

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30755
LANSING, MICHIGAN 48909

DANA NESSEL
ATTORNEY GENERAL

October 20, 2022

Clerk of the Court
Ingham County Circuit Court
313 W. Kalamazoo Street
Lansing, MI 48933

Re: *Michigan Department of Environmental Quality v Engineering Tube
Specialties, Inc. and Myron Investments, LLC*
Ingham County Circuit Court Case No: 2011-1157-CE

Dear Clerk:

Enclosed for filing in the above-referenced case are an original and judge's copy of the Joint Motion for Consent Order for Satisfaction of Consent Decree and Order of Dismissal with Prejudice, Notice of Hearing, and corresponding Proof of Service. Please file this in the usual manner with the records of this case.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Margaret A. Bettenhausen
Margaret A. Bettenhausen (P75046)
Assistant Attorney General
Environment, Natural Resources, and
Agriculture Division
P.O. Box 30755
Lansing, MI 48909
(517) 373-7540

MAB:ck
Enclosures

cc: Kevin A. Lavalley (*via first-class mail and email*)

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

MICHIGAN DEPARTMENT
OF ENVIRONMENTAL QUALITY,

Plaintiff,

No. 11-1157-CE

v

HON. JAMES S. JAMO

ENGINEERING TUBE SPECIALTIES, INC.,
and MYRON INVESTMENTS, LLC,

Defendants.

Margaret A. Bettenhausen (P75046)
Assistant Attorney General
Attorney for Plaintiff
Michigan Department of Attorney General
Environment, Natural Resources, and
Agriculture Division
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Kevin A. Lavallo (P41982)
Attorney for Defendants
Gault Davison PC
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klavallo@gaultdavison.com

NOTICE OF HEARING

PLEASE TAKE NOTICE that the Michigan Department of Environmental
Quality's Joint Motion for Consent Order for Satisfaction of Consent Decree and

Order of Dismissal with Prejudice will now be brought on for hearing before the Honorable James S. Jamo on **Wednesday, November 23, 2022, at 3:15 p.m.** or as soon thereafter as counsel may be heard. This hearing will take place via Zoom with the Meeting ID 6166519645.

Respectfully submitted,

/s/ Margaret A. Bettenhausen
Margaret A. Bettenhausen (P75046)
Assistant Attorney General
Attorney for Plaintiff
Environment, Natural Resources, and
Agriculture Division
P.O. Box 30755
Lansing, MI 48909
(517) 373-7540

Dated: October 20, 2022

LF: Engineering Tube Specialties & Myron Mill St Ing/AG #2011-0007270-B/Notice of Hearing 2022-10-20

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

MICHIGAN DEPARTMENT
OF ENVIRONMENTAL QUALITY,

Plaintiff,

No. 11-1157-CE

v

HON. JAMES S. JAMO

ENGINEERING TUBE SPECIALTIES, INC.,
and MYRON INVESTMENTS, LLC,

PROOF OF SERVICE

Defendants.

Margaret A. Bettenhausen (P75046)
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Attorney for Plaintiff
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PROOF OF SERVICE

On October 20, 2022, I sent via first-class mail and email a copy of the Joint Motion for Consent Order for Satisfaction of Consent Decree and Order of Dismissal with Prejudice and Notice of Hearing to:

Kevin A. Lavallo (P41982)
Gault Davison PC
G-8455 S. Saginaw Street, Suite 2
Grand Blanc, MI 48439
klavalle@gaultdavison.com

I declare that the statements above are true to the best of my information, knowledge, and belief.

/s/ Cindi Kopic
Legal Secretary

LF: MJC Providence Estates, LLC Part 303 (EGLE v)/AG# 2021-0334885-B/Proof of Service 2022-10-20

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

MICHIGAN DEPARTMENT
OF ENVIRONMENTAL QUALITY,

Plaintiff,

No. 11-1157-CE

v

HON. JAMES S. JAMO

ENGINEERING TUBE SPECIALTIES, INC.,
and MYRON INVESTMENTS, LLC,

Defendants.

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**JOINT MOTION FOR CONSENT ORDER FOR SATISFACTION OF
CONSENT DECREE AND ORDER OF DISMISSAL WITH PREJUDICE**

Plaintiff Michigan Department of Environment, Great Lakes, and Energy
(f/k/a the Michigan Department of Environmental Quality) (EGLE) and Defendants

ETS Holding Company, Inc. (f/k/a Engineering Tube Specialties, Inc.) (ETS) and Myron Investments, LLC move this Court to enter the Consent Order Providing for (1) Satisfaction of Consent Decree, (2) Vacation of Judgment, and (3) Dismissal of Lawsuit. In support of this motion, the parties state as follows:

1. On July 30, 2014, this Court entered Judgment in favor of EGLE and against ETS holding ETS liable for past and future costs, permanent injunctive relief, and civil fines related to releases of trichloroethylene at and emanating from ETS's facility located at 85 Myron Street, Ortonville, Michigan.

2. On June 11, 2015, this Court entered a Consent Decree that resolved all issues relating to this litigation and to satisfy the July 30, 2014 Judgment.

3. ETS has satisfied some but not all of its obligations contained in the June 11, 2015 Consent Decree.

4. In lieu of completing these remaining obligations, the parties have agreed that ETS will pay EGLE the sum of \$1,200,000.00 to fully satisfy the obligations under the June 11, 2015 Consent Decree.

Accordingly, the parties respectfully request that the Court enter the Consent Order Providing for (1) Satisfaction of Consent Decree, (2) Vacation of Judgment, and (3) Dismissal of Lawsuit, attached hereto as **Exhibit 1**.

Respectfully submitted,

/s/ Margaret A. Bettenhausen
Margaret A. Bettenhausen (P75046)
Assistant Attorney General
Attorney for Plaintiff

Environment, Natural Resources, and
Agriculture Division
P.O. Box 30755
Lansing, MI 48909
(517) 373-7540

Dated: October 20, 2022

/s/ Kevin A. Lavalle
Kevin A. Lavalle (P41982)
Gault Davison, P.C.
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Grand Blanc, MI 48439
(810) 234-3633

Dated: October 20, 2022

LF: Engineering Tube Specialties & Myron Mill St Ing/AG #2011-0007270-B/Joint Motion for Consent Order for Satisfaction of Consent Decree and Order of Dismissal with Prejudice 2022-10-20

Exhibit 1

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

MICHIGAN DEPARTMENT
OF ENVIRONMENTAL QUALITY,

Plaintiff,

No. 11-1157-CE

v

HON. JAMES S. JAMO

ENGINEERING TUBE SPECIALTIES, INC.,
and MYRON INVESTMENTS, LLC,

Defendant.

Margaret A. Bettenhausen (P75046)
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klavallo@gaultdavison.com

CONSENT ORDER PROVIDING FOR (1) SATISFACTION OF CONSENT
DECREE, (2) VACATION OF JUDGMENT, AND (3) DISMISSAL OF
LAWSUIT

At a session of Court held in the City of Lansing, County of
Ingham, Michigan, on 1/29/22

Present: HONORABLE JAMES S. JAMO, Circuit Judge

This matter having been brought before the Court pursuant to the parties' Joint Motion for Consent Order Providing for Satisfaction of Consent Decree, Vacation of Judgment, and Order of Dismissal with Prejudice (the Motion), and the Court having reviewed the Motion, and the Court having heard the argument of counsel in support thereof, and the Court being otherwise fully advised in the premises:

IT IS HEREBY ORDERED that the Motion is granted. Within 30 days from the date hereof, Defendant Engineering Tube Specialties, Inc. n/k/a ETS Holding Company, Inc. (ETS) shall pay to Plaintiff, Michigan Department of Environmental Quality n/k/a Michigan Department of Environment, Great Lakes, and Energy (EGLE) the sum of \$1,200,000.00 (the Settlement Sum).

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

By first class mail:
Michigan Department of Environment, Great Lakes, and Energy
Cashier's Office for EGLE
P.O. Box 80857
Lansing, MI 48909-8157

Via courier:
MDOT Accounting Services Division
Cashier's Office for EGLE
Van Wagoner Building, First Floor West
425 West Ottawa Street
Lansing, MI 48933-2125

To ensure proper credit, the payment made pursuant to this Order must be made by check referencing Engineering Tube Specialties, EGLE Reference No. 11-1157-CE and the RRD Account Number RRD50143. A copy of the transmittal letter and check shall be provided simultaneously to:

As to EGLE:
Dan Yordanich
Compliance and Enforcement Section Manager
Remediation and Redevelopment Division
Michigan Department of Environment, Great Lakes, and Energy
Constitution Hall
625 West Allegan Street
5th Floor South,
Lansing, MI 48933-7926
Phone: 517-648-9052
Fax: 517-241-9581

And to the MDAG at:
Margaret Bettenhausen
Assistant Attorney General
Environment, Natural Resources, and Agriculture Division
Michigan Department of Attorney General
G. Mennen Williams Building, 6th Floor
P.O. Box 30755
Lansing, MI 48909
bettenhausenm@michigan.gov

Costs recovered pursuant to this Order shall be deposited in the Environmental Response Fund (ERF) in accordance with the provisions of MCL 324.20108(3). To ensure that this Order is implemented in accordance with the intent of EGLE and ETS and in the public interest, EGLE and ETS agree that the costs recovered shall be designated by EGLE as authorized in Section 20108(3) of the NREPA for use specifically at the Facility, as defined in Part 201 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and shall only be used to perform response activities at the Facility unless EGLE determines the funds are not necessary after 30 years, then the funds can be released to the ERF unrestricted.

IT IS FURTHER ORDERED that upon ETS' timely payment of the Settlement Sum, EGLE shall promptly file with the Court, in the form attached

hereto as Exhibit A, a Satisfaction of the Court's Consent Decree entered on June 11, 2015.

IT IS FURTHER ORDERED that upon ETS' timely payment of the Settlement Sum, EGLE shall promptly file with the Court, the form attached hereto as Exhibit B, a Stipulated Order vacating this Court's Judgment entered on July 23, 2014, and dismissing this action with prejudice with the parties to bear their own costs and fees.

IT IS FURTHER ORDERED that upon ETS' timely payment of the Settlement Sum, all named Defendants and EGLE will execute a Mutual Release of Claims in the form attached hereto as Exhibit C.

IT IS SO AGREED.

JUDGE JAMES S. JAMO

Honorable James S. Jamo
Circuit Court Judge

MYRON INVESTMENTS, LLC

By: William Brothers
William Brothers, Its Authorized Signatory

Dated: 10/9/2022

ETS HOLDING COMPANY, INC.
f/k/a Engineering Tube Specialties, Inc.

By: William Brothers
William Brothers, Its President

Dated: 10/9/2022

MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES
AND ENERGY

By: Joshua M. Mosher
Joshua M. Mosher, Remediation and
Redevelopment Assistant Division
Director

Dated: 10/18/2022

Kevin A. Lavallo (P41982)
Gault Davison, P.C.
G-8455 S. Saginaw, Suite 2
Grand Blanc, MI 48439
(810) 284-3633
Attorney for Defendants

Dated: _____

/s/ Margaret A. Bettenhausen
Margaret A. Bettenhausen (P75046)
Assistant Attorney General
Michigan Department of Attorney General
Environment, Natural Resources, and
Agricultural Division
(517) 385-7664
Attorney for Plaintiff

Dated: October 5, 2022

EXHIBIT A

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

MICHIGAN DEPARTMENT
OF ENVIRONMENTAL QUALITY,

Plaintiff,

No. 11-1157-CE

v

HON. JAMES S. JAMO

ENGINEERING TUBE SPECIALTIES, INC.,
and MYRON INVESTMENTS, LLC,

Defendants.

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CERTIFICATE OF SATISFIED CONSENT DECREE

A Consent Decree was entered by this Court on June 11, 2015. Plaintiff hereby certifies that the Consent Decree is fully satisfied as to all Defendants. Accordingly, the following provisions in the June 11, 2015 Consent Decree are

hereby in full force and effect and now fully applicable: XVIII Covenants Not to Sue by the State, paragraphs 18.1(a)–(e), XIX Reservation of Rights by the State, paragraphs 19.1(c),(d),(e),(f),(g),(h),(i),(j), and 19.2–19.8, and XX Covenant not to Sue by the Defendant, paragraphs 20.1 and 20.2; provided that all reservation of rights shall be subject to all defenses that Defendants may be able to establish to such claims; and provided further, nothing in the aforementioned paragraphs 19.1(c)–(f) and 19.2–19.8 shall affect the enforceability of the covenants not to sue set forth in paragraphs 18.1(a)–(e) or the release of liability given by the parties to one another in the Mutual Release of Claims they have executed herewith.

/s/ Margaret A. Bettenhausen
Margaret A. Bettenhausen (P75046)
Assistant Attorney General
Attorney for Plaintiff
Environment, Natural Resources, and
Agriculture Division
P.O. Box 30755
Lansing, MI 48909
(517) 373-7540

Dated: January 9, 2023

EXHIBIT B

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

MICHIGAN DEPARTMENT
OF ENVIRONMENTAL QUALITY,

Plaintiff,

No. 11-1157-CE

v

HON. JAMES S. JAMO

ENGINEERING TUBE SPECIALTIES, INC.,
and MYRON INVESTMENTS, LLC,

Defendants.

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Attorney for Plaintiff
Michigan Department of Attorney General
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**STIPULATED ORDER VACATING JUDGMENT AND DISMISSING ACTION
WITH PREJUDICE AND WITHOUT COSTS OR FEES AS TO ALL PARTIES**

At a session of Court held in the City of Lansing, County of
Ingham, Michigan, on January 17 2023.

Present: HONORABLE JAMES S. JAMO, Circuit Court Judge

Based on the Stipulation of the parties as evidenced by the signatures of their respective attorneys set forth below, and the Court being otherwise fully advised in the premises:

IT IS HEREBY ORDERED that this Court's Judgment entered on July 23, 2014 is hereby vacated in its entirety.

IT IS FURTHER ORDERED that this action is hereby dismissed, with prejudice and the parties will bear their own costs and fees.

This Order disposes of the last pending claim and closes the case.

JUDGE JAMES S. JAMO

Honorable James S. Jamo
Circuit Court Judge

Approved as to form and content:

/s/ Kevin A. Lavallo
Kevin A. Lavallo (P41982)
Gault Davison, P.C.
G-8455 S. Saginaw, Suite 2
Grand Blanc, MI 48439
(810) 234-3633
Attorney for Defendants

Dated: January 9, 2023

/s/ Margaret A. Bettenhausen
Margaret A. Bettenhausen (P75046)
Assistant Attorney General
Michigan Department of Attorney General
Environment, Natural Resources, and
Agricultural Division
(517) 335-7664
Attorney for Plaintiff

Dated: January 9, 2023

EXHIBIT C

MUTUAL RELEASE OF CLAIMS

For and in consideration of ETS Holding Company, Inc.'s payment to the Michigan Department of Environment, Great Lakes, and Energy the sum of \$1,200,000.00, Defendants ETS Holding Company, Inc. f/n/a Engineering Tube Specialties, Inc. and Myron Investments, LLC and their respective members, owners, officers, shareholders, heirs, successors, and assigns, on the one hand, and the Plaintiff Michigan Department of Environment, Great Lakes, and Energy f/k/a as the Michigan Department of Environmental Quality, and its officials, successors and assigns, on the other, do hereby fully and mutually release, acquit, hold harmless, and forever, fully and finally discharge each other, together with their respective current and former members, officers, officials, owners, attorneys, employees, shareholders, directors, heirs, agents, representatives, associates, affiliates, administrators, successors and assigns, from any and all liability, responsibility, actions, debts, claims, demands, obligations, grievances and causes of action, of every kind and nature whatsoever on account of any and all known and unknown injury, losses or damages of whatever kind or nature, if any, whether at law or in equity, *ex contractu* or *ex delicto*, based on any theory of recovery, including but not limited to actual and consequential damages, fines and/or penalties, now existing or which may hereafter arise out of any known facts or conditions, by reason of, arising from or in any way connected with or related to an alleged release, or threat of a release, of TCE (as such term is defined in the Consent Decree described below) on real property commonly known as 85 Myron Street, Ortonville, Michigan, including but not limited to those claims and causes of

action which were or may have or could have been brought against the other in that certain lawsuit brought by the Michigan Department of Environmental Quality against Engineering Tube Specialties, Inc. and Myron Investment, LLC, 30th Judicial Circuit Court Case No. 11-1157-CE, or arise under either the Judgment entered in that action on July 30, 2014 and/or the Consent Decree entered in that action on June 11, 2015 (the Released Claims). This Mutual Release shall not be construed as, and shall not constitute, any admission of liability on the part of any of the parties.

All undersigned parties expressly acknowledge and agree that they have the benefit of competent legal counsel, they have had adequate opportunity to consult the legal and other advisors of their choice, and they do freely enter into this Mutual Release of their own voluntary accord, without being subject to any coercion whatsoever.

All undersigned parties expressly acknowledge and agree that they will not institute any litigation or other action for claim for relief of any kind with respect to any Released Claim, or against each other regarding any Released Claim.

All undersigned parties expressly acknowledge and agree that this Mutual Release constitutes an absolute defense and complete bar to any and all actions, losses, demands, allegations, claims and liability related in any way to the Released Claims, and all claims which could have been raised in the action. All such issues, rights, claims, demands, liability and causes of action, known and unknown, pled and not pled, in any way related to any Released Claim are now deemed to be *res judicata*.

