



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



DAN WYANT  
DIRECTOR

May 12, 2015

CERTIFIED MAIL 7009 2820 0001 9803 8694

Mr. Matthew Manthei  
Manthei, Incorporated  
3996 South US-31  
Petoskey, Michigan 49770

Dear Mr. Manthei:

SUBJECT: Manthei, Incorporated, Administrative Consent Order (ACO) No. ACO-000260

Enclosed please find an original signed copy of ACO No. ACO-000260 entered between Manthei, Incorporated and the Department of Environmental Quality (DEQ). The ACO became effective on May 7, 2015. The DEQ received the payment for the civil fine in the amount of \$3,300 on April 13, 2015. The invoice for the avoided annual permit fees is enclosed. Please pay the avoided annual permit fees not later than the date specified in the ACO.

If you have any further questions regarding this matter, please contact Mr. Justin Bragg, Gaylord Field Office, Water Resources Division, at 989-705-3438; BraggJ@michigan.gov; or DEQ, Gaylord Field Office, 2100 West M-32, Gaylord, Michigan 49735-9282.

Sincerely,

Katelyn Wysocki Enforcement Specialist  
Water Enforcement Unit  
Field Operations Section – Lakes Erie and Huron  
Water Resources Division

Enclosure

cc: Mr. Michael Masterson, DEQ  
Mr. Joseph Haas, DEQ  
cc/enc: Mr. Justin Bragg, DEQ

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER RESOURCES DIVISION

ADMINISTRATIVE CONSENT ORDER

Received  
WRD/DEQ

In the Matter of Manthei, Inc.

ACO-000260

APR 27 2015

Date Entered: 5-7-2015  
GAYLORD FIELD OFFICE

SECTION I

**FACILITY OWNER OR MUNICIPALITY**

FULL LEGAL NAME OF FACILITY OR MUNICIPALITY Manthei, Incorporated		
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS IDENTIFICATION NUMBER, if applicable 006977		
ADDRESS 3996 South US-31		
CITY Petoskey	STATE Michigan	ZIP 49770
AUTHORIZED SIGNATORY Mathew Manthei		FACILITY OWNER PHONE # 231-347-4688

**FACILITY NAME AND LOCATION**

FACILITY NAME Manthei-Petoskey		
FACILITY ADDRESS 5421 Manthei Road		
CITY Petoskey	STATE Michigan	ZIP 49770
COUNTY Emmet		
FACILITY CONTACT NAME Mathew Manthei		PHONE # 231-347-4688

This document results from allegations by the Department of Environmental Quality (DEQ), Water Resources Division (WRD). The DEQ alleges that the above-referenced Facility Owner (Owner) is in violation of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), the administrative rules promulgated under this statute, and applicable permits issued to the Owner as identified below.

STATUTE		PERMIT(S)
Part 31 Water Resources Protection, MCL 324.3101 <i>et seq</i>	<input checked="" type="checkbox"/>	Permit Number: MI0046957

Specific violations are referenced in DEQ letters attached to this Administrative Consent Order (Consent Order) as Exhibit A. The Owner and the DEQ agree to resolve the violations set forth herein through entry of this Consent Order. The Owner further agrees to resolve all compliance issues set forth in Exhibit A in accordance with the requirements contained in this Consent Order. This Consent Order, in its entirety, shall consist of Section I, the attached Sections II, III, and IV, Exhibit A, and any other referenced attachments, exhibits, or appendices. This Consent Order shall be considered null and void if it does not include, at a minimum, Sections I, II, III, and IV, and Exhibit A.

The Owner agrees to pay a civil fine of \$3300. The DEQ recognizes that the Facility paid the civil fine of \$3300 on April 13, 2015. Payment of past due permit fees shall be made in accordance with the compliance schedule in Section II of this Consent Order. A permit fee invoice will be sent to the Owner from the WRD after this ACO is fully executed by the WRD Chief. Failure to make timely payment constitutes a violation of this Consent Order. The Owner agrees to pay all funds due pursuant to this agreement by check made payable to the State of Michigan and delivered to the Accounting Services Division, Cashier's Office for DEQ, P.O. Box 30657, Lansing, Michigan 48909-8157, or hand delivered to the Accounting Services Division, Cashier's Office for DEQ, 425 W. Ottawa St., Lansing, Michigan 48933. To ensure proper credit, all payments made pursuant to this Consent Order must include the **Payment Identification Number WRD40094**. The Owner agrees not to contest the legality of the civil fine and the past due permit fees.

Signatories

DEPARTMENT OF ENVIRONMENTAL QUALITY

  
\_\_\_\_\_  
William Creal, Chief  
Water Resources Division

5-7-2015  
Date

Manthei, Incorporated

I, the undersigned, CERTIFY that I am fully authorized by the party identified above to enter into this Consent Order to comply by consent and to EXECUTE and LEGALLY BIND that party to it. I further attest that all information provided herein is accurate and true.

  
By: Comptroller  
Title:

4/27/2015  
Date

APR 27 2015

GAYLORD FIELD OFFICE

## SECTION II - COMPLIANCE SCHEDULE

IT IS THEREFORE AGREED AND ORDERED THAT the Owner shall take the following actions to comply with and to prevent further violations of Part 31 of the NREPA.

2.1 The Owner agrees to comply with Part 31 of the NREPA and agrees to comply with the NPDES Permit MI0046957 that is issued to the Facility to discharge wastewater into the waters of the state."

2.2 The Owner agrees to pay the applicable annual permit fee of \$1650 for the 2015 fiscal year, to the State of Michigan in accordance with Section 3120 of Part 31 of the NREPA. Payment shall be made not later than 45 days after receiving a permit fee invoice from the WRD for the 2015 annual discharge permit fees.

2.3 The Owner agrees to pay the applicable Part 31 of the NREPA permit fee of \$1650 associated with discharging waste water to waters of the state] for the 2016 billing period and each billing period thereafter in accordance with Section 3120 of Part 31, of the NREPA and the invoice that will be mailed to the Owner each year.

2.4 Not later than 30 days after the effective date of this Consent Order, the Owner shall submit to the DEQ a completed Part 31, NPDES Permit Application, with the associated application fee of \$400 to the address indicated on the application, for the purpose of obtaining a NPDES permit for the discharging waste water to waters of the state under NPDES Permit No. MI0046957.

2.5 Upon issuance of the NPDES permit for discharging waste water to waters of the state, the Owner shall pay the associated annual permit fee(s) in accordance with Part 31 of the NREPA.

2.6 A copy of the completed NPDES permit application shall also be sent to the Gaylord District Supervisor, WRD, DEQ, 2100 W. M-32, Gaylord, Michigan, 49735.

## SECTION III - STIPULATIONS

The Owner and the DEQ stipulate as follows:

1. The DEQ reserves all rights afforded to it under the law or laws under which this Consent Order is being entered. The DEQ is authorized to enter this Consent Order to comply with state law under Section 3112(4) of Part 31 of the NREPA.
2. The Owner consents to the issuance and entry of this Consent Order and stipulates that the entry of this Consent Order constitutes a final order of the DEQ and is enforceable as such under the appropriate provisions of state law identified in Section I this Consent Order. The Owner agrees not to contest the issuance of this Consent Order, and that the resolution of this matter by the entry of this Consent Order is appropriate and acceptable. It is also agreed that this Consent Order shall become effective on the date it is signed by the chief of the WRD, delegate of the director.

3. The Owner and the DEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the Owner that the law has been violated.
4. The Signatory to this Consent Order on behalf of the Owner agrees and attests that it is fully authorized to assure that the Owner will comply with all requirements under this Consent Order.
5. The Owner shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in Section II of this Consent Order.

#### SECTION IV - GENERAL PROVISIONS

1. With respect to any violations not specifically addressed and resolved by this Consent Order, the DEQ reserves the right to pursue any other remedies to which it is entitled for any failure on the part of the Owner to comply with the requirements of the NREPA and its rules. Entry of this Consent Order does not relieve the Owner from future liability for the potential need to conduct remedial actions if contaminants originating from the discharge are discovered at limits that exceed the criteria under applicable law. The DEQ further expressly reserves the right to pursue the Owner for injunctive relief and costs associated with overseeing and conducting these remedial actions.
2. The DEQ and the Owner consent to enforcement of this Consent Order in the same manner and by the same procedures for all final orders entered pursuant to the provisions of the NREPA, as amended.
3. This Consent Order in no way affects the Owner's responsibility to comply with any other applicable state, federal, or local laws or regulations.
4. The WRD reserves its right to pursue appropriate action, including injunctive relief to enforce the provisions of this Consent Order, and applicable statutory fines for any violation of this Consent Order.
5. Nothing in this Consent Order is or shall be considered to affect any liability the Owner may have for natural resource damages caused by the Owner's acts or omissions. The State of Michigan does not waive any rights to bring an appropriate action to recover such damages to the natural resources.
6. In the event the Owner sells or transfers the facility, it shall advise any purchaser or transferee of the existence of this Consent Order in connection with such sale or transfer. Within 30 calendar days, the Owner shall also notify the WRD 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. The purchaser and/or transferee of this Consent Order must agree, in writing, to assume all of the obligations of this Consent Order. A copy of that agreement shall be forwarded to the WRD District Supervisor within 30 days of assuming the obligations of this Consent Order.
7. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, and their successors and assigns.

8. 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.

9. REPORTING

The Owner shall verbally report any violation(s) of the terms and conditions of this Consent Order to the 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 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). The Owner shall report any anticipated violation(s) of this Consent Order to the above-referenced individual in advance of the relevant deadlines whenever possible.

10. RETENTION OF RECORDS

Upon request by an authorized representative of the DEQ, the Owner shall make available to the DEQ all records, plans, logs, and other documents required to be maintained under this Consent Order or pursuant to applicable laws or rules. All such documents shall be retained by the Owner for at least a period of three years from the date of generation of the record unless a longer period of record retention is required by the applicable law or its rules.

11. RIGHT OF ENTRY

The Owner 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 Consent Order. 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.

12. DEQ APPROVAL OF SUBMITTALS

For any work plan, proposal, or other document, excluding applications for permits or licenses, that are required by this Consent Order to be submitted to the DEQ by the Owner, the following process and terms of approval shall apply:

- a. All work plans, proposals, and other documents required to be submitted by this Consent Order 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 Consent Order.
- b. In the event the DEQ disapproves a work plan, proposal, or other document, it will notify the Owner, in writing, specifying the reasons for such disapproval. The Owner shall submit, within 30 days of receipt of such disapproval, a revised work plan, proposal, or other document which 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 the Owner of this disapproval.

- c. In the event the DEQ approves with specific modifications, a work plan, proposal, or other document, it will notify the Owner, 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 the Owner 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 which adequately addresses such modifications. If the revised work plan, proposal, or other document is still not acceptable to the DEQ, the DEQ will notify the Owner of this disapproval.
- d. 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 Consent Order and shall be enforceable in accordance with the provisions of this Consent Order.
- e. Failure by the Owner to submit an approvable work plan, proposal, or other document, within the applicable time periods specified above, constitutes a violation of this Consent Order and shall subject the Owner to the enforcement provisions of this Consent Order.
- f. Any delays caused by the Owner's failure to submit an approvable work plan, proposal, or other document when due shall in no way affect or alter the Owner's responsibility to comply with any other deadline(s) specified in this Consent Order.
- g. No informal advice, guidance, suggestions, or comments by the DEQ regarding reports, work plans, plans, specifications, schedules or any other writing submitted by the Owner will be construed as relieving the Owner of its obligation to obtain written approval, if and when required by this Consent Order.

### 13. EXTENSIONS

The Owner and the DEQ agree that the DEQ may grant the Owner a reasonable extension of the specified deadlines set forth in this Consent Order. Any extension shall be preceded by a written request to the District Supervisor no later than ten business days prior to the pertinent deadline, and shall include:

- a. Entification of the specific deadline(s) of this Consent Order that will not be met.
- b. A detailed description of the circumstances that will prevent the Owner from meeting the deadline(s).
- c. A description of the measures the Owner has taken and/or intends to take to meet the required deadline.
- d. The length of the extension requested and the specific date on which the obligation will be met.

No change or modification to this Consent Order shall be valid unless in writing from the DEQ, and if applicable, signed by both parties.

14. TERMINATION

This Consent Order shall remain in full force and effect until terminated by a written Termination Notice (TN) issued by the DEQ. Prior to issuance of a written TN, the Owner shall submit a request consisting of a written certification that the Owner has fully complied with the requirements of this Consent Order and has made payment of any fines, including stipulated penalties, required in this Consent Order. 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 Consent Order are being maintained at the facility.

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

Exhibit A  
Administrative Consent Order

<u>Enforcement Type</u>	<u>Enforcement Number</u>	<u>Issued Date</u>
Enforcement Notice	EN-000260	3/18/2015



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
GAYLORD FIELD OFFICE



DAN WYANT  
DIRECTOR

NOTICE No. EN-000260

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Manthei, Incorporated  
5421 Manthei Road,  
Petoskey, Michigan 49770

Dear Mr. Mathew Manthei:

SUBJECT: ENFORCEMENT NOTICE  
Manthei, Incorporated  
5421 Manthei Road  
Petoskey, Michigan 49770

The Department of Environmental Quality (DEQ), Water Resources Division (WRD), Gaylord Field Office, is pursuing an escalated enforcement action for violations of the law by Manthei, Incorporated (hereinafter "Facility") as set forth herein.

Please be advised that the Facility has failed to comply with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 31 of the NREPA), MCL 324.3101, et seq., and the Administrative Rules promulgated there under being 2006 AACS R 323.2101 et seq., as amended and the National Pollutant Discharge Elimination System Permit (NPDES) Number MI0046957.

Specifically, pursuant to Section 3112(1) of Part 31 of the NREPA:

"A person shall not discharge any waste or waste effluent into the waters of the state unless the person is in possession of a valid permit from the DEQ".

Furthermore, the Facility located at 5421 Manthei Road, Petoskey, Michigan, was authorized to discharge wastewater to the waters of the state in accordance with NPDES MI0046957. The NPDES Permit expired on October 1, 2014. The Facility has failed to timely reapply by April 4, 2014, resulting in a violation of the NPDES Permit.

The Facility also failed to pay their 2015 annual permit fee resulting in a violation of Section 324.3120 of Part 31 of the NREPA.

The Facility is requested to immediately undertake all actions necessary to resolve all violations identified in this Enforcement Notice.

The violations identified herein, as well as any additional violations discovered hereafter must be formally resolved through entry of an administrative consent order (ACO). The ACO will include an agreed-upon compliance program to resolve the WRD's allegations, any additional requirements, and a civil fine. Negotiations to resolve this matter through an ACO shall not exceed 90 days.

The DEQ reserves the right to take all necessary and appropriate enforcement actions for all violations of the Law and Permit that have occurred to date and any violations of the Law and Permit that may occur in the future. These actions may include, but are not limited to, seeking civil fines, injunctive relief, natural resources damages, all costs associated with this enforcement action, including attorney costs and any other relief available to the DEQ.

The Facility's continuing failure to comply with the terms of the Law and Permit, any other requirements set forth in this Notice, or failure to resolve these violations through entry of an ACO within the 90 day time frame may result in additional fines, penalties or other actions.

*Pursuant to Section 1511 of the NREPA, Manthei Incorporated may request a preliminary meeting with DEQ, WRD enforcement staff to discuss the issues detailed in this ENFORCEMENT NOTICE and their potential resolution. If you would like to participate in such a meeting, please contact Justin Bragg, Gaylord District Office WRD, at 989-705-3438, NOT LATER than 10 days from your receipt of this ENFORCEMENT NOTICE.*

**STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER RESOURCES DIVISION**

Date Issued: March 18, 2015



Joseph Haas  
District Supervisor  
Water Resources Division

**ADDRESS FOR FURTHER CORRESPONDENCE:**

Justin Bragg  
Gaylord Field Office  
Water Resources Division  
2100 W. M-32  
Gaylord, MI 49735

Enclosure

cc/enc: Peter Ostlund, DEQ  
Michael Masterson, DEQ  
Justin Bragg, DEQ



Michigan Dept of Environmental Quality  
 Water Resources Division  
 Enforcement

**INVOICE**

Issued under the authority of Public Act 451 of 1994  
 Failure to submit payment by the date due will  
 result in penalties as prescribed by law.

C0047595 Ref No: MIS510518S

Manthei, Incorporated  
 John A. Kopp  
 3996 US-31 South  
 Petoskey, MI 49770

Invoice Number: 917612  
 Invoice Date: May 12, 2015  
 Payment Due: June 11, 2015

Manthei, Incorporated  
 John A. Kopp  
 3996 US-31 South  
 Petoskey, MI 49770

Please be sure to reference the settlement ID#  
 on the check when you remit payment.

Invoice Item	Quantity	Unit Cost	Total Cost
WRD ACO SETTLEMENT WRD40094	1	\$1,650.00	\$1,650.00

**Payment Due: June 11, 2015**

Total:	\$1,650.00
Tax:	\$0.00
<b>Total Invoice:</b>	<b>\$1,650.00</b>

MAKE CHECK OR MONEY ORDER PAYABLE TO: **STATE OF MICHIGAN**  
 TO ENSURE PROPER CREDIT, SEND THIS PORTION WITH PAYMENT TO:  
**Michigan Dept of Environmental Quality**  
**Cashiers Office-ACO**  
**PO Box 30657**  
**LANSING, MI 48909-8157**

C0047595 Ref No: MIS510518S

<b>INVOICE NO:</b>	
917612	
WRD	ACO

(Please note or make any mailing corrections below)

Manthei, Incorporated  
 John A. Kopp  
 3996 US-31 South  
 Petoskey, MI 49770

<b>For Cashier's Use Only:</b>