

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

Part 215, Underground Storage Tank Financial Assurance of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

File No. CP No. 344 and
QC No. Z00235

Contested Case Hearing of Mr. Michael Kurkowski/Regulatory Compliance Services, Inc.

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CONSENT AGREEMENT

THIS ACTION ARISES from the Michigan Department of Environmental Quality ("MDEQ"), Remediation and Redevelopment Division, administrative action initiated on October 29, 2002, toward revocation of the Certified Underground Storage Tank Professional ("CP") and Qualified Underground Storage Tank Consultant ("QC") certificates of Michael Kurkowski and Regulatory Compliance Services, Inc. ("RCS") respectively. The parties enter into this Consent Agreement pursuant to Section 78 of the Administrative Procedures Act, 1969 PA 306, MCL 24.278 *et seq.* ("APA") in lieu of proceeding to contested case on the matter.

I. COMPLIANCE MEASURES

1. The MDEQ shall rescind the Notices of Revocation for Michael Kurkowski and RCS, dated October 29, 2002.
2. Michael Kurkowski shall voluntarily discontinue his CP Certification, No. 344, for one year, beginning on the date of signature parties.
3. RCS shall voluntarily discontinue its QC Certification, No. Z00235, for one year, beginning on the date of signature of both parties.
4. RCS and Kurkowski acknowledges that during the period of voluntary discontinuance and until the QC and CP certifications are reinstated in accordance with Part 215, RCS and Kurkowski shall not perform activities required to be performed by a QC or CP under Part 213 and Part 215 of the Act.
5. Should RCS or Kurkowski submit applications before reinstatement of certifications, the applications are subject to the review process included in the QC/CP Rules, which state that RCS and Kurkowski cannot commence work as QC and/or CP until receiving a Letter of Certification from the MDEQ. An applicant shall apply no more than 1 time in any 12-month period. ~~The 12-month period for RCS and Kurkowski shall begin on November 30, 2003.~~
6. Should the QC/CP Certificates of RCS and Kurkowski be reinstated RCS and Kurkowski agree to strictly and fully comply with Part 215 of NREPA and shall at a minimum do the following:
 - a) be present for any initial site assessment of a Leaking Underground Storage Tank ("LUST") site;
 - b) be present for the primary sampling events, installation of wells, well development;
 - c) be present for all UST removals where a release is reported or confirmed;

RCS

- d) be present for all remediation and initial installation of any remediation system; and
- e) write all report narratives, conclusions and recommendations.

II. STIPULATED PENALTIES

7. For each failure to comply with the provisions of this Consent Agreement, RCS and Kurkowski will be assessed, and must pay, stipulated penalties of \$1000.00 per day for each day of violation. Any penalties assessed by the DEQ shall be paid within 30 days of receiving written notification of the violation.

8. Stipulated penalties shall be paid by certified check, made out to "State of Michigan." Stipulated penalty payments should be sent to:

Michigan Department of Environmental Quality
Revenue Control Unit
Office of Business and Financial Services
PO Box 30657
Lansing, MI 48909

9. RCS and Kurkowski agree not to contest the legality of any stipulated penalties assessed pursuant to Paragraph 7, above, but reserve the right to dispute the factual basis upon which a demand by the MDEQ for stipulated penalties is made.

III. GENERAL MATTERS

10. RCS and Kurkowski hereby acknowledge that entering into this Consent Agreement is voluntary and that in lieu of entering into such agreement, RCS and Kurkowski could choose to have the matter considered by an administrative law judge at a formal contested case hearing conducted pursuant to the provisions of the APA.

11. The Parties declare and represent that they fully understand the terms of this Consent Agreement; that no promises, inducement, or agreement not herein expressed have been made between the parties; that this Consent Agreement contains the entire agreement between the parties and may not be modified, except by subsequent written agreement; and that the terms of this Consent Agreement are contractual and not a mere recital.

12. The parties agree that this Consent Agreement is enforceable in circuit court as a final administrative order.

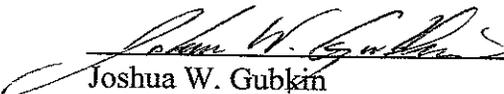
SIGNATORIES



Robert Charles Davis
Attorney for Petitioners

2/13/2004

Date



Joshua W. Gubkin
Attorney for Respondent
Assistant Attorney General
Environment, Natural Resources and
Agriculture Division
Michigan Department of Attorney General

2/6/04

Date



Richard G. Lacasse
Administrative Law Judge
Office of Administrative Hearings
Michigan Department of Environmental Quality

2/19/04

Date