



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF  
ENVIRONMENT, GREAT LAKES, AND ENERGY  
LANSING



LIESL EICHLER CLARK  
DIRECTOR

September 23, 2020

VIA E-MAIL AND U.S. MAIL

Mr. Steven Erickson  
Revere Dock, LLC  
2217 Lake Avenue  
North Muskegon, Michigan 49445

Dear Mr. Erickson:

SUBJECT: Administrative Consent Agreement Number ACO-05517  
Detroit, Wayne County, Michigan  
Remediation and Redevelopment Division Location Code: 6F76

Enclosed with this letter, please find one fully-executed original of the Administrative Consent Agreement (Agreement) between the Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD), and Revere Dock, LLC to resolve the pending enforcement case involving alleged violations of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); Part 201, Environmental Remediation, of the NREPA; and Part 301, Inland Lakes and Streams, of the NREPA. The effective date of this Agreement is September 17, 2020. This Agreement contains specific action performance deadlines which commence on the effective date.

Invoices for the cost reimbursement and settlement amount are also enclosed.

If you have any questions, you may contact me at 517- 243-7160;  
NelsonH1@Michigan.gov; or EGLE, P.O. Box 30458 Lansing, Michigan 48909-7958.

Sincerely,

Helana L. Nelson, Environmental Quality Specialist  
Enforcement Unit  
Water Resources Division

Enclosures

cc: Ms. Beth Gotthelf  
Mr. Andrew Hartz, EGLE  
Mr. Kevin Schrems, EGLE



MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY  
 Water Resources Division  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

**INVOICE**

*Issued under authority of Public Act 451 of 1994, as amended.  
 Federal ID #38-6000134*

REVERE DOCK, LLC  
 2217 LAKE AVENUE  
 NORTH MUSKEGON, MI 49445  
 US

<b>Invoice Number:</b>	<b>761-10522888</b>
Customer Id:	501845
Invoice Date:	September 23, 2020
<b>Total Due:</b>	<b>\$15,000.00</b>

REVERE DOCK, LLC  
 2217 LAKE AVENUE  
 NORTH MUSKEGON, MI 49445  
 US

**FAILURE TO SUBMIT PAYMENT BY THE DATE DUE WILL RESULT IN  
 PENALTIES AS PRESCRIBED BY LAW.**

Account No.:  
**WRD40244**

Invoice Item	Qty	Unit Cost	Sales Tax	Total Cost
SETTLEMENT ID# WRD40244 - COSTS - ACO-05517	1.00	\$15,000.000	\$0.00	\$15,000.00

**PAY ONLINE** at <https://miwaters.deq.state.mi.us>  
 Using your MiWaters account, select Financials from the side panel to make a  
 payment.

**Total Invoice:** **\$15,000.00**  
 Payment Due: October 17, 2020

For questions please contact (517) 284-5588

REMIT PAYMENT TO: **STATE OF MICHIGAN**  
 TO ENSURE PROPER CREDIT, SEND THIS PORTION WITH PAYMENT TO:  
**EGLE - NP1**  
**CASHIERS OFFICE**  
**PO BOX 30657**  
**LANSING, MI 48909-8157**

Account No.:  
**WRD40244**

<b>INVOICE NUMBER</b>
<b>761-10522888</b>
WRD NP1

(Please note or make any address corrections below.)

REVERE DOCK, LLC  
 2217 LAKE AVENUE  
 NORTH MUSKEGON, MI 49445  
 US

**Total Due: \$15,000.00**



MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY  
 Water Resources Division  
 Enforcement  
**INVOICE**

Issued under authority of Public Act 451 of 1994.  
 FED ID # 38-6000134

REVERE DOCK, LLC  
 2217 LAKE AVENUE  
 NORTH MUSKEGON, MI 49445  
 US

<b>Invoice Number:</b>	<b>761-10522887</b>
Customer Id:	501845
Invoice Date:	September 23, 2020
<b>Total Due:</b>	<b>\$45,000.00</b>

REVERE DOCK, LLC  
 2217 LAKE AVENUE  
 NORTH MUSKEGON, MI 49445  
 US

**Failure to submit payment by the date due will result in penalties as described by law. Please be sure to reference the settlement ID# on the check when you remit payment.**

Reference  
**WRD40244**

Invoice Item	Qty	Unit Cost	Sales Tax	Total Cost
SETTLEMENT ID# WRD40244 - CIVIL FINE - ACO-05517	1.00	\$45,000.000	\$0.00	\$45,000.00

**Total Invoice:** **\$45,000.00**

Payment Due: October 17, 2020

REMIT PAYMENT TO: **STATE OF MICHIGAN**  
 TO ENSURE PROPER CREDIT, SEND THIS PORTION WITH PAYMENT TO:  
**EGLE - GWDP**  
**CASHIERS OFFICE**  
**PO BOX 30657**  
**LANSING, MI 48909-8157**

Reference  
**WRD40244**

<b>INVOICE NUMBER</b>
<b>761-10522887</b>
WRD ACO

(Please note or make any address corrections below.)

REVERE DOCK, LLC  
 2217 LAKE AVENUE  
 NORTH MUSKEGON, MI 49445  
 US

**Total Due:** **\$45,000.00**

RECEIVED

AUG 17 2020

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY  
WATER RESOURCES DIVISION

ENRA DIVISION

In the matter of:

Revere Dock, LLC  
2217 Lake Avenue  
North Muskegon, Michigan 49445

ACO-05517

Date Entered: 9-17-2020

WRD40244

RRD location code: 6F76

ADMINISTRATIVE CONSENT ORDER

This document results from allegations by the Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD) and EGLE's Remediation and Redevelopment Division (RRD). EGLE alleges Revere Dock, LLC located at 5851 West Jefferson, Detroit, Michigan, 48209 (Facility) is in violation of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act (NREPA), MCL 324.3101 *et seq.*; Part 201, Environmental Remediation, of the NREPA, MCL 324.20101 *et seq.*; Part 301, Inland Lakes and Streams, of the NREPA, MCL 324.30101 *et seq.*; and the associated administrative rules. Revere Dock, LLC is a person, as defined by Section 301 of the NREPA, MCL 324.301, and is registered with the Michigan Department of Licensing and Regulatory Affairs and authorized to conduct business in the State of Michigan under identification number 801805666. Revere Dock, LLC and EGLE agree to resolve the violations set forth herein through entry of this Administrative Consent Order (Consent Order).

I. STIPULATIONS

Revere Dock, LLC and EGLE 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, Water Resources Protection, of the NREPA (Part 31), MCL 324.3101 *et seq.*, and the rules promulgated pursuant thereto provide for the protection, conservation, and the control of pollution of the water resources of the state. Section 3108 of Part 31, MCL 324.3108, also prohibits certain activities impacting floodplains unless otherwise permitted.

- 1.3 Section 20107a of Part 201, Environmental Remediation, of the NREPA (Part 201), MCL 324.20107a, and Part 10 of the Part 201 Administrative Rules (collectively, commonly referred to as “due care”), provide in part that a person who owns or operates property that he or she has knowledge is a facility is required to undertake measures to protect people from exposure to contamination present in soil, groundwater, and subsurface vapors; allow for the safe use of contaminated property; and provide notifications to affected parties, such as utilities and easement holders, or to neighboring properties upon the migration of contamination.
- 1.4 Part 301, Inland Lakes and Streams, of the NREPA (Part 301), MCL 324.30101 *et seq.*, and the rules promulgated thereto, provides in part that a person shall not fill bottomland, diminish, or structurally interfere with the natural flow of an inland lake or stream without obtaining a permit from the department.
- 1.5 EGLE is authorized by Section 3106 of Part 31, MCL 324.3106, and Section 30112(1) of Part 301, MCL 324.30112(1), to enter orders requiring persons to abate pollution or otherwise cease or correct activities in violation of a specific part. The director of EGLE may delegate this authority to a designee under Section 301(b) of the NREPA, MCL 324.301(b).
- 1.6 Revere Dock, LLC consents to the issuance and entry of this Consent Order and stipulates that the entry of this Consent Order constitutes a final order of EGLE and is enforceable as such under Section 3112(4) of Part 31 and Section 30112(4) of Part 301. Revere Dock, LLC 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 director of the WRD, delegate of the director of EGLE, pursuant to Section 301(b) of the NREPA.
- 1.7 Revere Dock, LLC and EGLE agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by Revere Dock, LLC that the law has been violated.

- 1.8 The signatory to this Consent Order certifies that he is fully authorized by Revere Dock, LLC to enter into the terms and conditions of this Consent Order and to execute and legally bind Revere Dock, LLC to this document. Revere Dock, LLC hereby agrees to comply with the requirements of this Consent Order to resolve the violations stated in Section II of this Consent Order and agrees to achieve compliance with Part 31, Part 201, and Part 301 by fulfilling the terms of Section III of this Consent Order.

## **II. FINDINGS**

- 2.1 A Baseline Environmental Assessment (BEA) dated July 14, 2015, was submitted to EGLE by PM Environmental, Inc. on behalf of Revere Dock, LLC. The BEA provided information to Revere Dock, LLC and EGLE that the Facility is a "facility" as defined under Part 201.
- 2.2 On November 26, 2019, approximately 200 feet of bank material and aggregate material from the Facility were displaced onto Detroit River bottomlands as a result of the placement of a large aggregate stockpile near the shoreline.
- 2.3 On December 4, 2019, EGLE received information regarding the bank collapse and resulting displacement of material into the Detroit River.
- 2.4 On December 6, 2019, WRD and RRD staff conducted a site inspection at the Facility and in the adjacent waters and conducted a drone flyover of the Facility. During the inspection, EGLE staff confirmed that soils, asphalt, concrete, steel, and aggregate had been displaced onto bottomlands and into waters of the state and, in having previous knowledge that contaminated soils existed at the Facility, observed the following alleged violations of Part 31, 201 and 301:
- a. Discharging of a substance into the waters of the state a substance that is or may become injurious to entities described in Section 3109(1) of Part 31, MCL 324.3109(1).
  - b. Unlawful occupation and filling of floodplain and stream channel.

- c. Violation of the due care requirements of Part 201 that apply because of the release of hazardous substances at the Facility and the need to mitigate off- property risks resulting from erosion of surface soils at the property.
  - d. Filling of Detroit River bottomlands without the benefit of a permit under Part 301.
- 2.5 On December 11, 2019, the RRD sent a Compliance Communication requesting documentation of the evaluation of exposure pathways and the necessary actions Revere Dock, LLC had taken to address their due care obligations and comply with Part 201 and rules promulgated thereto.
- 2.6 On December 11, 2019, the WRD sent a Violation Notice notifying Revere Dock, LLC of violations of Part 31 and Part 301, requiring a restoration plan be submitted for removing fill material from the Detroit River and advising interim measures be implemented to prevent further erosion.
- 2.7 On January 24, 2020, PM Environmental, Inc. submitted an interim response plan, on behalf of Revere Dock, LLC, outlining the actions being taken to evaluate geotechnical conditions, control erosion and turbidity, and characterize materials in preparation of submitting a restoration plan.
- 2.8 On January 31, 2020, the RRD sent a Compliance Communication notifying Revere Dock, LLC that it was not in compliance with its due care obligations and that additional measures were needed to prevent further erosion and discharge of contaminated soils and aggregate into the Detroit River. In the Compliance Communication, the RRD also recommended technical assessment and sampling methods, and requested geotechnical investigation results by February 29, 2020, and a restoration plan by March 30, 2020.
- 2.9 On February 29, 2020, EGLE received a Progress Update report containing Revere Dock, LLC's geotechnical investigation results.
- 2.10 On March 30, 2020, PM Environmental, Inc., on behalf of Revere Dock, LLC, submitted a Restoration Plan (Exhibit A) that included a site stability evaluation, results of its geotechnical investigation, characterization of sediments and bank failure material, plans

for removing sediment and bank failure material from the river, a description of the proposed seawall, plans for erosion and turbidity controls, and a proposed timeline for completing the restoration activities.

- 2.11 On April 15, 2020, EGLE issued an Enforcement Notice to Revere Dock, LLC offering to resolve the alleged violations through an Administrative Consent Order.
- 2.12 On May 1, 2020, the WRD received a permit application from PM Environmental, Inc. on behalf of Revere Dock, LLC to remove materials deposited in the Detroit River as a result of the November 2019 river bank failure, to restore the river bank with a new approximate 600-foot long steel sea wall that will replace the existing pile-supported concrete dock present along the shoreline of the site
- 2.13 On June 19, 2020, the WRD received a Notice of Intent for coverage under the National Pollutant Discharge Elimination System for Storm Water Discharges Associated with Industrial Activity and Certification of Entry.
- 2.14 On July 30, 2020 Revere Dock, LLC notified the WRD that the Great Lakes Water Authority will apply for a permit under Part 41, Sewerage Systems, of the NREPA (Part 41), MCL 324.4101 *et seq.* to reconstruct the Great Lakes Water Authority outfall structure referenced in the restoration plan.

### **III. COMPLIANCE PROGRAM**

IT IS THEREFORE AGREED AND ORDERED THAT Revere Dock, LLC shall take the following actions to comply with and prevent further violations of Parts 31, 201, and 301:

- 3.1 Revere Dock, LLC shall comply with all of Part 31; Part 201; Part 301; Part 91, Soil Erosion and Sedimentation Control (SESC), of the NREPA (Part 91), MCL 324.9101 *et seq.*; and the administrative rules promulgated pursuant thereto, including obtaining and maintaining all required permits and seeking permit modifications as required under law.
- 3.2 Revere Dock, LLC shall not conduct any activity within streams regulated under Part 301, except as provided by this Consent Order, or as authorized by separate permit issued by

EGLE. This Consent Order does not obviate the need for Revere Dock, LLC to acquire additional state, local, or federal permits as may be required by law.

- 3.3 Revere Dock, LLC shall complete the restoration activities described in the March 30, 2020, Restoration Plan not later than May 1, 2021 assuming the permit is issued on or before August 10. If the permit is issued after that day, the May 1 deadline will be extended the same amount of time. Within 15 days after completion of the restoration activities, Revere Dock, LLC shall provide to the WRD, written notification of completion of the restoration activities.
- 3.4 Revere Dock, LLC shall commence the work authorized by the permit under Part 301 for the activities referenced in Paragraph 2.12 of this Consent Order within 30 days after issuance of the permit and shall complete all required provisions of the permit in accordance with the construction schedule in the permit. The permit shall be incorporated by reference and become enforceable under this Consent Order
- 3.5 Within 14 days after the effective date of this Consent Order, Revere Dock, LLC shall provide to EGLE a plan to control construction stormwater at the Facility to ensure that any stormwater that comes in contact with contaminated soils will be adequately managed.
- 3.6 Within 30 days after receiving the plan referenced in Paragraph 3.5 of this Consent Order, EGLE shall review the plan and notify Revere Dock, LLC in writing of any additional information necessary to complete the review and any permit requirements for stormwater management in accordance with the NREPA if such a determination can be made from the information provided.
- 3.7 Within 30 days after receiving the WRD's notice identified in Paragraph 3.6 of this Consent Order, Revere Dock, LLC shall submit the information requested by EGLE including any permit applications if required.
- 3.8 Not later than 14 days after the date the EGLE permit referenced in Paragraph 3.4 of this Consent Order is issued, Revere Dock, LLC shall submit to the Wayne County Enforcing Agency an application for a permit under Part 91 that includes an SESC plan that meets

the requirements under Part 91 for the activities to be completed pursuant to Paragraph 3.4 of this Consent Order. Revere Dock, LLC shall also provide a copy of the Part 91 permit application and SESC plan concurrently to EGLE.

- 3.9 Revere Dock, LLC shall submit all reports, work plans, specifications, schedules, or any other writing required by this section to their MiWaters account and, if required, to the WRD, Warren District Office Supervisor at EGLE, 27700 Donald Court, Warren, Michigan 48092-2793. The cover letter with each submittal shall identify the specific paragraph and requirement of this Consent Order that the submittal is intended to satisfy.
- 3.10 Correspondence under this Consent Order directed from EGLE to Revere Dock, LLC shall be sent to the attention of Mr. Steven Erickson at Revere Dock, LLC, 2217 Lake Avenue, North Muskegon, Michigan 49445, and to the attention of Revere Dock, LLC's counsel, Ms. Beth S. Gotthelf at Butzel Long, Stoneridge West, 41000 Bloomfield Hills, Michigan 48304.

#### **IV. EGLE APPROVAL OF SUBMITTALS**

- 4.1 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 EGLE by Revere Dock, LLC, the following process and terms of approval shall apply.
- 4.2 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.
- 4.3 In the event EGLE disapproves a work plan, proposal, or other document, it will notify Revere Dock, LLC, in writing, specifying the reasons for such disapproval. Revere Dock, LLC shall submit, within 30 days of receipt of such disapproval, a revised work plan, proposal, or other document which adequately addresses the reasons for EGLE's disapproval. If the revised work plan, proposal, or other document is still not acceptable to EGLE, EGLE will notify Revere Dock, LLC of this disapproval.
- 4.4 In the event EGLE approves with specific modifications a work plan, proposal, or other document, it will notify Revere Dock, LLC, 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. EGLE may require Revere Dock, LLC 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 EGLE, EGLE will notify Revere Dock, LLC of this disapproval.

- 4.5 Upon EGLE 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.
- 4.6 Failure by Revere Dock, LLC 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 Revere Dock, LLC to the enforcement provisions of this Consent Order, including the stipulated penalty provisions specified in Paragraph 9.3 of this Consent Order.
- 4.7 Any delays caused by Revere Dock, LLC's failure to submit an approvable work plan, proposal, or other document when due shall in no way affect or alter Revere Dock, LLC's responsibility to comply with any other deadline(s) specified in this Consent Order.
- 4.8 No informal advice, guidance, suggestions, or comments by EGLE regarding reports, work plans, plans, specifications, schedules or any other writing submitted by Revere Dock, LLC will be construed as relieving Revere Dock, LLC of its obligation to obtain written approval, if and when required by this Consent Order.

#### **V. EXTENSIONS**

- 5.1 Revere Dock, LLC and EGLE agree that EGLE may grant Revere Dock, LLC a reasonable extension of the specified deadlines set forth in this Consent Order. Any extension shall be preceded by a written request in duplicate to the WRD, Enforcement Unit Supervisor at EGLE, P.O. Box 30458, Lansing, Michigan 48909-7958, and the WRD, Warren District

Office Supervisor at the address provided in Paragraph 3.10 of this Consent Order, no later than ten business days prior to the pertinent deadline, and shall include:

- a. Identification of the specific deadline(s) of this Consent Order that will not be met.
- b. A detailed description of the circumstances that will prevent Revere Dock, LLC from meeting the deadline(s).
- c. A description of the measures Revere Dock, LLC 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.

The WRD, Warren District Office Supervisor or a designee, in consultation with the WRD, Enforcement Unit Supervisor, shall respond in writing to such requests. No change or modification to this Consent Order shall be valid unless in writing from EGLE, and if applicable, signed by both parties.

#### **VI. REPORTING**

- 6.1 Revere Dock, LLC shall verbally report any violation(s) of the terms and conditions of this Consent Order to the WRD, Warren District Office 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). Revere Dock, LLC shall report any anticipated violation(s) of this Consent Order to the above-referenced individual in advance of the relevant deadlines whenever possible.

#### **VII. RETENTION OF RECORDS**

- 7.1 Upon request by an authorized representative of EGLE, Revere Dock, LLC shall make available to EGLE all records, plans, logs, and other documents required to be maintained under this Consent Order or pursuant to the NREPA or its rules. All such documents shall

be retained by Revere Dock, LLC for at least a period of five years from the date of generation of the record unless a longer period of record retention is required by the NREPA or its rules.

#### **VIII. RIGHT OF ENTRY**

- 8.1 Revere Dock, LLC shall allow any authorized representative or contractor of EGLE, 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 or permits issued pursuant to the Consent Order. This paragraph in no way limits the authority of EGLE to conduct tests and inspections pursuant to the NREPA and the rules promulgated thereunder, or any other applicable statutory provision.

#### **IX. PENALTIES**

- 9.1 Within 30 days after the effective date of this Consent Order, Revere Dock, LLC shall pay to the State of Michigan \$15,000 DOLLARS as partial compensation for the cost of investigations and enforcement activities arising from the violations specified in Section II of this Consent Order. Payment shall be made in accordance with Paragraph 9.5 of this Consent Order.
- 9.2 Within 30 days after the effective date of this Consent Order, Revere Dock, LLC shall pay to the State of Michigan a civil fine of \$45,000 DOLLARS for the violations specified in Section II of this Consent Order. Payment shall be made in accordance with Paragraph 9.5 of this Consent Order.
- 9.3 For each failure to comply with a provision contained in Section III of this Consent Order, Revere Dock, LLC shall pay a stipulated penalty of \$5,000. If, after 30 days from the original deadline, Revere Dock, LLC has not fully corrected the violation, Revere Dock, LLC shall pay stipulated penalties of \$200 per violation per day for one to seven days of violation, \$300 per violation per day for eight to 14 days of violation, and \$500 per violation per day for each day of violation thereafter. Payments shall be made in accordance with Paragraph 9.5 of this Consent Order.

- 9.4 For each failure to comply with any provision of this Consent Order other than the provisions contained in Section III of this Consent Order, Revere Dock, LLC shall pay stipulated penalties of \$200 per violation per day for one to seven days of violation, \$300 per violation per day for eight to 14 days of violation, and \$500 per violation per day for each day of violation thereafter. Payments shall be made in accordance with Paragraph 9.5 of this Consent Order.
- 9.5 Revere Dock, LLC shall pay all stipulated penalties within 30 days after receipt of the demand for payment of stipulated penalties from EGLE. Revere Dock, LLC agrees to pay all funds due pursuant to this Consent Order by check made payable to the State of Michigan and delivered to the Accounting Services Division, Cashier's Office for EGLE, P.O. Box 30657, Lansing, Michigan 48909 8157, or hand delivered to the Accounting Services Division, Cashier's Office for EGLE, 425 West Ottawa Street, Lansing, Michigan 48933. To ensure proper credit, all payments made pursuant to this Consent Order must include the Payment Identification Number WRD40244.
- 9.6 Revere Dock, LLC agrees not to contest the legality of the civil fine or costs paid pursuant to Paragraphs 9.1, and 9.2, above. Revere Dock, LLC further agrees not to contest the legality of any stipulated penalties assessed pursuant to Paragraphs 9.3 or 9.4, above, but reserves the right to dispute the factual basis upon which a demand by EGLE for stipulated penalties is made.
- 9.7 EGLE reserves its rights to seek interest on any unpaid sums due pursuant to the terms of the Consent Order. Subject to the other provisions of this Section IX, EGLE may waive, in its unreviewable discretion, any portion of stipulated penalties and interest that has accrued pursuant to this Consent Order. This interest penalty shall be based on the rate set forth at MCL 600.6013(8), using the full increment of amount due as principal, and calculated from the due date for the payment until the delinquent payment is finally made in full.

#### **X. FORCE MAJEURE**

- 10.1 Revere Dock, LLC shall perform the requirements of this Consent Order within the time limits established herein, unless performance is prevented or delayed by events that

constitute a "Force Majeure." Any delay in the performance attributable to a "Force Majeure" shall not be deemed a violation of Revere Dock, LLC's obligations under this Consent Order in accordance with this section.

- 10.2 For the purpose of this Consent Order, "Force Majeure" means an occurrence or nonoccurrence arising from causes not foreseeable, beyond the control of, and without the fault of Revere Dock, LLC, such as: an Act of God, untimely review of permit applications or submissions by EGLE or other applicable authority, and acts or omissions of third parties that could not have been avoided or overcome by Revere Dock, LLC's diligence and that delay the performance of an obligation under this Consent Order. "Force Majeure" does not include, among other things, unanticipated or increased costs, changed financial circumstances, or failure to obtain a permit or license as a result of Revere Dock, LLC's actions or omissions.
- 10.3 Revere Dock, LLC shall notify EGLE, by telephone, within 48 hours of discovering any event that may cause a delay in its compliance with any provision of this Consent Order. Verbal notice shall be followed by written notice within ten calendar days and shall describe, in detail, the anticipated length of delay, the precise cause or causes of delay, the measures taken by Revere Dock, LLC to prevent or minimize the delay, and the timetable by which those measures shall be implemented. Revere Dock, LLC shall adopt all reasonable measures to avoid or minimize any such delay. Nothing in this paragraph obviates the need to report violations as required by Paragraph 6.1 of this Consent Order.
- 10.4 Failure of Revere Dock, LLC to comply with the notice requirements and time provisions under Paragraph 10.3 shall render this Section X void and of no force and effect as to the particular incident involved. EGLE may, at its sole discretion and in appropriate circumstances, waive in writing the notice requirements of Paragraph 10.3, above.
- 10.5 If the parties agree that the delay or anticipated delay was beyond the control of Revere Dock, LLC, this may be so stipulated, and the parties to this Consent Order may agree upon an appropriate modification of this Consent Order. However, EGLE is the final decision-maker on whether or not the matter at issue constitutes a force majeure. The burden of proving that any delay was beyond the reasonable control of Revere Dock, LLC,

and that all the requirements of this Section X have been met by Revere Dock, LLC, rests with Revere Dock, LLC.

- 10.6 An extension of one compliance date based upon a particular incident does not necessarily mean that Revere Dock, LLC qualifies for an extension of a subsequent compliance date without providing proof regarding each incremental step or other requirement for which an extension is sought.

### **XI. GENERAL PROVISIONS**

- 11.1 With respect to any violations not specifically addressed and resolved by this Consent Order, EGLE reserves the right to pursue any remedies to which it is entitled for any failure on the part of Revere Dock, LLC to comply with the requirements of the NREPA and its rules.
- 11.2 EGLE and Revere Dock, LLC consent to enforcement of this Consent Order in the same manner and by the same procedures for all final orders entered pursuant to Part 31, Part 201, and Part 301 of the NREPA.
- 11.3 This Consent Order in no way affects Revere Dock, LLC's responsibility to comply with any other applicable state, federal, or local laws or regulations.
- 11.4 The WRD reserves its right to pursue appropriate action, including injunctive relief to enforce the provisions of this Consent Order, and at its discretion, may also seek stipulated fines or statutory fines for any violation of this Consent Order. However, the WRD is precluded from seeking both a stipulated fine under this Consent Order and a statutory fine for the same violation.
- 11.5 The parties agree to diligently and in good faith pursue informal negotiations to resolve any disputes arising out of this Consent Order prior to resorting to judicial enforcement. Such negotiations shall proceed in a timely manner.
- 11.6 Nothing in this Consent Order is or shall be considered to affect any liability Revere Dock, LLC may have for natural resource damages caused by Revere Dock, LLC'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.

- 11.7 In the event Revere Dock, LLC 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, Revere Dock, LLC shall also notify the WRD, Warren District Office 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, Warren District Office Supervisor within 30 days of assuming the obligations of this Consent Order.
- 11.8 The provisions of this Consent Order shall apply to and be binding upon the parties to this action, and their successors and assigns.
- 11.9 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.
- 11.10 The effective date of this Consent Order is the date it is signed by the director of the WRD.

## XII. TERMINATION

- 12.1 This Consent Order shall remain in full force and effect until terminated by a written Termination Notice (TN) issued by EGLE. Prior to issuance of a written TN, Revere Dock, LLC shall submit a request consisting of a written certification that Revere Dock, LLC 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. A suggested form for providing the required written certification is appended as **Exhibit B**. Specifically, an acceptable certification shall include:
- a. The date of compliance with each provision of the compliance program in Section III of this Consent Order, and the date any fines or penalties were paid.

- b. A statement that all required information has been reported to the WRD, Warren District Office Supervisor.
- c. Confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the Facility.

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

**Signatories**

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

**DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY**

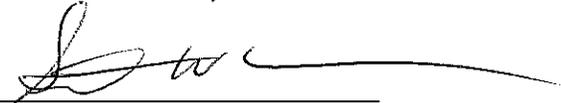


Teresa Seidel, Director  
Water Resources Division

9/17/2020

Date

**REVERE DOCK, LLC**



By: Steven W. Erickson  
Title: President, Revere Dock, LLC

8/6/20

Date

**APPROVED AS TO FORM:**



By: Neil D. Gordon, Assistant Attorney General  
Environment, Natural Resources, and Agriculture Division  
Michigan Department of Attorney General

9/14/2020

Date

**EXHIBIT B**  
**ACO-05517**



**ADMINISTRATIVE CONSENT ORDER TERMINATION REQUEST**

*The completion of this form is voluntary and is intended to be used as guidance for persons that are eligible to request EGLE to issue a Termination Notice of their Administrative Consent Order (ACO). However, it may not be relied upon as being legally sufficient to cover all potential issues related to the specific requirements of the ACO. EGLE does not assume any liability for the use of this document and encourages the user to seek independent legal advice before using this form to draft its certification and request for Termination of its ACO.*

PLEASE TYPE OR PRINT

1. ACO	ADMINISTRATIVE CONSENT ORDER NUMBER:		
2. Facility Owner or Legally Authorized Representative	Facility Owner/Legally Authorized Representative Who Signed the ACO:		
	Address:		Address 2 or P.O. Box:
	City:	State:	Zip Code:
	Telephone:	Fax:	E-mail address:
3. Compliance Section	<p><i>Summarize each completed requirement in the Compliance Section of the ACO give the completion date. Please use additional sheets if necessary:</i></p>		



**ADMINISTRATIVE CONSENT ORDER TERMINATION REQUEST**

3. Certification	<p>I, enter the name of owner or legally authorized representative, hereby certify that each requirement of the ACO that was entered into with the Department of Environment, Great Lakes, and Energy (EGLE) on enter the date has been complied with and completed including paying all money required by the ACO including but not limited to costs, civil fines, stipulated fines and fees. I also certify that all information that I am required to report to EGLE, enter District Office District Office Supervisor has been reported and that all records I am required to maintain pursuant to the ACO are being maintained at the facility (or other location as specified in Section 12 of the ACO). I hereby request that EGLE issue a Termination Notice, formally terminating the ACO in recognition of the resolution of the matters therein. I certify under penalty of law that this certification is true, accurate and complete. I am aware there are significant penalties for submitting false information, including the possibility of a fine for having knowledge of violations and certifying that there are none.</p> <p>Print Name _____ Title _____</p> <p>Signature _____ Date _____</p>
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Please mail this completed form to EGLE, Water Resources Division, District Office that is listed in Section III of the ACO the Owner/Legally Responsible Representative entered into with EGLE. Addresses for the district offices are listed below.

Bay City District Office  
401 Ketchum Street, Suite B  
Bay City, Michigan 48708

Jackson District Office  
301 E. Louis Glick Highway  
Jackson, Michigan 49201-1556

Cadillac District Office  
120 West Chapin Street  
Cadillac, Michigan 49601-2158

Kalamazoo District Office  
7953 Adobe Road  
Kalamazoo, Michigan 49009-5026

Gaylord District Office  
2100 West M-32  
Gaylord, Michigan 49735-9282

Lansing District Office  
525 West Allegan Street (Constitution Hall, 1S)  
P.O. Box 30242  
Lansing, Michigan 48909-7742

Grand Rapids District Office  
State Office Building, 5<sup>th</sup> Floor  
350 Ottawa Avenue NW, Unit 10  
Grand Rapids, Michigan 49503-2341

Marquette District Office  
1504 West Washington Street  
Marquette, Michigan 49855

Warren District Office  
27700 Donald Court  
Warren, Michigan 48092-2793