STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE 30th JUDICIAL CIRCUIT
INGHAM COUNTY

MICHIGAN DEPARTMENT
OF ENVIRONMENTAL QUALITY,

Plaintiff,

v

TRACY SHAREHOLDERS
REPRESENTATIVES (Tracy Shareholders' Representatives, Tracy Industries, Inc., Jordan Industries, Inc., Alma Products Company, Alma Piston Company, Alma Products I, Inc. and Alma Products Holdings, Inc.)

Defendants.

File No. 05-751-CE

Hon. JAMES R. GIDDINGS

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ENVIRONMENT

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STIPULATION AND CONSENT DECREE

A. This Consent Decree (Decree) is entered into voluntarily by and between the Michigan Department of Environmental Quality (MDEQ), Michael J. Cox, Attorney General for the State of Michigan (collectively, the State), and Tracy Shareholders' Representatives pursuant to the authority vested in the Attorney General and the MDEQ by Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20101. All terms used in this Decree, which are defined in Part 201 of the NREPA and the Part 201 Administrative Rules, 1990 AACS R 299.5101 *et seq.* (Part

201 Rules) shall have the same meaning in this Decree as in Part 201 of the NREPA and the Part 201 Rules.

B. This Decree concerns the settlement between the State and Tracy Shareholders' Representatives, at the Alma Iron and Metals - Smith Farm Property Facility, Gratiot County, Michigan (the Property). The Property and any associated area, place, or property where concentrations of hazardous substances exceed the residential cleanup criteria of Section 20120a(1)(a) and (17) of Part 201 (the Facility) is a facility as defined by Part 201 and is subject to regulation under Part 201.

C. Pursuant to Section 20126a(1)(a) of the NREPA, a person who is liable under Section 20126 is liable for all response activity costs lawfully incurred by the State. However, under Section 20129(1), if 2 or more persons acting independently are liable under section 20126 and there is a reasonable basis for division of harm, each person is subject to liability only for the portion of the total harm attributable to that person. Therefore, under Section 20129(1) Tracy Shareholders' Representatives claim and the State concurs that a reasonable basis for a division of harm exists and the parties to this Decree desire to settle the liability, to the extent it may exist, of Tracy Shareholders' Representatives, Tracy Industries, Inc., Jordan Industries, Inc., Alma Products Company, Alma Piston Company, Alma Products I, Inc. and Alma Products Holdings, Inc. for response activity costs limited to the portion of total harm attributable to the Tracy Shareholders' Representatives, Tracy Industries, Inc., Jordan Industries, Inc., Alma Products Company, Alma Piston Company, Alma Products I, Inc. and Alma Products Holdings, Inc. for the disposal of asbestos–containing materials (Asbestos) at the Facility. The settlement as contained in this Consent Decree is in the public interest and will minimize litigation.

D. The execution of this Decree by Tracy Shareholders' Representatives is neither an admission of liability with respect to any issue covered under this Decree nor an admission or denial of any findings of fact or legal determinations stated or implied herein.

E. This Decree shall apply to and be binding upon the Tracy Shareholders' Representatives and their successors and assigns. Tracy Shareholders' Representatives is solely responsible for performing all of the obligations required under this Decree. No change or changes in the ownership or corporate status of Tracy Shareholders' Representatives shall alter in any way Tracy Shareholders' Representatives' obligations under this Decree. The signatories to this Decree certify that they are authorized to execute this Decree and legally bind the parties they represent.

BASED UPON THE FOREGOING FACTS AND DETERMINATIONS, THE MDEQ AND THE ATTORNEY GENERAL HEREBY ORDER, AND TRACY SHAREHOLDERS' REPRESENTATIVES HEREBY AGREE, TO THE FOLLOWING:

1. Within thirty (30) days of the effective date of this Decree, Tracy Shareholders' Representatives shall pay to the MDEQ the sum of $125,000 for the portion of total harm, if any, at the Facility that is attributable to Tracy Shareholders' Representatives, Tracy Industries, Inc., Jordan Industries, Inc., Alma Products Company, Alma Piston Company, Alma Products I, Inc. or Alma Products Holdings, Inc. For the purposes of this Decree, the portion of total harm attributable to Tracy Shareholders' Representatives, Tracy Industries, Inc., Jordan Industries, Inc., Alma Products Company, Alma Piston Company, Alma Products I, Inc. or Alma Products Holdings, Inc. is limited to the harm or potential harm from releases or threats of releases from Asbestos discovered at the Facility.

Payment is to be made by check payable to the "State of Michigan - Environmental Response Fund" and sent to:

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

Via Courier:
Constitution Hall, 5th Floor, South Tower
525 West Allegan Street
Lansing, MI 48933

To ensure proper credit, payments made pursuant to this Decree must be made by check referencing the Alma Iron and Metals-Smith Farm Facility, the Ingham County Circuit Court File No., and the Remediation and Redevelopment Division Account Number RRD No. 2179. A copy of the transmittal letter and the check shall be provided simultaneously to:

The MDEQ Project Coordinator:
Kim Sakowski
Lansing District
Remediation and Redevelopment Division
Michigan Department of Environmental Quality
P.O. Box 30242
Lansing MI 48909
Telephone: (517) 335-6244
Facsimile: (517) 241-3571

and to:

Mark W. Matus
Assistant Attorney General in Charge
Environment, Natural Resources, and Agriculture Division
Department of Attorney General
P.O. Box 30755
Lansing, Michigan 48909

Costs recovered pursuant to this Decree shall be deposited in the Environmental Response Fund in accordance with the provisions of Section 20108(3) of the NREPA.

2. If the Tracy Shareholders' Representatives fail to pay the amount indicated in Paragraph 1 pursuant to the schedule set forth therein, Tracy Shareholders' Representatives also

shall pay the State interest on those un-reimbursed costs at the rate provided in Section 20126a(3) of the NREPA. If Tracy Shareholders' Representatives' payment is more than thirty (30) days past due, Tracy Shareholders' Representatives shall also pay the State stipulated penalties of $500.00 per day for every day of their noncompliance with Paragraph 1. If the MDEQ does not receive full payment from Tracy Shareholders' Representatives, including any accrued interest and penalties, within 60 days after the date specified in Paragraph 1, and the MDEQ has notified Tracy Shareholders' Representatives of its failure to make such payment, the State, at its complete and unilateral discretion, may void this Decree by sending written notification of such to Tracy Shareholders' Representatives at:

Tracy Shareholders' Representatives
c/o Walter B. Fisher
Tracy Shareholders' Representatives
18530 Mack Ave., Box 553
Grosse Pointe Farms, MI 48236

3. In consideration of the payments to be made by Tracy Shareholders' Representatives under the terms of this Decree, except as otherwise provided in this Decree, the State covenants not to sue or to take further administrative action against Tracy Shareholders' Representatives, Tracy Industries, Inc., Jordan Industries, Inc., Alma Products Company, Alma Piston Company, Alma Products I, Inc. and Alma Products Holdings, Inc. only for that portion of total harm attributable to the disposal of Asbestos at the Facility as set forth in Paragraph 1. The State's covenant not to sue shall take effect upon the MDEQ's receipt of full payment from Tracy Shareholders' Representatives of the amount specified in Paragraph 1 and any associated interest and penalties that may have accrued pursuant to Paragraph 2.

The covenant not to sue applies only to the liability to the extent that it may exist for that portion of total harm attributable to the disposal at the facility by Tracy Shareholders' Representatives, Tracy Industries, Inc., Jordan Industries, Inc., Alma Products Company, Alma Piston Company, Alma Products I, Inc. and Alma Products Holdings, Inc. of Asbestos and shall not be construed as a covenant not to sue for any other liability any of these named entities may have to the State for the Facility.

The covenant not to sue shall extend only to Tracy Shareholders' Representatives, Tracy Industries, Inc., Jordan Industries, Inc., Alma Products Company, Alma Piston Company, Alma Products I, Inc. and Alma Products Holdings, Inc., and does not extend to any other person.

4. Nothing in this Decree shall be construed as releasing or discharging any liability of any person to Tracy Shareholders' Representatives, Tracy Industries, Inc., Jordan Industries, Inc., Alma Products Company, Alma Piston Company, Alma Products I, Inc. and Alma Products Holdings, Inc., and nothing in this Decree is intended to affect the rights of Tracy Shareholders' Representatives, Tracy Industries, Inc., Jordan Industries, Inc., Alma Products Company, Alma Piston Company, Alma Products I, Inc. and Alma Products Holdings, Inc. with respect to such persons.

5. Tracy Shareholders' Representatives agree that all applicable statutes of limitation are tolled until Tracy Shareholders' Representatives have complied with the terms of this Decree.

6. The State reserves all of its rights under state and federal law to perform response activities and to take enforcement action, including action to seek injunctive relief, the recovery of response activity costs not addressed by this Decree, the recovery of natural resource damages and costs incurred to assess natural resource damages, monetary penalties, punitive damages for

any violation of law or this Decree, and liability for criminal acts. The State expressly reserves all of its rights and defenses pursuant to any available legal authority to enforce this Decree.

7. Nothing in this Decree shall limit the power and authority of the MDEQ or the State of Michigan, pursuant to Section 20132(8) of the NREPA, to direct or order all appropriate action to protect the public health, safety, or welfare, or the environment; or to prevent, abate or minimize a release or threatened release of hazardous substances, pollutants or contaminants on, at, or from the Facility.

8. Pursuant to Section 20129(5) of the NREPA and to the extent provided in Paragraph 3, Tracy Shareholders' Representatives, Tracy Industries, Inc., Jordan Industries, Inc., Alma Products Company, Alma Piston Company, Alma Products I, Inc. and Alma Products Holdings, Inc. shall not be liable for claims for contribution for the matters addressed in this Decree. Entry of this Decree does not discharge the liability of any other person that may be liable under Section 20126 of the NREPA, or Sections 107 and 113 of the CERCLA, 42 USC § 9607 and § 9613, to the extent allowable by law. Pursuant to Section 20129(9) of the NREPA, any action by Tracy Shareholders' Representatives for contribution from any person not a party to this Decree shall be subordinate to the rights of the State if the State files an action pursuant to Part 201 of the NREPA or other applicable federal or state law.

9. This Decree shall become effective upon entry by the Courrt. All dates for the performance of obligations under this Decree shall be calculated from the effective date of this Decree. For the purposes of this Decree, the term "day" shall mean a calendar day unless otherwise noted.

The parties, through their respective counsel, stipulate and agree to the entry of this Consent Decree.

James L. Stropkai (P24588)
Assistant Attorney General
Attorney for Plaintiff Michigan Department of Attorney General Environment, Natural Resources, and Agriculture Division

June 13, 2005
Date

Frederick J. Dindoffer (P31398)
Bodman LLP
Attorney for Defendants Tracy Shareholders' Representatives

June 8, 2005
Date

ORDER OF COURT

At a session of said Court held in the City of Lansing, County of Ingham, on this 14 day of June 2005.

PRESENT: Honorable JAMES R. GIDDINGS
Circuit Court Judge Presiding

The Court having been fully apprised of the Consent Decree reached between the parties, orders that the Consent Decree as set forth, above be entered.

IT IS SO ORDERED.

JAMES R. GIDDINGS

Circuit Court Judge Presiding
Ingham County Circuit Court