI 48909-8157

Via courier:

Revenue Control Unit
Financial and Business Services Division
Michigan Department of Environmental Quality
Constitution Hall, 5th Floor, South Tower
525 West Allegan Street
Lansing, MI 48933-2125

22.2 To ensure proper credit, all payments made pursuant to this Agreement must reference the Mechanical Products Site, the MDEQ Reference No. DOC-ERD-003, and the RRD Account No. RRD2238.

22.3 A copy of all correspondence that is sent to the Revenue Control Unit shall also be provided to the MDEQ Project Coordinator.

19. Section XXIV (Certification and Termination) is removed in its entirety.

20. Section XXV (MDNR's Reservation of Rights) is amended with the addition of the following language:

25.3 The covenants not to sue apply only to those matters specified in Paragraph 26.1 of Section XXVI (Covenant Not to Sue). The State expressly reserves, and this Agreement is without prejudice to, all rights to take administrative action or to file a new action pursuant to any applicable authority against MP Jackson with respect to the release or threatened release of hazardous substances that occur during or after the performance of response activities required by this Agreement or any other violations of state or federal law for which MP Jackson has not received a covenant not to sue.

25.4 The State reserves the right to take action against MP Jackson if it discovers at any time that any material information, including but not limited to, any financial information and documentation provided by MP Jackson prior to or after entry of this Agreement, was false or misleading.

25.5 The State reserves the right to take action against MP Jackson for response activity costs and injunctive relief if the State determines that the performance of additional response activities is necessary to address any condition at the Site that poses an unacceptable risk and that MP Jackson's financial condition has improved such that it does have the ability to fund the necessary response activities at the Site.

21. Section XXVI (Covenant Not to Sue) is replaced in its entirety with the following language:

26.1 In consideration of the actions that will be performed and the payments that will be made by MP Jackson under the terms of this Agreement, and except as specifically provided for in this section and Section XXV (MDNR's Reservation of Rights), the State hereby covenants not to sue or to take further administrative action against MP Jackson for:

(a) Response activities that MP Jackson performs pursuant to MDEQ-approved work plans under this Agreement.

(b) Reimbursement by MP Jackson of Past and Future Response Activity Costs incurred and paid by the State as set forth in Paragraphs 22.1 of Section XXII (Reimbursement of Costs) of this Agreement.

26.2 The covenants not to sue shall take effect under this Agreement as follows:

(a) With respect to MP Jackson's liability for response activities performed in compliance with MDEQ-approved work plans under this Agreement, the covenant not to sue shall take effect upon MDEQ approval of the final summary report of the shut down and decommission of the remediation system and receipt of the true copy of the recorded restrictive covenant submitted pursuant to Section VI (Implementation).

(b) With respect to MP Jackson's liability for Past Response Activity Costs and Future Response Activity Costs, the covenant not to sue shall take effect upon the MDEQ's receipt of payment for those costs pursuant to Paragraph 22.1 of this Agreement.

26.3 The covenants not to sue extend only to MP Jackson and do not extend to any other person.

26.4 The covenants not to sue are conditioned upon the veracity and completeness of the financial information provided to the MDEQ by MP Jackson. If the financial information or documentation submitted by MP Jackson is determined to be false or inaccurate in the portrayal of MP Jackson's financial status, the covenants not to sue provided under Paragraph 26.1 of this Agreement shall be automatically null and void.

22. Except as specifically modified pursuant to this Second Modification, all terms, agreements, and conditions of the Agreement and the First Modification shall continue in full force and effect.

The State and MP Jackson agree to the recitals and the terms of agreement set forth in this Second Modification.

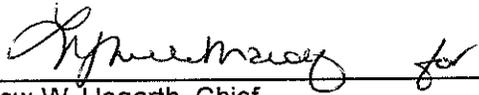
In the Matter of:

MDEQ Reference No. DOC-ERD-003

Mechanical Products, Inc.
Jackson, Michigan

IT IS SO STIPULATED:

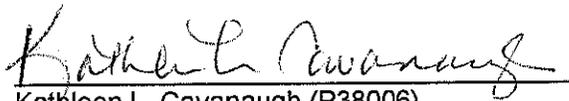
MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY



Andrew W. Hogarth, Chief
Remediation and Redevelopment Division
Michigan Department of Environmental Quality

02/05/09
Date

MICHIGAN DEPARTMENT OF ATTORNEY GENERAL



Kathleen L. Cavanaugh (P38006)
Assistant Attorney General
Environment, Natural Resources, and Agriculture Division
Michigan Department of Attorney General

2-3-09
Date

In the Matter of:

MDEQ Reference No. DOC-ERD-003

Mechanical Products, Inc.
Jackson, Michigan

IT IS SO STIPULATED:

MP Jackson, LLC



Richard M. Regole, President

1/29/09

Date

ATTACHMENT A

Property Address

1824 River Street, Jackson, MI 492020

Parcel Number

000-08-27-226-005-00

Legal Description:

BEG AT NECOR OF SEC 27 TH S1011'W ALG E SEC LN 1504.67 FT TH S72024'W 631.61 FT ALG THE NLY LN OF 1-94 TH ON AN ARC OF A CURVE TO THE RIGHT THE SUB CHORD OF WH BEARS N88012'W 265.52 FT RADIUS 3719.83 FT ALG THE NLY LN OF 1-94 TO A PT ON THE ELY LN OF CONRAIL RR R/W LN FOR PL OF BEG OF THIS DESCN TH ON AN ARC OF A CURVE TO THE LEFT THE SUBCHORD OF WH BEARS S88012'E 265.52 FT RADIUS 3719.83 FT N72024'E 170.53 FT TO THE CEN LN OF RIVER ST TH N8016'W 532.6 FT TH N14048'W 588.37 FT TH N11043'W 482.18 FT ALG CEN LN OF RIVER ST TO A PT 94.38 FT S AT RT ANGLES FROM N LN OF SEC 27 TH W PAR TO N SEC LN 240.02 FT TO ELY LN OF CONRAIL RR TH S9015'W TO NELY LN OF CONRAIL RR R/W TH SELY ALG SD ELY R/W LN 1071.75 FT TO BEG. EXC BEG AT NE COR OF SEC 27 TH S1012'52"W 1504.54 FT ALG E SEC LN TH S72024'WW 462.47 FT ALG THE NLY LN OF TO THE CEN OF RIVER ST TH N 8016'W 532.6 FT ALG CEN OF SD ST TH N 14048'W 58.98 FT ALG THE CEN OF SD ST TH S 78055'W 444.02 FT TO THE NELY R/W LN OF PENN CENTRAL RR BEING 50 FT AT RT ANGLES FROM THE CEN LN BETWEEN TRACKS, SD PT ALSO BEING THE PL OF BEG OF THIS EXCN TH N 78055'E 45 FT TH N 13048'W 65 FT TH S 78055'W 45 FT TO NELY R/W LN OF PENN CENTRAL RR TH SELY ALG R/W LN 65 FT TO BEG. BEING A PART OF THE UNNUMBERED PORTION OF THE PLAT OF RIVERSIDE

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

In the Matter of:

File No. DOC-ERD-003

Mechanical Products, Inc.
Jackson, Michigan

Proceeding under the authority vested in the Attorney General by the State of Michigan

**MODIFICATION
OF THE
ADMINISTRATIVE ORDER BY CONSENT AND AGREEMENT**

This Modification of the Administrative Order by Consent and Agreement (Modification) is executed by and between the Michigan Department of Attorney General (MDAG) and the Michigan Department of Environmental Quality (MDEQ), collectively referred to as "the State," Mechanical Products, Inc. (Mechanical Products), and MP Jackson, LLC (MP Jackson). This Modification shall be effective upon the signature of the Chief, Remediation and Redevelopment Division, MDEQ. This Modification shall be executed in three (3) duplicate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. By execution of this Modification, the State, Mechanical Products, and MP Jackson stipulate and agree to be bound by all the terms and conditions herein.

Unless otherwise defined herein, all terms used in this Modification shall have the same meaning as defined in the Administrative Order by Consent and Agreement, File No. DOC-ERD-003, effective May 10, 1991.

RECITALS

The State, Mechanical Products, and MP Jackson acknowledge the accuracy of the following facts and circumstances surrounding the making of this Modification:

1. On May 10, 1991, the MDAG, the Michigan Department of Natural Resources (MDNR), and Mechanical Products entered into the Administrative Order by Consent and Agreement, File No. DOC-ERD-003 (Agreement).
2. The objectives of the State and Mechanical Products in entering the Agreement were to:
(a) complete the performance of a remedial investigation to determine the nature and extent of contamination and any threat to public health, safety, or welfare, or the environment caused by the release or threatened release by Mechanical Products of hazardous substances, pollutants, or contaminants from the Mechanical Products site (Site) or the direct or indirect discharge by Mechanical Products of any substance which is or may become injurious from the Site into the waters of the state of Michigan; (b) conduct a feasibility study to determine and evaluate alternatives for remedial action to prevent, mitigate, abate, or otherwise respond to or remedy any release or threatened release by Mechanical Products of hazardous substances, pollutants, or contaminants, or any discharge of injurious substances from the Site; (c) develop detailed plans for implementing the selected remedial action; and (d) prevent further contamination by

Mechanical Products of the groundwater, prevent further discharge of contaminated groundwater and runoff from Mechanical Products from entering the Grand River, and to remediate all releases or threatened releases by Mechanical Products of hazardous substances, pollutants, or contaminants, or any discharge by Mechanical Products of injurious substances through the implementation of the selected remedial action.

3. Pursuant to the terms of the Agreement, Mechanical Products has performed response activities, including remedial investigations, completion of the risk assessment, and submittal of a "Conceptual Remedial Action Plan" and subsequent "Remedial Action Plan (Working Document)." The MDEQ did not approve either of the aforementioned documents.

4. On August 10, 1998, following a management buy-out of Mechanical Products, a Contribution and Assumption Agreement was made between Mechanical Products, Inc., and MP Jackson, LLC, whereas MP Jackson, LLC, accepted the contribution of all rights, title, and interest in and to the assets of, and assumed all of the duties, obligations, and liabilities of, Mechanical Products, Inc., of any kind whatsoever. Therefore, MP Jackson, LLC, is the legal successor to Mechanical Products, Inc. However, Mechanical Products, Inc., retains an active registration in the State of Delaware, but intends not to renew the registration and intends to terminate the entity.

5. MP Jackson, LLC, a Delaware limited liability company, is authorized to do business in Michigan under the assumed name, Mechanical Products Company.

6. MP Jackson, LLC, no longer owns the property at 1824 River Street, Jackson, Michigan; however, they continue to operate there as a lessee.

7. On March 30, 1995, the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20101 *et seq.*, became effective. The NREPA recodified many of the State of Michigan's environmental laws into a new environmental code, including the former Michigan Environmental Response Act, 1982 PA 307, as amended, into Part 201, Environmental Remediation, of the NREPA.

8. Executive Reorganization Order No. 1995-16, MCL 324.99903, created the MDEQ and transferred certain duties and functions from the MDNR to the MDEQ, including, but not limited to, the authority, powers, duties, functions, and responsibilities set forth in the NREPA, being Section 324.20101 *et seq.*, of the Michigan Compiled Laws.

9. In order to assure the continued coordination and implementation of response activities at the Site in accordance with an achievable schedule, the State and Mechanical Products agree to modify the Agreement as provided in this Modification.

TERMS OF AGREEMENT

Accordingly, in consideration of the recitals set forth above, the State, Mechanical Products, and MP Jackson hereby agree that:

10. All statutory citations set forth in the Agreement shall conform to their corresponding citations set forth in Part 201, MCL 324.20101 *et seq.*, and the Part 201 Administrative Rules (Part 201 Rules) as amended.

11. MP Jackson, as the legal successor to Mechanical Products, assumes all liabilities and obligations of Mechanical Products under the Agreement and this Modification.

12. Any and all reference to Mechanical Products in the Agreement and hereafter in this Modification shall refer to the successor company, MP Jackson.

13. Mechanical Products' obligations under Section VI (Implementation) of the Agreement shall be modified as provided herein:

- a. The requirement to perform a feasibility study is rescinded.
- b. Mechanical Products shall deliver to the MDEQ for approval the following submissions, or commence or complete the following actions, as appropriate, in accordance with the following schedule:

SCHEDULE

SUBMITTAL/MILESTONE	DUE DATE
Prevent migration of groundwater above the groundwater surface water interface criteria downgradient of Interception Trench 2.	Until concentrations no longer exceed the groundwater surface water interface criteria, or the MDEQ determines that such interim response is no longer necessary.
Perform groundwater monitoring as set forth in the approved soil oxidation interim response work plan to determine the effectiveness of the interim response activity.	Complete groundwater monitoring by November 30, 2006.
Propose additional interim response, and submit interim response work plan, if deemed appropriate by Mechanical Products and/or the MDEQ.	Not later than December 31, 2006.
Submit a final interim response activity summary report, including an evaluation of the remedial investigation and a work plan and implementation schedule for additional remedial investigation, if necessary.	By February 28, 2007, if no additional interim response is proposed; June 30, 2007, if additional interim response is undertaken
Submit a remedial investigation report, if determined to be necessary by the MDEQ.	Within 60 days of completion of the approved remedial investigation work plan.
Submit closure report or remedial action plan (RAP).	Within 90 days after the MDEQ's approval of the final interim response activity summary or remedial investigation report, in no case later than December 30, 2007.
Implement RAP (if needed).	Within 90 days of MDEQ approval of RAP, in no case later than September 1, 2008.

14. Any additional interim response activities proposed pursuant to Rule 299.5526 of the Part 201 Rules must be submitted to and approved by the MDEQ prior to implementation. All work plans approved by the MDEQ shall be deemed incorporated into the Agreement and made an enforceable part of the Agreement.

15. In addition to the covenants set forth in Section XXVI (Covenant not to Sue) of the Agreement, the State hereby covenants not to sue or take any civil, judicial, or administrative action against Mechanical Products for:

- a. Response activities performed pursuant to MDEQ-approved work plans under the Modification to the Agreement.
- b. Any past claims the MDEQ may have brought prior to the effective date of the Modification regarding failure to timely or adequately perform response activities stipulated under the Agreement.

16. Except as specifically modified pursuant to this Modification, all terms, agreements, and conditions of the Agreement shall continue in full force and effect.

The State, Mechanical Products, Inc., and MP Jackson, LLC, agree to the recitals and terms of agreement set forth in this Modification.

In the Matter of:

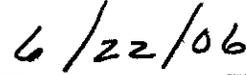
File No. DOC-ERD-003

Mechanical Products, Inc.
Jackson, Michigan

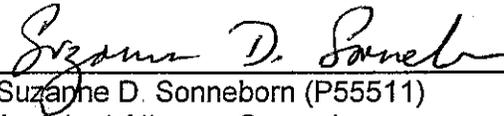
IT IS SO STIPULATED:



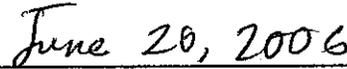
Andrew W. Hogarth, Chief
Remediation and Redevelopment Division
Michigan Department of Environmental Quality



Date



Suzanne D. Sonneborn (P55511)
Assistant Attorney General
Environment, Natural Resources,
and Agriculture Division
Michigan Department of Attorney General



Date

In the Matter of:

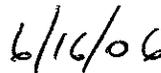
File No. DOC-ERD-003

Mechanical Products, Inc.
Jackson, Michigan

IT IS SO STIPULATED:



Richard M. Regble, President
Mechanical Products, Inc., and
MP Jackson, LLC



Date

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES

IN THE MATTER OF:

MECHANICAL PRODUCTS, INC.
JACKSON, MICHIGAN

File No. DOC-ERD-003

PROCEEDINGS UNDER SECTION 7(2) OF THE WATER RESOURCES COMMISSION ACT,
1929 PA 245, AS AMENDED, MCL 323.7(2)

ADMINISTRATIVE ORDER BY CONSENT

I. JURISDICTION

This Administrative Order by Consent and Agreement ("Order") is entered into voluntarily by and between the Michigan Department of Natural Resources ("MDNR") and Mechanical Products, Inc. ("Mechanical Products"), a subsidiary of Spréckels Industries, Inc., a Delaware Corporation. The Order requires the preparation and performance for the Remedial Investigation/Feasibility Study ("RI/FS"), Remedial Action Plan ("RAP"), and the Remedial Action ("RA") for the Mechanical Products Site, Jackson County, Michigan (hereafter "Site"). This Order is issued pursuant to the authority vested in MDNR to issue an order to protect the waters of the State pursuant to Section 7(2) of the Water Resources Commission Act ("WRCA"), MCL 323.7(2), MSA 3.527(2). Mechanical Products agrees not to contest a) the authority or jurisdiction of MDNR to issue this Order in any subsequent proceeding to enforce this Order or, b) any terms or conditions set forth herein.

II. PARTIES BOUND

2.1 This Order shall apply to and be binding upon MDNR and Mechanical Products and its successors and assigns. No change or changes in the ownership or corporate status of Mechanical Products shall in any way alter Mechanical Products responsibilities under this Order. Mechanical Products shall provide MDNR with written notice prior to the transfer of ownership of the Mechanical Products plant in Jackson, Michigan. Mechanical Products shall also provide a copy of this Order to any subsequent owners or successors before ownership rights are transferred. The signatories to this

Order certify that they are authorized to execute and legally bind the parties they represent.

2.2 Mechanical Products shall provide a copy of this Order to all contractors, and consultants retained to conduct any portion of the work performed pursuant to this Order, within fourteen (14) days after the effective date of this Order or after the date of such retention. Notwithstanding the terms of any contract, Mechanical Products is responsible for its compliance with this Order and for ensuring that its contractors and authorized representatives comply with this Order. Any reference herein to the Order shall mean the Order, any appendix thereto, including any future modifications hereof, including any reports, plans, specifications, schedules, and appendices as required by this Order which, upon approval of MDNR, shall be incorporated into and enforceable under the Order.

III. STATEMENT OF PURPOSE

3.1 In entering into the Order, the mutual objectives of MDNR and Mechanical Products are: (a) to complete the performance of a remedial investigation to determine the nature and extent of contamination and any threat to the public health, safety, or welfare, or the environment caused by the release or threatened release by Mechanical Products of hazardous substances, pollutants, or contaminants from the Site or the direct or indirect discharge by Mechanical Products of any substance which is or may become injurious from the Site into the waters of the State; (b) to conduct a feasibility study to determine and evaluate alternatives for remedial action to prevent, mitigate, abate, or otherwise respond to or remedy any release or threatened release by Mechanical Products of hazardous substances, pollutants, or contaminants or any discharge of injurious substances from the Site; (c) to develop detailed plans for implementing the selected Remedial Action; and (d) to prevent further contamination by Mechanical Products of the groundwater, to prevent further discharge of contaminated groundwater and runoff from Mechanical Products from entering the Grand River, and to remediate all releases or threatened releases by Mechanical Products of hazardous substances, pollutants, or contaminants or any discharge by Mechanical Products of injurious substances, through the implementation of the selected Remedial Action.

3.2 The activities conducted under this Order are subject to approval by MDNR, and Mechanical Products shall provide to MDNR all appropriate necessary information for the RI/FS, for the selection of a remedial action, for the development of the RAP, and for the implementation of the RA, that is consistent with the WRCA; the Michigan Environmental Response Act ("MERA"), 1982 PA 307, as amended, MCL 299.601 et seq; MSA 13.32(1) et seq; the MERA Rules, R299.5101 et seq; and other applicable or relevant and appropriate federal and state laws and regulations.

3.3 Nothing in this Order shall be construed as an admission of fact or law by Mechanical Products.

IV. FINDINGS OF FACT

MDNR has determined that:

4.1 The Mechanical Products Site comprises approximately 14.6 acres and is located at 1824 River Street, in the NE 1/4, Section 27, T. 2S, R. 1W, of Blackman Township, Jackson County, Michigan. The Site is bordered on the west by the Grand River and includes an approximate 7.5 acre strip of land under the control of the Consumers Power Company of Michigan. The Site is bordered to the south by Interstate 94; to the east by River Street; and to the north by commercial property. Conrail and Grand Trunk Western Railway rights of way traverse the property, running generally north and south.

4.2 Within the approximate 7.5 acre strip of land under control of Consumers Power Company, of Michigan, an unnamed intermittent tributary flows northwest to the Grand River, beginning at a culvert located approximately 200 feet west of the Mechanical Products Plant Building.

4.3 Mechanical Products began operations at its current location in 1949. Metal cleaning compounds are, or have been, used at the facility, including: tetrachloroethene (PCE); trichloroethene (TCE); 1,1,2-trichloro-1,2,2-trifluoroethane (freon TF); ethyl acetate; acids and detergents. Lubricating and cutting oils are also used at the facility.

4.4 In the early 1970s, an above-ground gasoline tank was vandalized at the site allowing an unknown quantity of gasoline to discharge onto the ground.

4.5 In August, 1987, the Jackson County Health Department sampled the water-supply wells at Mechanical Products due to taste complaints from the plant employees. The test results showed the presence in the water-supply wells of PCE, TCE and 1,2-dichloroethene (1,2-DCE).

4.6 In September, 1987, Keck Consulting Services, Inc. was retained by counsel for Mechanical Products, to conduct a hydrogeologic investigation at the site. During the investigation, soil at various locations on the site was found to contain benzene, toluene, xylenes, 1,2-DCE, TCE, PCE, and 1,1-dichloroethene (1,1-DCE). The monitor wells installed as part of the investigation encountered groundwater containing 1,2-DCE, TCE, and PCE in the glacial drift, and TCE and PCE in the bedrock. The report of the investigation was issued in March, 1989 by Hunter/Keck Environmental Services (formerly Keck Consulting Services, Inc.).

4.7 In November, 1988, a screening site inspection (SSI) was conducted at Mechanical Products for the United States Environmental Protection Agency (EPA) by the Ecology and Environment, Inc., Field Investigation Team (FIT). The inspection included sampling of the soil/sediment, monitoring wells, and residential wells. The SSI report was issued in June, 1989. Compounds detected in on-site soil samples include halogenated hydrocarbons, aromatic hydrocarbons, phenols, polyaromatic hydrocarbons, pesticides, and heavy metals. Water in the drift and bedrock aquifer contained halogenated hydrocarbons. Compounds detected in sediment

samples included halogenated hydrocarbons, polyaromatic hydrocarbons, polychlorinated biphenyls (PCBs), heavy metals, and cyanide.

4.8 In August and September, 1989, a listing site inspection (LSI) was conducted at Mechanical Products for the EPA by the Ecology and Environment, Inc., FIT. The LSI report was issued January 24, 1991. Data from the analysis of sampling conducted during the LSI documented releases of compounds similar to those found during the SSI in the air, groundwater, and surface water at the Mechanical Products Site.

4.9 In May, 1990, John M. Minney, Consulting Engineer, and Kenneth D. Schmidt and Associates, Groundwater Quality Consultants, were retained by Spreckels Sugar Company, Inc., an affiliate of Mechanical Products, to conduct a Phase II Hydrogeologic Investigation at the site. During this investigation, additional wells were installed into the drift, the less permeable "shale unit" of the upper bedrock, and at depth into the bedrock. Soil and groundwater samples were collected at various locations. A report was issued in November, 1990. Metals, PCE, TCE, xylene, and toluene were found in the soil. PCE, TCE, 1,1-DCA, 1,1,1-trichloroethane (1,1,1-TCA), methylene chloride, vinyl chloride, and elevated zinc were encountered in the groundwater obtained from the drift. PCE, TCE, and 1,2-DCE were found in groundwater obtained from the bedrock aquifer. A pump test was also conducted which indicated no hydraulic connection between the water in the drift and the water in the bedrock.

4.10 In September, 1990, a subdrain was installed immediately behind the Mechanical Products plant between the unlined depression and the Conrail line to capture groundwater containing contaminants present in the drift. Water from this drain is pumped into the sanitary sewer.

4.11 In February, 1991, an additional subdrain was installed approximately 200 feet west of the of the plant between the Conrail line and the Grand River. The purpose of this drain is the same as the drain described in subsection 4.10.

V. DETERMINATIONS

On the basis of these Findings of Fact, MDNR has determined that:

- (a) Mechanical Products is a "person" as defined in Section 11(d) of the WRCA, MCL 323.11(d); MSA 3.531(d).
- (b) Mechanical Products is "causing or is about to cause unlawful pollution of the waters of this state" within the meaning of Sections 6, 7(1), 7(2), and 11(f) of the WRCA, MCL 323.6, 323.7(1), 323.7(2), and 323.11(f).
- (c) Mechanical Products is an "alleged offender" within the meaning of Section 7(2) of the WRCA, MCL 323.7(2); MSA 3.527(2).

- (d) It is necessary, in order to abate the pollution and to protect the public health, welfare, and safety and the environment, to conduct, subject to MDNR approvals, an RI/FS to determine the full nature and extent of contamination that exists at or near the Site and must thereafter select appropriate remedial actions.
- (e) It is necessary, in order to abate the pollution and to protect the public health, welfare, and safety, and the environment, to design and conduct the remedial action as approved by MDNR to prevent contamination by Mechanical Products of the groundwater, to prevent discharge by Mechanical Products of contaminated groundwater and runoff from Mechanical Products from entering the Grand River, and to remediate all releases or threatened releases from Mechanical Products of hazardous substances, pollutants, or contaminants or any discharge of injurious substances, through the implementation of the selected Remedial Action.

BASED ON THE FOREGOING FACTS AND DETERMINATIONS, MDNR AND MECHANICAL PRODUCTS HEREBY AGREE, AND MDNR HEREBY ORDERS, THAT:

VI. IMPLEMENTATION

6.1 Mechanical Products shall complete the performance of the RI/FS and RA in accordance with the approved work plans, and with any modifications made or required by MDNR to bring documents prepared by Mechanical Products under this Order into conformance with the requirements of the WRCA, MERA, the MERA Rules, the work plans, and approved modifications to the work plans, which are incorporated by reference into this Order. In the event Mechanical Products fails to comply with the terms and conditions of this Order, MDNR shall have the right to implement its own RI/FS, develop its own RAP, and implement its own RA (hereinafter jointly referred to as "Work") pursuant to subsection 6.2. Upon the effective date of this Order, Mechanical Products shall commence implementation of this Order, and shall conclude implementation of such in accordance with the terms and schedules set forth in this Order. The activities conducted pursuant to this Order are subject to approval by MDNR and shall be consistent with and in compliance with the WRCA, MERA, and the MERA Rules.

6.2 Mechanical Products shall deliver to MDNR for approval the following submittals or commence or complete the following actions, as appropriate, in accordance with the following time schedules:

SCHEDULE

SUBMITTAL/MILESTONE	DUE DATE
Work Plan for Completion the RI/FS	60 days after effective date of this Order
RI Field Investigation	Commence 45 days after receipt of approval of the RI/FS work plan from MDNR
Draft RI/FS Report (may include Risk Assess- ment Report)	180 days after commencement of the RI field investigation
Final RI/FS Report	60 days after receipt of MDNR comments on the Draft RI
Draft RAP	60 days after receipt of approval of the RI/FS from MDNR
Final RAP	45 days after receipt of MDNR comments on the Draft RAP
Remedial Action Final	Commence within 130 days of receipt of RAP approval from MDNR; approval of a RAP by the Scientific Advisory Council pursuant to Section XX herein; or, a MDNR-ordered RAP issued pursuant to Section 11c of MERA.

6.3 The parties acknowledge and agree that the Administrative Order does not constitute a warranty or representation of any kind by MDNR that the Work performed in accordance herein will provide all necessary information for the RI/FS, for the selection of a RA, and for the implementation of the RA, or that the RA will achieve the performance objectives of the work plans, and MDNR's approval of any document shall not foreclose MDNR from seeking performance by Mechanical Products of all terms and conditions of this Administrative Order.

VII. PROJECT COORDINATORS

7.1 Mechanical Products' project coordinator shall be Perry Mulhollen. Mechanical Products' project coordinator shall have primary responsibility for implementation of the Work at the Site. MDNR's project coordinator shall be Mr. Gary Klepper, Jackson District Supervisor, Environmental Response Division, MDNR. MDNR's project coordinator will be the primary designated representative for MDNR at the Site. All communication between the parties and all documents, reports, approvals, and other submissions and correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinators. If any party decides to change its designated project coordinator, the name, address, and telephone number of the successor shall be provided, in writing, to the other party seven (7) days prior to the

date on which the change is to be effective. This subsection does not relieve Mechanical Products from other reporting obligations under the law.

7.2 MDNR may designate other authorized representatives, employees, contractors, and consultants to observe and monitor the progress of any activity undertaken pursuant to this Order.

VIII. ACCESS

8.1 To the extent access to the property is owned, controlled by, or available to Mechanical Products from the effective date of this Order, MDNR, its authorized employees, agents, representatives, contractors, and consultants, upon presentation of proper credentials, shall have access at all reasonable times to the Site and any property whose access is controlled by Mechanical Products to which access is required for the implementation of this Order, including, but not limited to:

- (a) Monitoring the Work or any other activities taking place pursuant to this Order on the property;
- (b) Verifying any data or information submitted to MDNR;
- (c) Conducting investigations relating to contamination at or near the Site;
- (d) Obtaining samples;
- (e) Assessing the need for or planning and implementing response actions at or near the Site; and
- (f) Inspecting and copying non-privileged records, operating logs, contracts, or other documents upon reasonable notice required to assess compliance with this Order.

All parties granted access to the Site pursuant to this subsection shall comply with all applicable health and safety laws and regulations.

8.2 To the extent that the Site or any other area where the Work is to be performed by Mechanical Products under this Order is owned or controlled by persons other than Mechanical Products, Mechanical Products shall use its best efforts to secure from such persons access for the parties and its authorized employees, agents, representatives, contractors, and consultants. Mechanical Products shall provide MDNR with a copy of each access agreement secured pursuant to this subsection. For purposes of this subsection, "best effort" includes, but is not limited to, offer and payment of reasonable compensation to the owner to secure such access or taking judicial action to secure such access. If, after using best efforts, Mechanical Products is unable to obtain access after using best efforts within forty-five (45) days of the effective date of this Order, Mechanical Products shall promptly notify MDNR. The State may thereafter assist Mechanical Products in obtaining access. Mechanical Products shall, within thirty (30) days of a request, reimburse the State for all costs not

inconsistent with law incurred by the State in obtaining access in the manner provided in Section XXII.

8.3 Notwithstanding any provision of this Order, MDNR shall retain all of its inspection and access authorities under any applicable statute or regulation.

IX. ENDANGERMENT

9.1 Upon obtaining information concerning the occurrence of any event during performance of the Work that caused or threatens a release or that may present an imminent and substantial endangerment to on-site personnel or to human health, welfare, and safety, or the environment, Mechanical Products shall immediately notify MDNR's project coordinator pursuant to Section XIII. In such an event, any action undertaken by Mechanical Products shall be in accordance with all applicable health and safety laws and regulations. Regardless of whether Mechanical Products notifies MDNR under this subsection, if Work undertaken in connection with this Order causes or threatens a release or may present an imminent and substantial endangerment to on-site personnel or to public health, welfare, and safety, or to the environment, MDNR may: (a) order Mechanical Products to stop Work at the Site for such period of time as may be needed to prevent or abate any such release, threat, or endangerment; (b) order Mechanical Products to undertake any such activities that MDNR determines are necessary to prevent or abate any such release, threat, or endangerment; and/or (c) undertake any actions that MDNR determines are necessary to prevent or abate such release, threat, or endangerment. In the event that MDNR undertakes any action to abate such a release, threat, or endangerment, Mechanical Products shall reimburse MDNR for all costs lawfully incurred by MDNR. Payment of such costs shall be made in the manner provided in Section XXII.

9.2 Nothing in the preceding subsection shall limit the power and authority of MDNR to take, direct, or order all appropriate action to protect public health, welfare, and safety, or the environment or to prevent, abate, or minimize an actual or threatened release of contaminants on, at, or from the Site.

X. HEALTH AND SAFETY COMPLIANCE AND QUALITY ASSURANCE/QUALITY CONTROL

To provide quality assurance and maintain quality control, Mechanical Products shall submit quality assurance procedures to MDNR and these procedures shall be incorporated in the RI/FS work plan and RAP. Mechanical Products also shall prepare a health and safety plan that is consistent with Section 6 of the Occupational Health and Safety Act of 1970 and the Michigan Occupational Safety and Health Act and this plan shall be incorporated in the RI/FS work plan and RAP.

XI. RECORD RETENTION/ACCESS TO INFORMATION

11.1 Mechanical Products and its representatives, consultants, and contractors shall preserve and retain, during the pendency of this Order and for a period of five (5) years after its termination, all records, sampling or test results, charts, and other documents that are maintained or generated pursuant to any requirement of this Order. After the five (5) year period of document retention, Mechanical Products and its successors shall notify MDNR, in writing, at least ninety (90) days prior to the destruction of such documents and, upon request, Mechanical Products and/or its successors shall relinquish custody of all non-privileged documents to MDNR. At the end of the retention period, Mechanical Products shall, upon request, identify in writing each document not relinquished under a claim of privilege.

11.2 Mechanical Products shall, upon request, provide to MDNR all non-privileged documents and information within its possession and/or control or that of its employees, contractors, agents, or representatives relating to the Work at the Site or to the implementation of this Order, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, correspondence, or other documents or information related to the Work. Mechanical Products shall also, upon request, make available to MDNR; Mechanical Products' employees, contractors, agents, or representatives with knowledge of relevant facts concerning the performance of the Work, subject to privileges, where appropriate.

11.3 Mechanical Products may assert a confidentiality or privilege claim, if appropriate, covering all or part of the information requested by this Order. Such an assertion shall be adequately substantiated when it is made. If no such claim accompanies the information when it is submitted to MDNR, it may be made available to the public by MDNR without further notice to Mechanical Products. Analytical data shall not be claimed as confidential or privileged by Mechanical Products.

XII. SAMPLING AND ANALYSIS

Mechanical Products shall notify MDNR not less than two (2) days in advance of any sample collection activity in the performance or monitoring of any requirement under this Order. Mechanical Products shall make available to MDNR the results of all sampling, tests, and/or other data generated. Sampling data generated pursuant to this Order shall be admissible in evidence without waiving any objection as to weight or relevance. MDNR and/or its authorized representatives may, at their discretion, take split or duplicate samples and observe the sampling procedure.

XIII. NOTICES

Whenever, under the terms of this Order, notice is required to be given or a report, sampling data, analysis, or other document is required to be forwarded by one party to the other, such correspondence shall be

directed to the following individuals at the specified addresses or at such other address as may subsequently be designated in writing:

As to MDNR:

(Regular Mail)
Mr. Gary Klepper, Supervisor
Jackson District, MDNR
Environmental Response Division
301 East Louis Glick Hwy.
Jackson, MI 49201

(Via Courier)

Mr. Gary Klepper, Supervisor
Jackson District, MDNR
Environmental Response Division
4th Floor State Office Building
301 East Louis Glick Hwy.
Jackson, MI 49201

As to Mechanical Products:

(Regular Mail & Via Courier)
Mr. Lynn Matzen
Mechanical Products
1824 River Street
P.O. Box 729
Jackson, MI 49204

copy to:

Mr. Troy R. Taylor
Dykema Gossett
35th Floor
400 Renaissance Center
Detroit, MI 48243-1504

XIV. SUBMISSIONS AND APPROVALS

14.1 All plans, submissions, and reports ("submissions") identified in the work plan shall be delivered to MDNR in accordance with the schedule set forth in this Order. Prior to receipt of MDNR approval, any report submitted to MDNR for approval shall be marked "Draft" on each page and shall include, in a prominent location in the document, the following disclaimer: "Disclaimer: This document is a DRAFT document prepared by Mechanical Products pursuant to a government Administrative Order which has not received final acceptance from the Michigan Department of Natural Resources ("MDNR"). The opinions, findings, and conclusions expressed are those of the authors and not those of MDNR."

14.2 Upon receipt of any plan, report, or other item relating to the Work that is required to be submitted for approval pursuant to this Order, the MDNR project coordinator will: (a) approve the submission; (b) disapprove the submission, notifying Mechanical Products of deficiencies; or (c) approve the submission with modifications. Except as provided in Section XX, upon receipt of a notice of approval or modification from MDNR, Mechanical Products shall proceed to take any action required by the plan, report, or other item as approved or as modified. If Mechanical Products does not agree with a MDNR approval with modifications, Mechanical Products shall notify MDNR within seven (7) days of receipt of the MDNR notice, and the MDNR notice will be treated as a notice of disapproval, subject to subsection 14.3.

14.3 Notice of any disapproval will specify the reason(s) for the disapproval. Unless a notice of disapproval specifies a longer time period, and except as provided for the draft and final RI/FS and RAP in subsection 6.2, upon receipt of a notice of disapproval from MDNR, Mechanical Products shall, within thirty (30) days thereafter, correct the deficiencies and

resubmit the plan, report, or other item for approval. Notwithstanding a notice of disapproval, Mechanical Products shall proceed to take any response action not directly related to the deficient portion of the submission. Except as provided in Sections XIX and XX, if, upon resubmission, the plan, report, or other item is not approved, MDNR shall so advise Mechanical Products and will consider Mechanical Products to have failed to complete the submission in a timely manner or failed to have provided a submission of acceptable quality.

14.4 A finding of approval or an approval with modifications shall not be construed to mean that MDNR concurs with all conclusions, methods, or statements in the submissions.

14.5 Any reports, plans, specifications, schedules, and attachments or other submissions required by this Order which have been approved by MDNR are incorporated into this Order. Any delay or noncompliance with such reports, plans, specifications, schedules, and attachments or other submissions shall be considered delay or noncompliance with requirements of this Order and shall subject Mechanical Products to penalties pursuant to Section XXIII.

14.6 No informal advice, guidance, suggestions, or comments by MDNR regarding reports, plans, specifications, schedules, or documents submitted by Mechanical Products shall be construed as relieving Mechanical Products of its obligation to obtain such formal approval as may be required by this Order.

XV. PROGRESS REPORTS

Mechanical Products shall provide to MDNR written quarterly progress reports relating to response action that shall: (a) describe the actions that have been taken toward achieving compliance with this Order during the previous quarter; (b) describe data collection and activities scheduled for the next quarter; and (c) include all results of sampling and tests and other data received by Mechanical Products, its consultants, engineers, or agents during the previous quarter relating to the Work performed pursuant to this Order. Quarterly reports shall be submitted to MDNR on the fifteenth (15th) day of August, November, February, and May following the effective date of this Order and semi-annually thereafter until termination of this Order as provided in Section XXIV.

XVI. MODIFICATION OF ORDER

This Order, with the exception of submissions hereunder, may only be modified upon the written agreement of MDNR by signature of the Director and Mechanical Products' President.

XVII. DELAYS IN PERFORMANCE

17.1 Any delay attributable to a Force Majeure shall not be deemed a violation of Mechanical Products' obligations under this Order in accordance with this section.

17.2 "Force Majeure" is defined, for the purpose of this Order, as an occurrence or nonoccurrence arising from causes beyond the control of Mechanical Products, including, but not limited to: (i) an act of God; and (ii) delay by MDNR in issuing an approval or decision, that could not have been avoided or overcome by due diligence by Mechanical Products and that delays the performance of any obligation under this Order. "Force Majeure" does not include unanticipated or increased costs, changed financial circumstances, or bankruptcy of Mechanical Products.

17.3 When circumstances occur that Mechanical Products believes constitute a Force Majeure, Mechanical Products shall notify MDNR by telephone or telefax of the circumstances within one (1) day after it first becomes aware of those circumstances. Within ten (10) days after Mechanical Products first becomes aware of such circumstances, Mechanical Products shall supply MDNR, in writing, an explanation of the cause(s) of any actual or expected delay, the anticipated duration of the delay, the measures taken, and to be taken, by Mechanical Products to avoid, minimize, or overcome the delay, and the timetable for implementation of such measures. Failure of Mechanical Products to comply with the written notice provision of this subsection shall constitute a waiver of Mechanical Products' right to assert a claim of Force Majeure with respect to the circumstances in question.

17.4 If MDNR agrees that a delay is or was caused by Force Majeure, Mechanical Products delay shall be excused and MDNR shall provide Mechanical Products such additional time as may be necessary to compensate for the Force Majeure event. In no event shall the additional time be longer than the duration of the Force Majeure event. Mechanical Products acknowledges that it will have the burden of demonstrating (i) that the delay is or was caused by a Force Majeure event; and (ii) that the amount of additional time requested is necessary to compensate for that event.

XVIII. RIGHT TO ALLOCATION

18.1 In the event Mechanical Products identifies additional persons who may be liable under section 12 of MERA for releases at the facility, Mechanical Products shall provide MDNR with such information and supporting documentation at any time but no later than ten (10) days after the MDNR's approval of a RAP. Within thirty (30) days of Mechanical Products' submission to MDNR, the MDNR shall notify in writing each person identified by MDNR who may be liable under section 12 for releases at the facility. The MDNR shall also send the orphan share administration a list of names and addresses of all identified persons that may be liable under section 12. The failure of MDNR to provide timely notification shall not relieve Mechanical Products of its obligations under this Order.

18.2 Subject to the terms and conditions of this Order, Mechanical Products shall retain its rights under MERA, including any applicable

provisions of the MERA Rules and any laws enacted or rules promulgated to further effectuate the purposes of MERA, and any other state or federal law, to assert the liability of, assert contribution claims against or seek allocation of liability under section 11 of MERA, for the Work and costs of the Work associated with the performance of this order, either prior to the approval of a final RAP, or upon approval of the final RAP. However, such assertion of claims or request for allocation shall not relieve Mechanical Products of its obligations to complete the work under this Order or otherwise suspend or delay the performance of work under this Order.

18.3 MDNR shall provide opportunity for the amendment or replacement of this Order to allow Mechanical Products to incorporate other persons who have agreed with Mechanical Products to jointly and severally assume the obligations established under this Order.

XIX. DISPUTE RESOLUTION

19.1 Except as provided in Section XX, if Mechanical Products objects to any notice of disapproval, modification, or decision made pursuant to this Order, Mechanical Products shall notify MDNR, in writing, of its objections within seven (7) days of receipt of the notice. MDNR and Mechanical Products shall have ten (10) days from the receipt by MDNR of the notification of objection to reach agreement. If agreement cannot be reached on any issue within this ten (10) day period, MDNR shall provide a written statement of its decision ("MDNR decision") to Mechanical Products.

19.2 Except as provided in Section XX, in the event that Mechanical Products does not commence the activities required by the MDNR decision, MDNR retains the right to perform additional studies and to conduct a partial or complete RI/FS, RAP or RA, or all, and to recover the costs thereof from Mechanical Products. In addition, MDNR, in cooperation with the Department of Attorney General, may take such enforcement actions against Mechanical Products as may be provided by statutory or equitable authorities, including, the assessment of such civil penalties or damages as are authorized by law. Relief sought by MDNR pursuant to an enforcement action shall not be limited to the rights conferred under this Administrative Order. Invocation of dispute resolution under this Section among the parties shall not be cause for the delay of any Work.

19.3 During the pendency of any dispute concerning the reimbursement of costs or the payment of stipulated penalties, Mechanical Products shall pay that portion of a demand that is subject to a good faith dispute into an interest-bearing escrow account to be established by Mechanical Products. Penalties shall be paid into this account as they continue to accrue, at least every seven (7) days. Upon each deposit, Mechanical Products shall provide MDNR with a copy of the deposit slip. Within ten (10) days of the MDNR decision, the escrow agent shall pay the balance of the account, or any relevant portion thereof, to MDNR in the manner provided in Section XXII and/or to Mechanical Products, to the extent each party prevailed in dispute resolution.

19.4 Notwithstanding the preceding subsection, Mechanical Products shall pay that portion of a demand for reimbursement of costs or payment of stipulated penalties that is not subject to a good faith resolution in accordance with and in the manner provided in Sections XXII and XXIII, as appropriate.

XX. DISPUTE RESOLUTION RE: SCIENTIFIC ADVISORY COUNCIL

20.1 In the event (a) MDNR does not approve the Final RAP submitted by Mechanical Products pursuant to Paragraph 6.2 of this Order, or (b) MDNR approves with modifications the Final RAP submitted by Mechanical Products pursuant to Paragraph 6.2 of this Order and Mechanical Products does not accept such modifications, then, within fourteen (14) days of Mechanical Products receipt of MDNR's disapproval or approval with modifications, Mechanical Products may request the office of environmental cleanup facilitation prepare a list of items of difference between MDNR and Mechanical Products. Thereafter, the facilitator assigned to the dispute shall conduct discussions to identify those items of difference and, within thirty (30) days after being assigned, shall prepare the items of difference and shall forward this list to the Science Advisory Council.

20.2 Within twenty-eight (28) days of submission of items of difference to the SAC, MDNR and Mechanical Products may submit a written statement not exceeding 20 pages in support of its position.

20.3 Except as provided above, any review of items of difference by the SAC shall be conducted in accordance with the terms and conditions of Section 11c of the MERA.

XXI. INDEMNIFICATION AND INSURANCE

21.1 Mechanical Products shall indemnify and save and hold harmless the State of Michigan and its departments, agencies, officials, agents, employees, contractors, and representatives for any and all claims or causes of action arising from or on account of acts or omissions of Mechanical Products, its officers, employees, agents, and any persons acting on its behalf or under its control in carrying out Work pursuant to this Order. The State of Michigan shall not be held out as a party to any contract entered into by or on behalf of Mechanical Products in carrying out actions pursuant to this Order. Neither Mechanical Products nor any contractor shall be considered an agent of the State.

21.2 Mechanical Products waives any and all claims or causes of action against the State of Michigan and its departments, agencies, officials, agents, employees, contractors, and representatives for damages, reimbursement, or set-off of any payments made or to be made to the State that arise from or on account of any contract, agreement, or arrangement between Mechanical Products and any person for performance of Work at the Site, including claims on account of construction delays.

21.3 Mechanical Products shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, agents, employees, contractors, and representatives for any and all claims or causes of action for damages or reimbursement from the State arising from or on account of any contract, agreement, or arrangement between Mechanical Products and any person for performance of Work at the Site, including claims on account of construction delays.

21.4 Prior to commencing any on-site response action, Mechanical Products shall secure, and shall maintain for the duration of the Order, comprehensive general liability insurance with limits of \$2,000,000, combined single limit, naming MDNR and the State of Michigan as additional insureds. If Mechanical Products demonstrates by evidence satisfactory to MDNR that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then with respect to that contractor or subcontractor, Mechanical Products needs to provide only that portion, if any, of the insurance described above that is not maintained by the contractor or subcontractor. In the alternative, Mechanical Products may request to satisfy this obligation by satisfactorily demonstrating its ability to self-assume the equivalent risks. Regardless of the method used to insure, Mechanical Products shall provide MDNR with certificates evidencing said insurance and the MDNR's and the State of Michigan's status as additional insureds. In addition, for the duration of this Order, Mechanical Products shall satisfy, or shall ensure that its contractors or subcontractors satisfy all applicable laws and regulations regarding the provision of Workers' Disability Compensation Insurance for all persons performing response action on behalf of Mechanical Products in furtherance of this Order. Prior to commencement of the Work under this Order, Mechanical Products shall provide to MDNR satisfactory proof of such insurance.

XXII. REIMBURSEMENT OF COSTS

As soon as possible after each anniversary of the effective date of this Order, MDNR will provide Mechanical Products with a written demand for response costs not inconsistent with law incurred by the State in overseeing or verifying the conduct of the Work, including, but not limited to, reviewing, developing, or modifying submissions; split sampling; undertaking an action to prevent or abate a release, threat, or endangerment; overseeing field work; entering into a contract with a contractor to oversee or verify any or all portions of the Work; securing access to any property which is required for the performance of the Work; and enforcing and monitoring compliance with this Consent Order. Any such demand will set forth with reasonable specificity the nature of the costs incurred, the account to which reimbursement shall be made and shall be accompanied upon request by Mechanical Products by full documentation of the costs incurred. The demand for response costs after the first anniversary of the effective date of this Order will also include those response costs incurred by MDNR for response actions prior to the effective date of this Order. Mechanical Products shall also have the right to request a full and complete accounting of all demands made hereunder. Except as provided by Section XXIII, Mechanical Products shall reimburse MDNR for such costs within sixty (60) days of receipt of a written demand from MDNR. All payments required

pursuant to this Order shall be by check made payable to the "State of Michigan" and sent to A. Michael Leffler, Assistant in Charge, Environmental Protection Division, 640 Law Building, Lansing, Michigan 48913.

XXIII. STIPULATED PENALTIES

23.1 Except as provided by Sections XVII, XIX, and XX, if Mechanical Products fails or refuses to comply with any term or condition in Sections VI, IX, XIV, and XXII, Mechanical Products shall pay MDNR stipulated penalties in the following amounts for each day for every failure or refusal to comply or conform:

Period of Delay	Penalty Per Violation Per Day
1st through 15th Day	\$ 500.00
15th through 30th Day	\$1,000.00
Beyond 30 Days	\$2,500.00

23.2 Except as provided in Sections XVII, XIX, and XX, if Mechanical Products fails or refuses to comply with any other term or condition of this Order, Mechanical Products shall pay MDNR stipulated penalties of \$500.00 a day for each and every failure or refusal to comply.

23.3 Mechanical Products shall notify MDNR, in writing, of any violation of this Order no later than ten (10) days after becoming aware of such violation and shall describe the violation.

23.4 Stipulated penalties shall begin to accrue on the day performance was due, or other failure or refusal to comply occurred, and shall continue to accrue until the final day of correction of the noncompliance. Separate penalties shall accrue for each separate failure or refusal to comply with the terms and conditions of this Order.

23.5 Except as provided in Section XIX, stipulated penalties owed to MDNR shall be paid no later than thirty (30) days after receiving a written demand from MDNR. Payment shall be made in the manner provided in Section XXII. Interest shall accrue on the unpaid balance at the end of the thirty (30) day period at the rate of twelve (12) percent per year. Failure to pay the stipulated penalties within thirty (30) days after receipt of a written demand constitutes an independent violation of the terms and conditions of this Order under subsection 23.5

23.6 Liability for or payment of stipulated penalties are not MDNR's exclusive remedy in the event Mechanical Products violates this Order. MDNR reserves the right to pursue any other remedy or remedies that it is entitled to under this Order or any applicable law for any failure or refusal of Mechanical Products to comply with the requirements of this Order, including, but not limited to, seeking civil penalties, injunctive relief, specific performance, reimbursement, and sanctions for contempt of court.

XXIV. CERTIFICATION AND TERMINATION

24.1 When Mechanical Products determines that it has completed all the Work required by this Order, it shall submit to MDNR a Notification of Completion and a draft final report. The draft final report shall summarize all response actions performed under this Order. The draft final report shall include or reference any supporting documentation.

24.2 Upon receipt of the Notification of Completion, MDNR will review the Notification of Completion, the draft final report, any supporting documentation, and the actual response actions performed pursuant to this Order. Within ninety (90) days of receipt of the Notification of Completion, MDNR shall determine whether Mechanical Products has satisfactorily completed all requirements of this Order, including, but not limited to, completing the Work required by this Order, complying with all terms and conditions of this Order, and paying any and all cost reimbursement and stipulated penalties owed to MDNR. If MDNR determines that all requirements have been satisfied, MDNR shall issue a Certificate of Completion. This Order shall terminate after issuance of the Certificate of Completion.

XXV. MDNR'S RESERVATION OF RIGHTS

25.1 MDNR reserves the right to bring an action against Mechanical Products under federal and state law for recovery of all past response costs incurred by the State at the Site not reimbursed by Mechanical Products, any costs incurred in the event that MDNR performs all or a portion of the Work, as well as any future costs incurred by the State in connection with response actions conducted at this Site. MDNR expressly reserves any and all rights and defenses that it may have to enforce this Order against Mechanical Products, including MDNR's right to perform the work; to disapprove of Work performed by Mechanical Products; and to require Mechanical Products to perform tasks in addition to those detailed in this Order. Issuance of this Order shall not affect or limit in any way any rights which MDNR may have in relation to any liabilities or obligations which other persons may be subject to under the WRCA, MERA, or other laws by virtue of any connections that other persons have or may have had with the Site. MDNR reserves any and all rights to take any enforcement action pursuant to any available legal authority, including the right to seek injunctive relief, response costs, monetary penalties, and punitive damages for any violation of law or this Order.

25.2 Subject to Section XXVI, nothing in this Order shall constitute or be construed as a release or covenant not to sue regarding any claim, cause of action, or demand in law or equity against any person, firm, trust, trustee, joint venture, partnership, corporation, or other entity, for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, hazardous wastes, pollutants, contaminants, or injurious substances found at, taken to, or taken from the Site. This Order shall not estop or limit any legal or equitable claims of the State against Mechanical Products, its agents, contractors, or assigns, including, but not limited to, claims related to releases of hazardous

substances, pollutants, contaminants, or injurious substances. In consideration of the entry of this Order, Mechanical Products agrees not to assert any causes of action, claims, or demands against the MDNR regarding matters covered by this Order.

XXVI. COVENANT NOT TO SUE

26.1 Except as provided in this Order, MDNR shall covenant not to sue or take administrative action against Mechanical Products, its directors, officers, employees, shareholders and agents, or their successors and assigns, for any causes of action available to MDNR at the time the RAP is completed. This covenant shall be finally effective upon the issuance of the Certification of Completion under Section XXIV. Subject to subsection 26.2(a), MDNR agrees not to sue or take administrative action against Mechanical Products, its directors, officers, employees, shareholders and agents, or their successors or assigns, so long as Mechanical Products has undertaken approved action in accordance with the terms, conditions and schedules in this order.

26.2 Notwithstanding any other provisions in this Order, MDNR reserves the right to institute proceedings in this action or in a new action, including an action seeking to compel Mechanical Products to perform future Work at the facility or an action seeking to reimburse the MDNR for response costs, if:

- (a) Prior to termination of this Order: (1) conditions at or emanating from the site previously unknown to or undetected by MDNR prior to the effective date of this Order are discovered after the effective date of this Order and they indicate that a hazardous substance has been or is being released, or there is a threat of such a release, into the environment as a result of the previously unknown or undetected conditions which release or threatened release is not effectively addressed by the RAP undertaken or to be undertaken pursuant to this Order; (2) MDNR determines, based on information received after the effective date of this Order concerning conditions at or emanating from the site previously unknown to or undetected by MDNR prior to the effective date of this Order, that the RAP undertaken pursuant to this Order is not, or may not be, protective of human health, welfare, safety, or the environment.
- (b) Subsequent to termination of this Order: (1) conditions at or emanating from the facility unknown to or undetected by MDNR prior to termination of this Order are discovered, and they indicate a hazardous substance has been or is being released, or there is a threat of such a release into the environment, as a result of the previously unknown or undetected condition, which release or threatened release is not effectively addressed by the RAP undertaken or to be undertaken pursuant to this Order; (2) MDNR determines, based on information received subsequent to the termination of this Order concerning conditions at or emanating from the state previously

unknown to or undetected by MDNR prior to entry of this Order, that the RAP undertaken pursuant to this order is not, or may not be, protective of human health, welfare, safety, or the environment.

XXVII. OTHER LAWS

All actions required to be taken pursuant to this Order shall be undertaken in accordance with the requirements of all applicable or relevant and appropriate state and federal laws and regulations, including the WRCA, MERA, the MERA Rules, laws relating to occupational safety and health, and state environmental laws. In the event that there is a conflict in the application of federal or state laws or regulations, the more stringent of the conflicting provisions shall apply. Other agencies may also be called upon to review the conduct of work under this Order.

XXVIII. USE OF HAZARDOUS WASTE FACILITIES

All facilities used by Mechanical Products for the off-site transfer, treatment, storage, or disposal of hazardous wastes removed from the Site must be in compliance with the applicable requirement of the Resource Conservation and Recovery Act ("RCRA"), 42 USC 6901 et seq., and, if disposed of in Michigan, the Michigan Hazardous Waste Management Act ("HWMA"), 1979 PA 64, as amended, MCL 299.501 et seq.; MSA 13.30(1) et seq. Mechanical Products is responsible for complying with these requirements, including fulfilling the standards applicable to generators of hazardous waste. Further, Mechanical Products must designate, in a report to MDNR, any facilities that Mechanical Products proposes to use for such off-site transfer, storage, treatment, or disposal.

XXIX. COMPUTATION OF TIME

In computing a period of time prescribed or allowed by this Order, the following rule applies:

The day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period is included, unless it is a Saturday, Sunday, or legal holiday; in that event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

XXX. NOTICE TO EPA

MDNR has notified EPA of the scope of the response action, the negotiations with the potentially responsible party, and of the issuance of this Order.

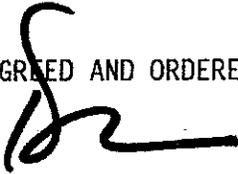
XXXI. SEPARATE DOCUMENTS

This Order may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

XXXII. EFFECTIVE DATE

This Order shall be effective upon the date that the Director has signed the Order. All times for performance of activities under this Order shall be calculated from that date.

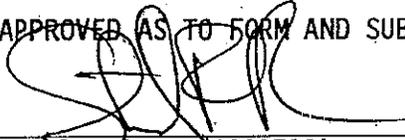
IT IS SO AGREED AND ORDERED BY:



David F. Hales, Director
Michigan Department of Natural Resources

May 10, 1991
Date

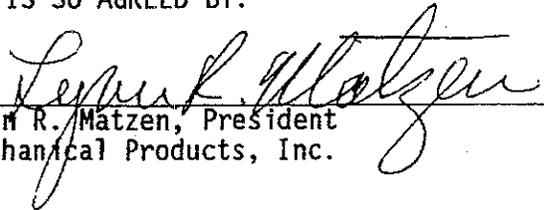
APPROVED AS TO FORM AND SUBSTANCE:



Stanley Pruss (P33718)
Assistant Attorney General

May 10, 1991
Date

IT IS SO AGREED BY:



Lynn R. Matzen, President
Mechanical Products, Inc.

May 10, 1991
Date