

**STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER BUREAU**

In the matter of administrative
proceedings against:

ACO-FTO-SW07-022

Date Entered: 7-25-2008

Stress Con Industries, Incorporated
6010 Melbourne Road
Saginaw, Michigan 48604

ADMINISTRATIVE CONSENT ORDER

This Administrative Consent Order (ACO) results from allegations by the Department of Environmental Quality (DEQ), Water Bureau (WB), identified in the attached ACO transmittal letter. The DEQ alleges that Stress Con Industries, Incorporated (Stress Con) which owns and operates facilities located at 6010 Melbourne Road, Saginaw, Saginaw County, State of Michigan, is in violation of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.3101 et seq.; and the rules promulgated under Part 31. Stress Con and the DEQ agree to resolve the violations set forth in the attached ACO transmittal letter, by entry of this ACO.

I. STIPULATIONS

Stress Con and the DEQ stipulate as follows:

- 1.1 The NREPA, MCL 324.101 et seq., is an act that controls pollution to protect the environment and natural resources in the state.
- 1.2 Part 31 of the NREPA, MCL 324.3101 et seq., and rules promulgated pursuant thereto, provides for the protection, conservation, and the control of pollution of the water resources of the state.
- 1.3 The DEQ is authorized by Section 3112(4) of Part 31 of the NREPA to enter orders requiring persons to abate pollution, and the director of the DEQ may delegate this authority to a designee under Section 301(b) of the NREPA, MCL 324.301(b).

- 1.4 Stress Con consents to the issuance and entry of this ACO and stipulates that the entry of this ACO constitutes a final order of the DEQ and is enforceable as such under Section 3112(4) of Part 31. Stress Con agrees not to contest the issuance of this ACO, and that the resolution of this matter by the entry of this ACO is appropriate and acceptable. It is also agreed that this ACO shall become effective on the date it is signed by the Field Operations Division chief of the WB, delegate of the director, pursuant to Section 301(b) of the NREPA.
- 1.5 Stress Con and the DEQ agree that the signing of this ACO is for settlement purposes only and does not constitute an admission by Stress Con that the law has been violated.
- 1.6 Stress Con shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in Section II, Compliance Program, of this ACO.

II. COMPLIANCE PROGRAM

IT IS THEREFORE AGREED AND ORDERED THAT Stress Con shall take the following actions to prevent further violations of Part 31:

- 2.1 No later than 30 days after the effective date of this ACO, Stress Con shall submit to the DEQ a Storm Water Pollution Prevention Plan (SWPPP) which describes the structural and nonstructural controls that were developed to maintain compliance with the terms and conditions of the National Pollutant Discharge Elimination System (NPDES) Storm Water Permit MIS110000.
- 2.2 No later than 30 days of receiving comment from the DEQ on the SWPPP, Stress Con shall incorporate DEQ comments into the SWPPP, implement the SWPPP, and submit a Notice of Intent for coverage under the NPDES Storm Water Permit MIS110000.
- 2.3 If the DEQ requires additional information from or action by Stress Con at any point during the permitting process to correct deficiencies in the Notice of Intent, the DEQ will notify Stress Con in writing of the deficiencies. Stress Con shall correct all deficiencies

and report all requested information not later than 30 days from receipt of notice from the DEQ, unless another date is specified in the notification.

- 2.4 For Billing Year 2009 (January 1, 2009 through December 31, 2009) and each billing year thereafter until the DEQ issues a final decision on the Stress Con's Notice of Intent, Stress Con shall pay the annual permit fee in accordance with Part 31.
- 2.5 Upon issuance of the Certificate of Coverage under NPDES Storm Water permit MIS110000 by the DEQ, Stress Con shall pay the annual permit fee based on its permit classification and in accordance with Part 31.

III. DEQ APPROVAL OF SUBMITTALS

- 3.1 For any work plan, proposal, or other document, excluding applications for permits or licenses, that are required by this ACO to be submitted to the DEQ by Stress Con, the following process and terms of approval shall apply.
- 3.2 All work plans, proposals, and other documents required to be submitted by this ACO shall include all of the information required by the applicable statute and/or rule, and all of the information required by the applicable paragraph(s) of this ACO.
- 3.3 In the event the DEQ disapproves a work plan, proposal, or other document, it will notify Stress Con, in writing, specifying the reasons for such disapproval. Stress Con shall submit, within 30 days of receipt of such disapproval, a revised work plan, proposal, or other document that adequately addresses the reasons for the DEQ's disapproval. If the revised work plan, proposal, or other document is still not acceptable to the DEQ, the DEQ will notify Stress Con of this disapproval.
- 3.4 In the event the DEQ approves with specific modifications, a work plan, proposal, or other document, it will notify Stress Con, in writing, specifying the modifications required to be made to such work plan, proposal, or other document prior to its implementation and the specific reasons for such modifications. The DEQ may require Stress Con to submit, prior to implementation and within 30 days of receipt of such approval with specific modifications, a revised work plan, proposal, or other document that adequately

addresses such modifications. If the revised work plan, proposal, or other document is still not acceptable to the DEQ, the DEQ will notify Stress Con of this disapproval.

- 3.5 Upon DEQ approval, or approval with modifications, of a work plan, proposal, or other document, such work plan, proposal, or other document shall be incorporated by reference into this ACO and shall be enforceable in accordance with the provisions of this ACO.
- 3.6 Failure by Stress Con to submit an approvable work plan, proposal, or other document, within the applicable time periods specified above, constitutes a violation of this ACO and shall subject Stress Con to the enforcement provisions of this ACO.
- 3.7 Any delays caused by Stress Con's failure to submit an approvable work plan, proposal, or other document when due shall in no way affect or alter Stress Con's responsibility to comply with any other deadline(s) specified in this ACO.
- 3.8 No informal advice, guidance, suggestions, or comments by the DEQ regarding reports, work plans, plans, specifications, schedules, or any other writing submitted by Stress Con will be construed as relieving Stress Con of its obligation to obtain written approval, if and when required by this ACO.

IV. REPORTING

- 4.1 Stress Con shall verbally report any violation(s) of the terms and conditions of this ACO to the Saginaw Bay District Supervisor by no later than the close of the next business day following detection of such violation(s) and shall follow such notification with a written report within five (5) business days following detection of such violation(s). The written report shall include a detailed description of the violation(s), as well as a description of any actions proposed or taken to correct the violation(s). Stress Con shall report any anticipated violation(s) of this ACO to the above-referenced individual in advance of the relevant deadlines whenever possible.

V. RETENTION OF RECORDS

- 5.1 Upon request by an authorized representative of the DEQ, Stress Con shall make available to the DEQ all records, plans, logs, and other documents required to be maintained under this ACO or pursuant to Part 31 or its rules. All such documents shall be retained by Stress Con 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 31 or its rules.

VI. RIGHT OF ENTRY

- 6.1 Stress Con 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 ACO. This paragraph in no way limits the authority of the DEQ to conduct tests and inspections pursuant to the NREPA and the rules promulgated thereunder, or any other applicable statutory provision.

VII. PENALTIES

- 7.1 Stress Con agrees to pay the applicable permit fee of **\$260** to the State of Michigan in accordance with Section 3118 of Part 31 of the NPREPA. Payment shall be made within 30 days of the effective date of this ACO in accordance with paragraph 7.3.
- 7.2 Stress Con agrees to pay a civil fine of **\$1,500** to the State of Michigan for the violations specified in the ACO transmittal letter. Payment shall be made within thirty (30) days of the effective date of this ACO in accordance with paragraph 7.3.
- 7.3 Stress Con agrees to pay all funds due pursuant to this agreement 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. To ensure proper credit, all payments made pursuant to this ACO must include the **Payment Identification Number WTR-1069**.

- 7.4 Stress Con agrees not to contest the legality of the permit and civil fine paid pursuant to paragraph 7.1 and 7.2 above.

VIII. GENERAL PROVISIONS

- 8.1 With respect to any violations not specifically addressed and resolved by this ACO, the DEQ reserves the right to pursue any other remedies to which it is entitled for any failure on the part of Stress Con to comply with the requirements of the NREPA and its rules.
- 8.2 The DEQ and Stress Con consent to enforcement of this ACO in the same manner and by the same procedures for all final orders entered pursuant to Part 31, MCL 324.3101 et seq.; and enforcement pursuant to Part 17, Michigan Environmental Protection Act, of the NREPA, MCL 324.1701 et seq.
- 8.3 This ACO in no way affects Stress Con's responsibility to comply with any other applicable state, federal, or local laws or regulations.
- 8.4 Nothing in this ACO is or shall be considered to affect any liability Stress Con may have for natural resource damages caused by Stress Con'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.
- 8.5 The provisions of this ACO shall apply to and be binding upon the parties to this action, and their successors and assigns.
- 8.6 This ACO constitutes a civil settlement and satisfaction as to the resolution of the violations specifically addressed herein; however, it does not resolve any criminal action that may result from these same violations.

IX. TERMINATION

- 9.1 This ACO shall remain in full force and effect until terminated by a written Termination Notice issued by the DEQ. Prior to issuance of a written Termination Notice, Stress Con shall submit a request to the WB, Saginaw Bay Michigan District Supervisor consisting of

a written certification that Stress Con has fully complied with the requirements of this ACO and has made payment of any fines, including stipulated penalties, required in this ACO. Specifically, this certification shall include:

- a. The date of compliance with each provision of the compliance program in Section II, and the date any fines or penalties were paid.
- b. A statement that all required information has been reported to the district supervisor.
- c. Confirmation that all records required to be maintained pursuant to this ACO are being maintained at the facility.

The DEQ may also request additional relevant information. The DEQ shall not unreasonably withhold issuance of a Termination Notice.

Signatories

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

DEPARTMENT OF ENVIRONMENTAL QUALITY

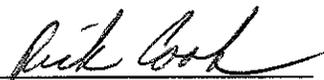


Frank J. Baldwin, Chief
Field Operations Division



Date

STRESS CON INDUSTRIES, INCORPORATED



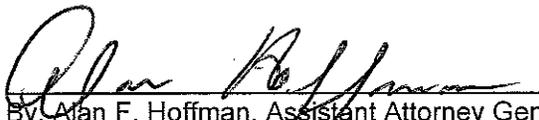
By: Rick Cook

Title: Director of Human Resources & Safety

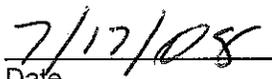


Date

APPROVED AS TO FORM:



By: Alan F. Hoffman, Assistant Attorney General
For: S. Peter Manning, Chief
Environment, Natural Resources, and Agriculture Division
Michigan Department of Attorney General



Date