

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF THE DIRECTOR

In the matter of administrative proceedings)
against **VETERANS ADMINISTRATION**)
MEDICAL CENTER-BATTLE CREEK,)
doing business at 5500 Armstrong Road, City)
of Battle Creek, County of Calhoun, State of)
Michigan)
)

AQD No. 25-2008

SRN: M3546

STIPULATION AGREEMENT FOR ENTRY OF FINAL ORDER
BY CONSENT

This proceeding resulted from allegations by the Michigan Department of Environmental Quality ("MDEQ") Air Quality Division ("AQD") against the Veterans Administration Medical Center-Battle Creek, ("VA Medical Center"), a federal government agency located at 5500 Armstrong Road in the City of Battle Creek in the County of Calhoun, State of Michigan, with State Registration Number ("SRN") M3546. The MDEQ alleges that the VA Medical Center has violated the federal Clean Air Act Amendments, 42 USC 7401 *et seq.* ("CAAA"), the Title V Renewable Operating Permit Program of the CAAA, Part 55 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and Michigan Administrative Code 2001 AACS R336.1210 ("Rule 210"). Specifically, the VA Medical Center has failed to limit potential emissions of Sulfur Dioxide ("SO₂") from four boilers and thirteen emergency generators under major threshold emission limitations, as cited herein and in the Letter of Violation ("LOV") dated January 22, 2008. The VA Medical Center and MDEQ stipulate to the termination of this proceeding by entry of a Stipulation Agreement for Entry of a Final Order by Consent ("Consent Order").

The VA Medical Center and MDEQ stipulate as follows:

1. The Natural Resources and Environmental Protection Act, 1994 PA 451, ("Act 451"), MCL 324.101 et seq. is an act that controls pollution to protect the environment and natural resources in the State
2. Article II, Pollution Control, Part 55 of Act 451 ("Part 55"), MCL 324 5501 et seq. provides for air pollution control regulations in this State.

3 The Michigan Department of Natural Resources ("MDNR") is authorized pursuant to Section 5503 of Part 55 to administer and enforce all provisions of Part 55. Section 301 of Part 3 provides the authority to the Director of the MDNR to delegate powers and duties.

4 The MDEQ was created as a principal department within the Executive Branch of the State of Michigan pursuant to Executive Order 1995-18. All statutory authority, powers, duties, functions and responsibilities of the MDNR AQD were transferred to the Director of the MDEQ ("Director").

5 The Director has delegated authority to the Chief of the AQD ("AQD Chief") to enter into this Consent Order.

6 The termination of this matter by a Consent Order pursuant to Section 5528 of Part 55 is proper and acceptable.

7 The VA Medical Center and the MDEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the VA Medical Center that the law has been violated.

8 This Consent Order becomes effective on the date of execution ("effective date of this Consent Order") by the AQD Chief.

9 The VA Medical Center shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in this Consent Order.

COMPLIANCE PROGRAM AND IMPLEMENTATION SCHEDULE

10 Permit

On and after the effective date of this Consent Order, the VA Medical Center shall comply with the terms and conditions of Permit to Install No. 64-08, which is attached as Exhibit A, or with any modifications to Exhibit A during the term of this Consent Order, incorporated by reference, and made an enforceable part of this Consent Order.

11 Emission Limitation

On and after the effective date of this Consent Order, VA Medical Center shall comply with the SO₂ emission limitations, as to the four boilers and thirteen emergency generators, specified in Exhibit A of this Consent Order.

GENERAL PROVISIONS

12 This Consent Order in no way affects the VA Medical Center's responsibility to comply with any other applicable state and federal, or local laws or regulations, including without limitation, any amendments to the federal Clean Air Act, 42 USC 7401 et seq , Act 451, Part 55 or their rules and regulations, or to the State Implementation Plan.

13 This Consent Order 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

14 Within thirty (30) days after the effective date of this Consent Order, the VA Medical Center shall pay to the General Fund of the State of Michigan, in the form of an electronic transfer of funds payable to the "State of Michigan" and delivered to the Michigan Department of Environmental Quality, Financial and Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909-8157, a settlement amount of \$18,375.00, which includes AQD costs for investigation and enforcement. The duns number for this electronic transfer of funds is 92-932-7880. This total settlement amount shall be paid within thirty (30) days of the effective date of this Consent Order. To ensure proper credit, this payment shall include the Agreement Identification No. AQD 3304. This settlement amount is in addition to any fees, taxes, or other fines that may be imposed on the VA Medical Center by law.

15 On and after the effective date of this Consent Order, if the VA Medical Center fails to comply with paragraph 11 of this Consent Order, the VA Medical Center agrees it is subject to a stipulated fine of up to \$1,500.00 per proven violation per day. On and after the effective date of this Consent Order, if the VA Medical Center fails to comply with any other provision of Exhibit A not specified in this Consent Order, the VA Medical Center agrees it is subject to stipulated fines of up to \$500.00 per proven violation per day. On and after the effective date of this Consent Order, if the VA Medical Center fails to comply with any other provision of in this Consent Order, the VA Medical Center agrees it is subject to a stipulated fine of up to \$500.00 per proven violation. The amount of the stipulated fines imposed pursuant to this paragraph shall be within the discretion of the MDEQ. Stipulated fines submitted under this Consent Order shall be made by an electronic transfer of funds, payable to the State of Michigan within thirty (30) days of written demand and shall be delivered to the Michigan Department of Environmental Quality, Financial and Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909-8157. The duns number for the electronic transfer

of funds is 92-932-7880. To ensure proper credit, all payments shall include the Agreement Identification No. AQD 3304S. Payment of stipulated fines shall not alter or modify in any way the VA Medical Center's obligation to comply with the terms and conditions of this Consent Order.

16. The AQD, at its discretion, may seek stipulated fines or statutory fines for any violation of this Consent Order which is also a violation of any provision of applicable federal and state law, rule, regulation, permit, or MDEQ administrative order. However, the AQD is precluded from seeking both a stipulated fine under this Consent Order and a statutory fine for the same violation.

17. To ensure timely payment of the settlement amount assessed in paragraph 14 and any stipulated fines assessed pursuant to paragraph 15 of this Consent Order, the VA Medical Center shall pay an interest penalty to the State of Michigan each time it fails to make a complete or timely payment under this Consent Order. The interest penalty shall be determined at a rate of twelve percent (12%) per year compounded annually, using the full increment of amount due as principal, calculated from the due date specified in this Consent Order until the date that delinquent payment is finally paid in full. Payment of an interest penalty by the VA Medical Center shall be made to the State of Michigan in accordance with paragraph 15 of this Consent Order. Interest payments shall be applied first towards the most overdue amount or outstanding interest penalty owed by the VA Medical Center before any remaining balance is applied to subsequent payment amount or interest penalty.

18. The VA Medical Center agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 14. The VA Medical Center also agrees not to contest the legal basis for any stipulated fines assessed pursuant to paragraph 15 of this Consent Order, but reserves the right to dispute in a court of competent jurisdiction the factual basis upon which a demand by MDEQ of stipulated fines is made. In addition, the VA Medical Center agrees that said fines have not been assessed by the MDEQ pursuant to Section 5529 of Part 55 and therefore are not reviewable under Section 5529 of Part 55.

19. This compliance program is not a variance subject to the 12 month limitation specified in Section 5538 of Part 55.

20. This Consent Order shall remain in full force and effect for a period of at least three (3) years. Thereafter, the Consent Order shall terminate only upon written notice of termination issued by the AQD Chief. Prior to issuance of a written notice of termination, the VA Medical Center shall submit a request, to the AQD Chief at the Michigan Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, consisting of a written certification that the VA

Medical Center has fully complied with all the requirements of this Consent Order and has made all payments including all stipulated fines required by this Consent Order. Specifically, this certification shall include: (i) the date of compliance with each provision of the compliance program and the date any payments or stipulated fines were paid; (ii) a statement that all required information has been reported to the AQD Kalamazoo District Supervisor; (iii) confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the facility; and, (iv) such information as may be requested by the AQD Chief.

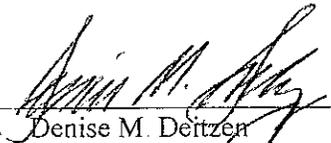
21. In the event the VA Medical Center sells or transfers the facility, with SRN: M3546, it shall advise any purchaser or transferee of the existence of this Consent Order in connection with such sale or transfer. Within thirty (30) calendar days, the VA Medical Center shall also notify the AQD Kalamazoo District Supervisor, in writing, of such sale or transfer, the identity and address of any purchaser or transferee, and confirm the fact that notice of this Consent Order has been given to the purchaser and/or transferee. As a condition of the sale, the VA Medical Center must obtain the consent of the purchaser and/or transferee, in writing, to assume all of the obligations of this Consent Order. A copy of that agreement shall be forwarded to the AQD Kalamazoo District Supervisor within thirty (30) days of assuming the obligations of this Consent Order.

22. Prior to the effective date of this Consent Order and pursuant to the requirements of Sections 5511 and 5528(3) of Part 55, the public was notified of a 30-day public comment period and was provided the opportunity for a public hearing.

23 Section 5530 of Part 55 may serve as a source of authority but not a limitation under which the Consent Order may be enforced Further, Part 17 of Act 451 and all other applicable laws and any other legal basis or applicable statute may be used to enforce this Consent Order

The undersigned certifies that he/she is fully authorized by the VA Medical Center to enter into this Consent Order and to execute and legally bind the VA Medical Center to it

VETERANS ADMINISTRATION MEDICAL CENTER-BATTLE CREEK

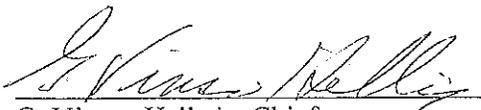

Date: 10/6/08
Denise M. Dettzen
Acting Medical Center Director

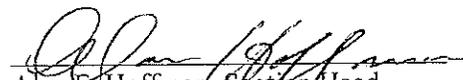
The above signatory subscribed and sworn to before me this 6th day of October, 2008.


Notary Public

Approved as to Content:

Approved as to Form:


G Vinson Hellwig, Chief
AIR QUALITY DIVISION
DEPARTMENT OF
ENVIRONMENTAL QUALITY


Alan P. Hoffman, Section Head
ENVIRONMENTAL REGULATION SECTION
ENVIRONMENT, NATURAL RESOURCES,
AND AGRICULTURE DIVISION
DEPARTMENT OF ATTORNEY GENERAL

Dated: 10/13/08

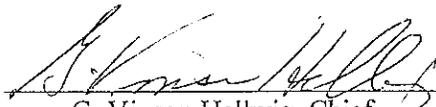
Dated: 10/9/08

FINAL ORDER

The Chief of the Air Quality Division having had opportunity to review the Consent Order and having been delegated authority to enter into Consent Orders by the Director of the Michigan Department of Environmental Quality pursuant to the provisions of Part 55 of Act 451 and otherwise being fully advised on the premises,

HAS HEREBY ORDERED that the Consent Order is approved and shall be entered in the record of the MDEQ as a Final Order

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY


G. Vinson Hellwig, Chief
Air Quality Division

Dated: 10/13/08

