

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

MICHIGAN DEPARTMENT OF NATURAL  
RESOURCES AND ENVIRONMENT,

Plaintiff,

No. 11-156-CE

v

HON. WANDA M. STOKES

STREFLING OIL COMPANY, a Michigan  
corporation; STREFLING REAL ESTATE  
INVESTMENTS #1, LLC, a Michigan limited  
liability company; and RONALD G.  
STREFLING,

Defendants.

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Andrew T. Prins (P70157)  
Richard S. Kuhl (P42042)  
Assistant Attorneys General  
Attorneys for Plaintiff  
Environment, Natural Resources,  
and Agriculture Division  
P.O. Box 30755  
Lansing, MI 48909  
(517) 335-7664  
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Patrick R. Drueke (P56300)  
Rhoades McKee PC  
Attorney for Strefling Oil Company  
and Strefling Real Estate  
Investments #1 LLC  
55 Campau Ave. NW Ste 300  
Grand Rapids, MI 49503  
(616) 233-5175  
prdrueke@rhoadesmckee.com

Ronald G. Strefling  
In Pro Per  
608 E. Snow Rd.  
Baroda, MI 49101  
rstrefling@att.net

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**ORDER**

At a session of said Court held in the City of Mason,  
Ingham County, Michigan on 5/4/23, 2023.

PRESENT: HONORABLE WANDA M. STOKES  
Circuit Court Judge

This matter having come before the Court upon Plaintiff, the Michigan Department of Environment, Great Lakes, and Energy's (EGLE) Motion for Court Approval of Settlement Agreement, after hearing argument, and the Court being advised in the premises:

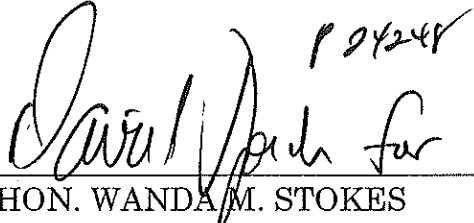
IT IS HEREBY ORDERED that this case is reopened for the purpose of entering this Order and that this case is thereafter closed again.

IT IS FURTHER ORDERED that the Settlement Agreement attached as Exhibit 1 to EGLE's Motion is incorporated in full into this Order.

IT IS FURTHER ORDERED that the Settlement Agreement is approved.

IT IS FURTHER ORDERED that this Court retains jurisdiction to enforce the Settlement Agreement.

This order closes this case.

  
HON. WANDA M. STOKES  
Circuit Court Judge

Prepared by:

Andrew T. Prins (P70157)  
Assistant Attorney General  
P.O. Box 30755  
Lansing, MI 48909

STATE OF MICHIGAN  
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INGHAM COUNTY

MICHIGAN DEPARTMENT OF NATURAL  
RESOURCES AND ENVIRONMENT,

Plaintiff,

No. 11-156-CE

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**SETTLEMENT AGREEMENT**

This Settlement Agreement (Agreement), by and between the Michigan  
Department of Environment, Great Lakes, and Energy<sup>1</sup> (EGLE), and Defendants

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<sup>1</sup> Pursuant to Executive Order 2011-1, administration of Part 201, Environmental Remediation, of Michigan's Natural Resources and Environmental Protection Act (NREPA), MCL 324.20101 *et seq.*, and Part 213, Leaking Underground Storage Tanks, of the NREPA, MCL 324.21301a *et seq.*, was transferred from the Michigan Department of Natural Resources and Environment (MDNRE) to the newly re-

Strefling Oil Company, Strefling Real Estate Investments #1, LLC, and Ronald G. Strefling (collectively, the Parties).

## **I. PARTIES BOUND**

1.1 This Agreement shall apply to and be binding upon the Parties and their successors. Defendants are jointly and severally liable for the performance of all activities specified in this Agreement. Any change in ownership, corporate, or legal status of a Defendant including, but not limited to, any transfer of assets, or of real or personal property, shall in no way alter the Defendant's responsibilities under this Agreement. Defendants shall comply with the requirements of MCL 324.21304d and not transfer any interest in the Litigation Properties unless Defendants provide written notice to the transferee that the real property is a location where a release has occurred, or a threat of release exists from an underground storage tank system, and of the general nature and extent of the release.

1.2 The signatories to this Agreement certify that they are authorized to execute this Agreement and to legally bind the parties they represent.

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created Michigan Department of Environmental Quality (MDEQ), effective March 13, 2011. Pursuant to Executive Order 2019-06, effective April 22, 2019, the Michigan Department of Environmental Quality was renamed the Michigan Department of Environment, Great Lakes, and Energy (EGLE). EGLE is the successor in interest to Plaintiff, MDNRE, in the above-referenced litigation.

## **II. STATEMENT OF PURPOSE**

The purpose of this Agreement is to resolve the monetary judgment set forth in the December 21, 2012, Opinion and Order, entered in the above-referenced action, and renewed on October 4, 2022; and to resolve the Defendants' obligation to perform corrective actions at three sites in Southwest Michigan pursuant to the February 16, 2012, Order Granting Partial Summary Disposition, also entered in the above-referenced action.

## **III. DEFINITIONS**

3.1 "Day" means a calendar day.

3.2 "Defendants" means Strefling Oil Company, Strefling Real Estate Investments #1, LLC, and Ronald G. Strefling.

3.3 "Effective Date" means the day the Agreement has been signed by all parties.

3.4 "Red Arrow Escrow Agreement" means the escrow agreement entered August 26, 2016, between Ronald Strefling, Roy W. Strefling, and EGLE, as escrow parties, and First American Title Insurance Company (c/o Toni Harbin), 500 Renaissance Drive, Suite 103, St. Joseph, Michigan 49085, as escrow agent.

3.5 "EGLE" means the Michigan Department of Environment, Great Lakes, and Energy, its successor entities, and those authorized persons or entities acting on its behalf. EGLE is the successor in interest to Plaintiff, MDNRE, in the above-referenced litigation.

3.6 “Litigation Properties” means the following real properties that were the subject matter of the above-referenced litigation: the Galien Filling Station located at 120 US 12, Galien, Michigan 49113; John’s Pro Filling Station located at the corner of Cleveland Avenue and Lemon Creek Road, Baroda, Michigan 49101; and the Streffling Bulk Plant located at 1663 Lemon Creek Road, Baroda, Michigan 49101.

3.7 “Part 201” means Part 201, Environmental Remediation, of Michigan’s Natural Resources and Environmental Protection Act (NREPA), MCL 324.20101 *et seq.*, the criteria developed pursuant to MCL 324.20120a(1), and the Part 201 Administrative Rules.

3.8 “Part 213” means Part 213, Leaking Underground Storage Tanks, of the NREPA, MCL 324.21301a *et seq.*

3.9 “Party” means either EGLE or a Defendant. “Parties” means EGLE and the Defendants.

3.10 Unless otherwise stated herein, all other terms used in this Agreement, which are defined in Part 3, Definitions, of the NREPA, MCL 324.301, or Part 201 or Part 213, shall have the same meaning in this Agreement as in Parts 3, 201 and 213.

#### **IV. RECITALS**

4.1 The Michigan Department of Natural Resources and Environment (MDNRE) filed a civil action against the Defendants on February 2, 2011, pursuant to Parts 201 and 213 of the NREPA in the above-referenced litigation due to the

Defendants' failure to address contamination resulting from leaking underground storage tank systems at the Litigation Properties.

4.2 Releases of regulated substances were confirmed at the Litigation Properties on: February 9, 1994 (Release No. C-0071-94) at the Galien Filling Station located at 120 US 12, Galien, Michigan 49113; March 22, 2000 (Release No. C-300-00) at John's Pro Filling Station located at the corner of Cleveland Avenue and Lemon Creek Road, Baroda, Michigan 49101; and March 22, 2000 (Release No. C-301-00) and October 4, 2001 (Release No. C-1294-01) at the Strefling Bulk Plant located at 1663 Lemon Creek Road, Baroda, Michigan 49101.

4.3 The circuit court granted MDNRE's motion for partial summary disposition on February 16, 2012, determining liability and enjoining the Defendants to complete corrective actions in accordance with Part 213 with respect to the releases at the Litigation Properties. (Ex A, 2/16/12 Order Granting Partial Summary Disposition, pp 2–3.)

4.4 The circuit court held an evidentiary hearing, and on December 21, 2012, a final order was entered finding the Defendants were liable for: \$48,809.72 in "past costs of corrective action"; \$20,625.00 in attorney fees; \$499,842.00 in civil fines; and \$275,500.00 in administrative penalties. (Ex B, 12/21/12 Order and Opinion.)

4.5 The circuit court entered an order on February 21, 2013, enjoining the Defendants from, "disposing of, selling, transferring and/or encumbering any assets without an [o]rder of the [court]." (2/21/13 Order, p 2.)

4.6 The circuit court entered an order on April 29, 2013, modifying its February 21, 2013, Order, allowing the Defendants to sell their real property to fund corrective actions at the Litigation Properties, so long as: a 14-day notice and terms of the proposed sale was given to MDNRE in writing; the net proceeds of any sale were placed into an escrow account to be used exclusively for corrective action at the Litigation Properties; and closing documents were provided to MDNRE upon the closing. (4/29/13 Order, p 2.)

4.7 The Michigan Court of Appeals reversed the attorney fee award and remanded the case for the ministerial task of amending the judgment to assess administrative penalties solely against Defendant Strefling Oil Company. (*Dep't of Natural Res & Env't v Strefling Oil Co, et al.*, unpublished opinion per curiam of the Court of Appeals, issued July 29, 2014 (Docket No. 314336).)

4.8 The circuit court amended its final order on August 1, 2014, as directed by the Michigan Court of Appeals, assessing the \$275,500.00 in administrative penalties solely against Defendant Strefling Oil Company. (8/1/14 Order.)

4.9 EGLE filed the following judgment liens with respect to the monetary judgment:

- (a) Defendant Strefling Oil Company, St. Joseph County, Liber 1788, Page 831.
- (b) Defendant Ronald G. Strefling, Van Buren County, Liber 1621, Page 732.



- (c) Defendant Ronald G. Strefling, Cass County, Liber 1092, Page 832.
- (d) Defendant Strefling Oil Company, Allegan County, Liber 3939, Page 838.
- (e) Defendant Ronald G. Strefling, Allegan County, Liber 3939, Page 839.
- (f) Defendant Strefling Oil Company, Berrien County, Liber 3107, Page 0459.
- (g) Defendant Ronald G. Strefling, Berrien County, Liber 3107, Page 0458.
- (h) Defendant Strefling Oil Company, Ottawa County, Document No. 2015-0023565.
- (i) Defendant Ronald G. Strefling, Ottawa County, Document No. 2015-0023566.

4.10 Roy W. Strefling, EGLE and Defendant Ronald Strefling established an escrow on August 26, 2016, that was funded with sale proceeds that were due Defendant Ronald Strefling as a partial owner of 9709 Red Arrow Highway, Bridgman, Michigan 49106 (the Red Arrow Escrow Agreement). (Ex C, 8/26/16 Red Arrow Escrow Agreement, pp 1–2.) Roy W. Strefling also asserted an interest in Defendant Ronald Strefling’s proceeds from the sale. (*Id.*, p 1.) Ultimately, \$33,252.06 in proceeds from the sale was used to fund the escrow and approximately \$20,000.00, remains (Red Arrow Sale Proceeds). (*Id.*, Section 2(a).)

The proceeds of the escrow may be disbursed pursuant to “Joint Written Instructions” of all Escrow Parties. (*Id.*, Section 4(c).)

4.11 On March 8, 2023, Defendant Ronald Strefling entered a Real Estate Purchase Agreement for the sale of John’s Pro Filling Station located at the corner of Cleveland Avenue and Lemon Creek Road, Baroda, Michigan 49101, with Baroda Badlands LLC, for the purchase price of \$130,000.00.

WHEREFORE, the Parties mutually agree that it would be in their best interest to compromise and resolve the Defendants’ outstanding corrective action and monetary judgment obligations as set forth below, and in consideration of the following rights and obligations, agree:

## **V. PAYMENT OF ESCROW**

5.1 Within 7 days of entry of an order setting forth the Court’s approval of this Agreement, Defendant Ronald Strefling, together with EGLE, shall issue Joint Written Instructions to the escrow agent under the Red Arrow Escrow Agreement directing the escrow agent to pay the remainder of the Red Arrow Sale Proceeds to EGLE.

## **VI. SALE OF JOHN’S PRO FILLING STATION**

6.1 EGLE and Defendants agree to execute a new escrow agreement for the sale of John’s Pro Filling Station, at Exhibit D (the John’s Pro Escrow Agreement), that outlines the actions of the escrow agent identified in the paragraphs below.

6.2 Upon sale of John's Pro Filling Station, the closing agent shall deposit the \$129,972.94 from the sale (the John's Pro Sale Proceeds), into the escrow for EGLE.

6.3 The escrow agent shall provide notice to EGLE that the John's Pro Sale Proceeds have been deposited into the escrow account within 48 hours.

6.4 EGLE shall provide to the escrow agent partial lien releases that release John's Pro Filling Station from the liens identified in Paragraphs 4.9(g) and 4.9(f) after receipt of the notice described in Paragraph 6.3.

6.5 Once the lien releases are received by the escrow agent, the escrow agent shall provide the lien releases to Baroda Badlands LLC, to be recorded.

6.6 Upon entry of an order setting forth the Court's approval of this Agreement, the escrow agent shall send the John's Pro Sale Proceeds to EGLE.

## **VII. ENVIRONMENTAL CONDITION**

7.1 EGLE shall make available any information it has regarding Contamination at John's Pro Filling Station located at the corner of Cleveland Avenue and Lemon Creek Road, Baroda, Michigan 49101.

## **VIII. ACCESS**

8.1 With respect to John's Pro Filling Station, corner of Cleveland Avenue and Lemon Creek Road, Baroda, Michigan 49101, Defendants shall secure from the persons to whom the property is transferred pursuant to Section VI, written access agreements in a form similar to Exhibit E that provides to EGLE and its authorized

employees, agents, representatives, contractors, and consultants, access to the property at all reasonable times for the following purposes:

- (a) Inspecting an underground storage tank system;
- (b) Obtaining samples of any substance from an underground storage tank system;
- (c) Requiring and supervising the conduct of monitoring or testing of an underground storage tank system, its associated equipment, or contents;
- (d) Conducting monitoring or testing of an underground storage tank system in cases where there is no identified responsible party;
- (e) Conducting monitoring or testing, or taking samples of soils, air, surface water, or groundwater;
- (f) Taking corrective action; and
- (g) Inspecting and copying any records related to an underground storage tank system.

## **IX. SATISFACTION OF JUDGMENT**

9.1 EGLE shall file a full satisfaction of judgment with the Ingham County Circuit Court with respect to the Defendants for the December 21, 2012, Opinion and Order, renewed October 4, 2022, if the following conditions are met:

- (a) Defendant Ronald Strefling issues Joint Written Instructions to the escrow agent under the Red Arrow Escrow Agreement

directing the escrow agent to pay the remainder of the Red Arrow Sale Proceeds in accordance with Section V, and EGLE receives the proceeds.

- (b) Defendants pay EGLE the \$129,972.94 payment in accordance with Section VI.

## **X. RELEASE OF JUDGMENT LIENS**

10.1 Upon entry of an order setting forth the Court's approval of this Agreement, and compliance with Sections V and VI, and satisfaction of the conditions in Paragraph 9.1, EGLE shall file lien releases for the liens identified in Paragraph 4.9.

## **XI. COVENANT NOT TO SUE BY EGLE**

11.1 Upon compliance with Sections V and VI, and satisfaction of the conditions in Paragraph 9.1, except as specifically reserved by EGLE below, EGLE covenants not to sue in federal or state court or take new or further administrative action against Defendants:

- (a) To recover upon the monetary judgment set forth in the December 21, 2012, Opinion and Order, renewed on October 4, 2022; or
- (b) To compel completion of corrective actions in accordance with Part 213 of the NREPA with respect to the releases at the Litigation Properties identified in Paragraph 4.2.

11.2 The covenants not to sue shall take effect under this Agreement as follows:

- (a) With respect to the Defendants' liability the monetary judgment set forth in the December 21, 2012, Opinion and Order, renewed on October 4, 2022, the covenant not to sue shall take effect upon satisfaction of the conditions in Paragraph 9.1.
- (b) With respect to compelling corrective actions with respect to the releases identified in Paragraph 4.2, the covenant not to sue shall take effect upon satisfaction of the conditions in Paragraph 9.1.

11.3 The covenants not to sue extend only to Defendants and do not extend to any other person.

## **XII. RESERVATION OF RIGHTS BY EGLE**

12.1 The covenants not to sue apply only to those matters specified in Paragraph 11.1 of Section XI (Covenants Not to Sue by EGLE) of this Agreement. EGLE expressly reserves, and this Agreement is without prejudice to, all rights to take administrative action, or to file a new action pursuant to any applicable authority against Defendants with respect to the following:

- (a) Releases at the Litigation Properties not identified in Paragraph 4.2.
- (b) The past, present, or future treatment, handling, disposal, release, or threat of release of hazardous substances that occur

outside of the Litigation Properties and that are not attributable to the Litigation Properties;

- (c) The past, present, or future treatment, handling, disposal, release, or threat of release of hazardous substances taken from the Litigation Properties;
- (d) Damages for injury to, destruction of, or loss of natural resources, and the costs for any natural resource damage assessment;
- (e) Criminal acts;
- (f) Any other violations of state or federal law for which Defendants have not received a covenant not to sue; and
- (g) Any issue addressed in MCL 324.21323g(5) as it relates to unknown conditions at the Litigation Properties and/or attributable to the Litigation Properties.

12.2 EGLE reserves the right to take action against the Defendants, if it discovers at any time, that any material information provided by the Defendants in connection with negotiating the terms of this Agreement, that was materially relied upon by EGLE in entering into this Agreement, was known by the Defendants to be false or materially misleading at the time it was provided as proven to a court.

12.3 EGLE expressly reserves all of their rights and defenses pursuant to any available legal authority to enforce this Agreement.

12.4 Subject to, and without modifying or limiting the scope or effect of the covenant not to sue or take any new or further administrative action in Paragraph 11.1, EGLE retains all of its authority and reserves all of its rights to perform, or contract to have performed, any corrective actions that EGLE determines are necessary under applicable law.

12.5 Subject to, and without modifying or limiting the scope or effect of the covenant not to sue or take any new or further administrative action in Paragraph 11.1, the State retains all of its information-gathering, inspection, access, and enforcement authorities and rights under Part 213, and any other applicable statute or regulation.

12.6 Failure by EGLE to enforce any term, condition, or requirement of this Agreement in a timely manner shall not:

- (a) Provide or be construed to provide a defense for Defendants' noncompliance with any such term, condition, or requirement of this Agreement.
- (b) Estop or limit the authority of EGLE enforce any such term, condition, or requirement of the Agreement, or to seek any other remedy provided by law.

12.7 This Agreement does not constitute a warranty or representation of any kind by EGLE that corrective actions performed by EGLE at the Litigation Properties will result in the achievement the risk-based screening levels established



by law, or that those corrective actions will assure protection of public health, safety, or welfare, or the environment.

12.8 Nothing in this Order shall limit the power and authority of EGLE or the State of Michigan, pursuant to MCL 324.21319a and MCL 324.20123, as provided for under MCL 324.21323g(7), 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 Litigation Properties or attributable to the Litigation Properties.

### **XIII. COVENANTS NOT TO SUE BY DEFENDANTS**

13.1 Defendants hereby covenant not to sue or to take any civil, judicial, or administrative action against the State of Michigan, its agencies, or their authorized representatives, for any claims or causes of action against the State of Michigan that arise from this Agreement, including, but not limited to, any direct or indirect claim for reimbursement from the Cleanup and Redevelopment Fund pursuant to MCL 324.20119(5) or any other provision of law.

13.2 After the Effective Date of this Order, if the Michigan Department of Attorney General (MDAG) initiates any administrative or judicial proceeding for injunctive relief, recovery of response activity costs, or other appropriate relief relating to the Litigation Properties, Defendants agree not to assert and shall not maintain any defenses or claims that are based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, or claim-splitting; or that are based

upon a defense that contends any claims raised by EGLE or the MDAG in such a proceeding were or should have been brought in this case, provided, however, that nothing in this Paragraph affects the enforceability of the covenants not to sue set forth in Section XI (Covenants Not to Sue by EGLE) of this Agreement.

#### **XIV. COMPLIANCE WITH LAWS**

14.1 Except as set forth in this Agreement, this Agreement in no way affects Defendants' responsibility to comply with any applicable state, federal, or local laws and regulations, including Parts 201 and 213 of the NREPA.

#### **XV. CONTACTS**

15.1 Each Party shall designate one or more designated contact person for notification purposes. Notices may be initially provided by electronic means, but a hard copy must be concurrently sent. If any Party changes any of its designated contact persons, the name, address, telephone number, and email address of the successor or additional contact person shall be provided to the other Party, in writing, as soon as practicable.

As to EGLE at:

Division Director  
Remediation and Redevelopment Division  
Michigan Department of Environment, Great Lakes, and Energy  
Constitution Hall 5<sup>th</sup> Floor South  
P.O. Box 30426  
Lansing, Michigan 48909  
Phone: (517) 284-5087  
Fax: (517) 241-9581  
and by email to: yordanichd@michigan.gov

and to Defendants at:

Ronald G. Strefling  
608 East Snow Road  
Baroda, Michigan 49101  
Phone: (269) 208-2560  
and by email to: rstrefling@att.net

## **XVI. PAYMENTS**

16.1 All payments made pursuant to this Agreement shall be by check, made payable to the “State of Michigan – Environmental Response Fund,” and shall be sent by first class mail or courier to:

Via first class mail:

Accounting Services Division  
Cashier’s Office for EGLE  
PO Box 30657  
Lansing, MI 48909-8157

Via courier:

Accounting Services Division  
Cashier’s Office for EGLE  
Van Wagoner Building, 1st Floor West  
425 West Ottawa Street  
Lansing, MI 48933-2125

To ensure proper credit, all payments made pursuant to this Agreement shall include the case name *MDNRE v Strefling Oil Company, et al.*, and RRD Account Number RRD60154 on each check.

## **XVII. MODIFICATIONS**

17.1 The Parties may only modify this Agreement according to the terms of this Section. Modification of any provision of this Agreement shall be made only by written agreement between, the RRD Director, or his or her authorized representative, and the designated representative of the MDAG, and each Defendant.

## **XVIII. SEPARATE DOCUMENTS**


18.1. The Parties may execute this Agreement in duplicate original form for the primary purpose of obtaining multiple signatures, each of which shall be deemed an original, but all of which together shall constitute the same instrument.

## **XIX. SEVERABILITY**

19.1 The provisions of this Agreement shall be severable. If a court of competent jurisdiction declares that any provision of this Agreement is inconsistent with state or federal law and therefore unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.

IT IS SO AGREED BY:

MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

  
Josh Mosher  
Assistant Division Director  
Remediation and Redevelopment Division

03/30/2023  
Dated

MICHIGAN DEPARTMENT OF ATTORNEY GENERAL

Andrew Prins

Andrew T. Prins (P70157)  
Assistant Attorney General  
Environment, Natural Resources,  
and Agriculture Division

3-30-23

Dated

STREFLING OIL COMPANY

Ronald Streffling  
By: Ronald Streffling  
Its: President

3-24-23

Dated

STREFLING REAL ESTATE INVESTMENTS #1, LLC

Ronald Streffling  
By: Ronald Streffling  
Its: Agent

3-24-23

Dated

RONALD G. STREFLING

Ronald G. Streffling  
Ronald G. Streffling

3-24-23

Dated

I, Roy W. Strefling, consent to the provisions of this Agreement affecting the sales of the properties identified in Paragraph 6.1 and waive any claims that I may have as a result of those provisions.

Roy W. Strefling  
Roy W Strefling

3-27-23  
Dated

Subscribed and sworn to before me  
this 27 day of March, 2023.

Adrienne Lacy

Adrienne Lacy  
Notary Public State of Michigan  
County of Berrien  
My commission expires July 20, 2027

Notary Public  
State of Michigan, County of Berrien  
My Commission Expires: July 20, 2027

**Exhibit A**  
**2/16/12 Order Granting Partial**  
**Summary Disposition**

2/11/2012 11:28 0174836501

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

MICHIGAN DEPARTMENT OF  
NATURAL RESOURCES AND  
ENVIRONMENT,

Plaintiff,

Case No. 11-156-CE

Hon. Rosemarie E. Aquilina

STRETLING OIL COMPANY, a  
Michigan corporation, STRETLING  
REAL ESTATE INVESTMENTS #1,  
LLC, a Michigan limited liability  
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STRETLING,

Defendants.

FILED  
2012 FEB 16 P 3:36  
CLERK OF THE COURT  
JUDICIAL CIRCUIT-30TH  
INGHAM COUNTY

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161 Ottawa Avenue NW, Suite 600  
Grand Rapids, MI 49503-2793  
(616) 235-3500

ORDER GRANTING PARTIAL SUMMARY DISPOSITION

At a session of court held in the courthouse in  
City of Lansing, County of Ingham,  
State of Michigan on January 25, 2012.

Present: Honorable Rosemarie E. Aquilina Circuit Court Judge



The Court has reviewed Plaintiff Michigan Department of Natural Resources and Environment's (MDNRE) Motion for Partial Summary Disposition Pursuant to MCR 2.116(C)(10), Defendants' Response to Plaintiff's Motion and Request for Summary Disposition pursuant to MCR 2.116(I)(2), Plaintiff's Reply to Defendant's Response, the exhibits and opinions attached in support and in opposition, and has heard oral argument. It appears to the Court that there is no genuine issue of any material fact and that as a matter of law Plaintiff is entitled to partial summary disposition on all legal issues. An evidentiary hearing will be held to determine the costs and penalties that Defendants are liable to pay to Plaintiff based upon the rulings in this Order.

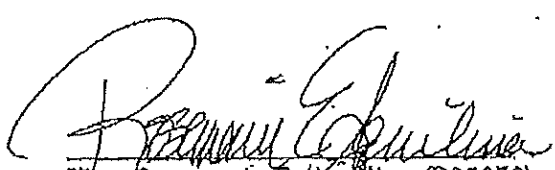
IT IS ORDERED:

1. Defendants Streffing Oil Company (Streffing Oil) and Streffing Real Estate Investments.#1 LLC (SREI) are liable for past "response activity costs" incurred by MDNRE relating to the John's Pro Filling Station and the Streffing Bulk Plant;
2. Defendants Streffing Oil and Ron Streffing are liable for past "response activity costs" incurred by MDNRE relating to the Galien Filling Station;
3. The Defendants are jointly and severally liable for past "response activity costs" incurred by MDNRE that are multi-site costs;
4. Defendants Streffing Oil and SREI are liable for future "response activity costs" incurred by MDNRE relating to the John's Pro Filling Station and the Streffing Bulk Plant;

5. Defendants Streffing Oil and Ron Streffing are liable for future "response activity costs" incurred by MDNRE relating to the Galien Filling Station.
6. Defendants Streffing Oil and SREI are not in compliance with Part 213 and are required to complete corrective actions in connection with the releases of hazardous substances at John's Pro Filling Station and the Streffing Bulk Plant;
7. Defendants Ron Streffing and Streffing Oil are not in compliance with Part 213 and are required to complete corrective actions in connection with the release of hazardous substances at the Galien Filling Station;
8. Defendant Streffing Oil is liable to MDNRE for administrative penalties due to its failure to submit statutorily required reports under Part 213; and
9. Defendants are in violation of Part 213 and are subject to civil penalties pursuant to MCL 324.21323(1)(d).
10. An evidentiary hearing will be held on the currently scheduled trial date of April 9, 2012 to determine the amount of past response activity costs, administrative penalties, and civil penalties that Defendants are liable to pay to Plaintiffs based upon the rulings in this Order.

IT IS SO ORDERED.

Dated: 16 Feb 12

  
Hon. Rosemarie E. Aquilina (P37670)  
30<sup>th</sup> Circuit Court Judge

**Exhibit B**  
**12/21/12 Opinion and Order**

STATE OF MICHIGAN

IN THE 30<sup>TH</sup> CIRCUIT COURT FOR THE COUNTY OF INGHAM

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MICHIGAN DEPARTMENT OF NATURAL  
RESOURCES AND ENVIRONMENT,

Plaintiff,

v

STREFLING OIL COMPANY, STREFLING  
REAL ESTATE INVESTMENTS #1, LLC,  
and RONALD G. STREFLING,

Defendants.

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ORDER AND OPINION

HON. ROSEMARIE E. AQUILINA

Docket No: 11-156-CE

Dept. of Attorney General  
**RECEIVED**

At a session of said Court held in the City of  
Lansing, County of Ingham, State of Michigan  
this 21<sup>st</sup> day of December, 2012

DEC 26 2012

NATURAL RESOURCES  
DIVISION

**PRESENT: The Honorable Rosemarie E. Aquilina**  
**30<sup>th</sup> Judicial Circuit Court Judge**

This matter comes before the Court as an *Evidentiary Hearing*. This Honorable Court, after reviewing all briefs, motions, supporting documents, depositions, and testimony; and after reviewing all applicable law, states the following:

**BACKGROUND FACTS**

This case concerns the release of petroleum products from the underground storage tank systems at two gasoline stations and a bulk storage facility owned by Defendants. On February 16, 2012, this Court issued an order granting Partial Summary Disposition in this case, as to the liability of the parties, pursuant to MCR 2.116(C)(10). This Court ruled there is no genuine issue of any material fact and that as a matter of law Plaintiff is entitled to Partial Summary Disposition as it pertains to all legal issues. This Court ordered: (1) Defendants Strefling Oil

Company and Strefling Real Estate are liable for past and future “responsive activity costs” incurred by Plaintiff, Michigan Department of Natural Resources and Environment (“MDNRE”), relating to John’s Pro Filling Station and the Strefling Bulk Plant; (2) Defendants Strefling Oil Company and Ron Strefling are liable for past and future “responsive activity costs” incurred by MDNRE relating to the Galien Filling Station; (3) Defendants are jointly and severally liable for all past “responsive activity costs” incurred by MDNRE that are multisite costs; (4) Defendants Strefling Oil Company and Strefling Real Estate are not in compliance with Part 213 and 201 of the Natural Resources & and Environmental Protection Act (“NREPA”) and are required to complete corrective actions in connection with the release of hazardous substances at John’s Pro Filling Station and the Strefling Bulk Plant; (5) Defendants Ron Strefling and Strefling Oil are not in compliance with Part 213 and required to complete corrective actions in connection with the releases of hazardous substances at the Galien Filling Station; (6) Defendant Strefling Oil is liable for administrative penalties due to their failure to submit statutorily required reports under Part 213; and (7) Defendants are in violation of Part 213 and are subject to civil penalties pursuant to MCL 324.21323(1)(d). All issues of liability were resolved in the February 16, 2012 Order. The sole issues to be resolved in this Opinion and Order are the amount of damages. These damages are the past response activity costs, administrative penalties, civil penalties, and attorney’s fees.

Part 213, Leaking Underground Storage Tanks, of NREPA, MCL 324.21301a, *et seq.* was amended by the Legislature. Prior to the amendments, Part 213 and Part 201 of NREPA worked collectively to regulate enforcement and remediation of the leaks from underground storage tanks. The Michigan Court of Appeals has ruled the 2012 amendments are retroactive. *BP Products North America, Inc v Department of Environmental Quality*, 2012 Mich App Lexis

1633 (Mich App, August 15, 2012). This Court has held that the amendments will be applied retroactively.

### PLAINTIFF'S ARGUMENT

In addressing Defendants' claim that: (1) administrative penalties were untimely pursuant to MCL 600.5813; and (2) civil fines were untimely pursuant to MCL 324.213231. Plaintiff points out that MDNRE's claims for administrative penalties have already been determined by this Court to be timely. Based on the language of Section 21313a, each day an owner or operator fails to comply with the statutory obligations constitutes a new violation. A new cause of action occurs each day the obligation has not been fulfilled. MCL 600.5813 would only bar violations which occurred six years prior to MDNRE filing its complaint. MDNRE filed its complaint on February 4, 2011 and the administrative penalties alleged are for a period between September 20, 2006 and January 18, 2007, which is within the six-year statute of limitations period.

As to the claim of civil fines pursuant to MCL 324.213221, MCL 324.213221a requires owners and operators submit a Final Assessment Report ("FAR") within 365 days of a release. Failure to timely submit a FAR is a violation of Part 213. *Attorney General v Bulk Petroleum Corp*, 276 Mich App 654, 660 (2007). Defendants claim the civil fines are untimely because the claim was filed 3 years after the FAR was due is mistaken because every day that a FAR is not submitted is a new violation under Part 213. Therefore, an award of civil fines is permissible because a new action occurs each day Defendant fails to submit a FAR and comply with the statute. MDNRE may, therefore, recover for violations occurring within the three year statute of limitation period prior to filing the complaint.

Plaintiff requests a total of \$44,414.78 in costs of corrective action, \$37,713.13 in attorney fees, \$275,500 in administrative penalties, and \$1,562,400 in civil fines.

## DEFENDANTS' ARGUMENT

Defendants maintain that MDNRE's request for costs of corrective action, with the exception of \$8,994.79, should be denied because they are not costs of corrective action as defined under Part 213. Specifically, all but \$8,994.79 consists of salaries and wages of employees of the State of Michigan. It is Defendant's assertion, based on a plain reading of the statute, that the statute does not include these costs and to include them would constitute judicial redrafting. These costs were not to prevent, minimize, or mitigate injury to the public health, safety, or welfare because the cost of these employees would have been paid regardless. Lastly, the cost of corrective action for the wages and salaries are not supported by factual evidence. This is because MDNRE relies on "time reports" that do not specifically identify the action MDNRE engaged in which constituted preventing, minimizing, or mitigating injuries to the public health, safety, or welfare.

The attorney fees requested by MDNRE do not comply with the standard under Michigan law and MDNRE does not meet the burden of showing the attorney fees are reasonable. The billing records submitted by MDNRE do not meet this requirement because MDNRE's attorneys do not keep detailed billing records, as is admitted by MDNRE to be the practice of attorneys employed by the State of Michigan.

In regard to administrative penalties pursuant to MCL 324.21313a, Defendants maintain this Court should decline to assess these penalties so Defendants can complete the actions necessary to clean up the sites. Defendants do not have the necessary resources to both engage in the corrective actions needed to clean up the site and pay the administrative penalties and civil fines. Additionally, the MDNRE claim for administrative penalties was not done in a timely manner. The claim is untimely and this Court should apply the six year statute of limitations in

MCL 600.5813. This Court should use the date the FARs were due as the measuring date for the six year period in determining whether the complaint was timely.

In regard to the civil fines, Defendants do not have the necessary resources to engage in corrective actions to clean up the site and pay the administrative penalties and civil fines. In order to maintain the capability to clean up the sites, this Court should refuse to assess civil fines. The claim for violation of Part 213 is untimely because the Complaint was not filed until February 4, 2011, more than six years after the FARs were due. Each day should not be treated as a violation, but the day the FAR was due should be treated as the sole day of the violation. Hence, the filing of the claim is untimely.

#### CONCLUSIONS OF LAW

This Court has previously ruled Defendants are liable for past “response activity costs.” Based on the 2012 amendments, MDNRE is now able to recover for “costs of corrective action” instead of “response activity costs.” *See* MCL 324.21323b(1)(a). All parties are jointly and severally liable. *Id.* Costs of corrective action are all costs “lawfully incurred by the state relating to the selection and implementation of corrective action under this part.” *Id.* Corrective action “means the investigation, assessment, cleanup, removal, containment, isolation, treatment, or monitoring of regulated substances released into the environment from an underground storage tank system that is necessary under this part to prevent, minimize, or mitigate injury to the public health, safety, or welfare, the environment, or natural resources.” MCL 324.21302(h).

Plaintiff requests this Court award the costs of corrective action for a period through February 24, 2011. MDNRE requests \$4,886.06 as a result of the release of regulated substances at the Galien Filling Station, \$6,455.34 as a result of the release of regulated substances at the John’s Pro Filing Station, \$9,976.72 as a result of the release of regulated substances at the



Strefling Bulk Plant, and \$27,491.66 in multi-site costs as a result of the release of regulated substances at the Galien Filling Station, John's Pro Filing Station, and Strefling Bulk Plant.

"A person challenging the recovery of costs under this subsection has the burden of establishing the costs were not reasonably incurred under the circumstances that existed at the time the costs were incurred." *See* MCL 324.21323b(2).

This Court finds Defendants have not shown the costs requested by Plaintiff were unreasonably incurred under the circumstances. While the majority of the costs incurred by Plaintiff are for salaries and wages incurred by MDNRE, which would have been paid regardless, these employees could have worked on other assignments. Instead, they were used to prevent, mitigate, and minimize injuries to the public's health, safety, and welfare to the environment and natural resources resulting from Defendants actions. Based on a plain reading of the statute, the costs Plaintiff incurred meet the standard regardless of the fact they were already previously employed. Courts must apply and interpret statutes by giving the words their plain meaning. *Ligons v Critten Hosp*, 490 Mich 61, 70 (2011). The tasks the employees completed were related to the prevention, mitigation, and minimization of injuries to the public, health, safety, and welfare to the environment and natural resources. Therefore, the costs are reasonable and meet the standard set forth in the statute. This Court consequently awards costs of corrective action to Plaintiff for a period through February 24, 2011. Cost for corrective action are as follows: \$4,886.06 as a result of the release of regulated substances at the Galien Filling Station; \$6,455.34 as a result of the release of regulated substances at the John's Pro Filing Station; \$9,976.72 as a result of the release of regulated substances at the Strefling Bulk Plant; and \$27,491.66 as a result of the release of regulated substances at the Galien Filling Station; John's Pro Filing Station, and Strefling Bulk Plant.

### Attorney Fees

Pursuant to MCL 324.21323b(3), MDNRE is entitled to “attorney fees” and ‘costs of litigation” because it is the “prevailing or substantially prevailing party” in the action. MPNRE seeks \$3,421.88 in attorney fees and costs of litigation related to the Galien Filling Station, \$1,916.25 in attorney fees and costs of litigation related to the John’s Pro Filling Station, \$2,098.75 in attorney fees and costs of litigation related to the Strefling Bulk Plant, and \$30,276.25 in attorney fees and costs of litigation related to the multi-site costs. Plaintiff requests \$135.00 per hour for the work completed by Elaine Fishoff, and \$182.50 per hour for work completed by Andrew Prins and Danielle Allison-Yokom.

This Court finds Plaintiff is entitled to attorney fees pursuant to MCL 324.21323b(3). Plaintiff relies upon the 1994 Desktop Reference on the Economics of Law Practice in Michigan, the 2007 Economics of Law Practice Summary Report, along with affidavits from attorneys from the State of Michigan who worked on the case. Defendant asks this Court to hold the attorney fees are not reasonable because, as Plaintiff acknowledges, the Attorney General’s Office does not keep detailed billing records and billing summaries. This Court relies upon the factors set forth in *Smith v Khouri*, 481 Mich 519 (2008) to determine a reasonable attorney fee. Those factors include:

[T]he professional standing and experience of the attorney; (2) the skill, time and labor involved; (3) the amount in question and the results achieved; (4) the difficulty of the case; (5) the expenses incurred; and (6) the nature and length of the professional relationship with the client. *Id*; *Wood v Detroit Automobile Inter-Ins Exch*, 413 Mich 573; NW2d 653 (1982).

While Plaintiffs did not keep detailed billing records, they do offer sufficient evidence of the time expended on the case and of what is a reasonable fee through empirical studies and attorney affidavits. Therefore, based on the evidence presented to this Court and Michigan law,

the Court awards attorney fees of \$80.00 per hour for the work completed by Elaine Fishoff and \$100.00 per hour for work completed by Andrew Prins and Dannelle Allison-Yokom. This results in a total of \$1,875 in attorney fees and costs of litigation related to the Galien Filling Station, \$1,050 in attorney fees and costs of litigation related to the John's Pro Filling Station, \$1,150 in attorney fees and costs of litigation related to the Streffling Bulk Plant, and \$16,650 in attorney fees and costs of litigation related to the multi-site costs.

#### Civil Fines

Plaintiff is seeking a fine of \$100 for each day Defendants violated Sections 21307, 21311a, or 21309a, dating from February 4, 2008 thru November 4, 2012. Plaintiff is seeking a civil fine for a total of 1,736 days in which Defendants were not in compliance. This Court agrees with Plaintiff that each day not in compliance with the statutes, constitutes a new violation. Therefore, the three year statute of limitations does not begin to run until Defendants are no longer in violation of the statutes.

The "free product" that escaped into the environment has resulted in unacceptable risks to public health, safety, and welfare. Defendants' assertion that they could not afford the cleanup is not a valid defense anywhere in the law. When evaluating the totality of this case, this Court determines that \$50 per day is a reasonable civil fine in this matter. However, the environmental concerns and the accumulating fines and costs in this matter could have significantly been reduced by the actions of Plaintiff. All of the violations found by Plaintiff have been occurring since at least 2002. Some date back to 1996. Plaintiff had the authority and the resources to take action to stop the "free product" at each site from continuing to contaminate additional soil and groundwater, yet did not file this action until February 4, 2011. Only now is Plaintiff moving to have the sites cleaned up and the costs passed along to Defendants. Due to the inaction of

Plaintiff, this Court will reduce the civil fine for each day to \$1 per violation after the filing of this case, as it was obvious to Plaintiff that Defendants were unwilling or unable to comply with the statutes and Plaintiff also let the contamination continue.

In regard to the Galien Filling Station, this Court assesses a civil fine of \$54,900 for the first 1,098 days and \$638 for the remaining 638 days since this matter was filed, for violation of Section 21307. This Court also assesses \$55,538 for the 1,736 days Defendants have been in violation of Section 21311a, and an additional \$55,538 for the 1,736 days Defendants have been in violation of Section 21309a. This Court assesses a total of \$166,614 as a civil fine against Defendants for violations occurring at the Galien Filling Station.

In consideration of John's Pro Filling Station, this Court assesses a civil fine of \$54,900 for the first 1,098 days and \$638 for the remaining 638 days since this matter was filed, for violation of Section 21311a. The Court further assesses \$55,538 for 1,736 days of violations of Section 21309a. This Court assesses a total of \$111,076 as a civil fine against Defendants for violations occurring at John's Pro Filling Station.

There were two confirmed releases at the Strefling Bulk Plant. For the first release, this Court assesses a civil fine of \$54,900 for the first 1,098 days and \$638 for the remaining 638 days since this matter was filed, for violation of Section 21311a. This Court also assesses \$55,538 for the 1,736 days Defendants have been in violation of Section 21309a. For the second release, this Court assesses \$55,538 for the 1,736 days Defendants were in violation of Section 21311a. The Court further assesses \$55,538 for 1,736 days Defendants violated Section 21309a. This Court assesses a total of \$222,152 as a civil fine against Defendants for violations occurring at the Strefling Bulk Plant. The total civil fine to be paid by Defendants is \$499,842 for violations occurring at all three of the properties involved in this matter.

### Administrative Penalties

This Court has previously ruled that Defendant is liable to MDNRE for administrative penalties due to their failure to submit the statutorily reports required under Part 213. This Court stands by its previous ruling that the claim for administrative penalties is timely and based on a plain reading of the law each day of non-compliance is a new violation, causing a new claim to accrue.

Under the NREPA, a FAR must be completed by a liable party within 365 days after a release has been discovered. This Court has already determined that Defendants have failed to submit the reports in a timely manner and have to date, not submitted them.

Section 21313a provides that:

(1) Beginning on the effective date of the 2012 amendatory act that amended this section, except as provided in subsection (6), and except for the confirmation provided in section 21312a(2) if a required submittal under section 21308a, 21311a, or 21312a(1) is not provided during the time required, the department may impose a penalty according to the following schedule:

- (a) Not more than \$100.00 per day for the first 7 days that the report is late.
- (b) Not more than \$500.00 per day for days 8 through 14 that the report is late.
- (c) Not more than \$1,000.00 per day for each day beyond day 14 that the report is late.

Plaintiff seeks to impose a penalty for the period between September 20, 2006 and January 18, 2007 for all three sites. In accordance with Section 21313a, in regard to the Galien Filling Station, Plaintiff assessed \$700 in penalties for days one thorough seven, \$3,500 in penalties for days eight though 14, and \$106,000 for days 15 through 120. This is a total of \$110,200. For the Strefling Bulk Plant, Plaintiff assessed penalties of \$525 in penalties for days one thorough seven, \$2,625 in penalties for days eight though 14, and \$79,500 for days 15 through 120. This is a total of \$82,650. For John's Pro Filling Station, Plaintiff assessed penalties of \$525 in penalties for days one thorough seven, \$2,625 in penalties for days eight

though 14 and \$79,500 for days 15 through 120. This is a total of \$82,650. The total penalty for all three sites is \$275,500.

In reviewing the law and the evidence presented to this Court, this Court finds the amount is reasonable considering the circumstances and the long period of time this violation has continued. This Court finds \$275,500 to be reasonable for Defendants failure to submit a FAR for the three sites between September 20, 2006 and January 18, 2007, and awards this amount to Plaintiff as administrative penalties.

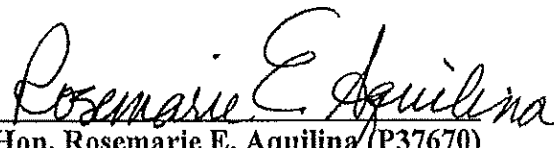
**THEREFORE, IT IS ORDERED** that Plaintiff is entitled costs of corrective action from Defendants totaling \$44,414.78.

**IT IS FURTHER ORDERED** that Plaintiff is entitled to \$20,625 in attorney fees from Defendants.

**IT IS FURTHER ORDERED** that Defendants pay \$499,842 in civil fines for violations extending 1,736 days.


**IT IS FURTHER ORDERED** that Plaintiff is entitled to administrative penalties from Defendants of \$275,500. In compliance with MCR 2.602(A)(3), this Court finds that this decision resolves the last pending claims and closes the case.

**IT IS SO ORDERED.**

  
Hon. Rosemarie E. Aquilina (P37670)  
Court of Claims Judge

### PROOF OF SERVICE

I certify that I have served the above order upon the Plaintiff and Defendants by placing a copy of the Order in sealed envelopes addressed to the attorney of each party and deposited for mailing with the United States Mail at Lansing, Michigan on December 21, 2012.

  
\_\_\_\_\_  
Luke A. Goodrich (P72090)  
Law Clerk

**Exhibit C**  
**8/26/16 Escrow Agreement**



RECEIVED

AUG 31 2016

## ESCROW AGREEMENT

NATURAL RESOURCES  
DIVISION

This Escrow Agreement (this "Agreement") is by and among Ronald G. Streffling of 608 East Snow Road, Baroda, Michigan 49101 ("Ron Streffling"), Roy W. Streffling of 9989 Rose Hill Road, Berrien Springs, Michigan 49103 ("Roy Streffling"), and the Michigan Department of Environmental Quality of 525 West Allegan Street, Lansing, Michigan 48933 ("MDEQ"), successor to the Michigan Department of Natural Resources and Environment,<sup>1</sup> (all of the foregoing parties hereinafter sometimes collectively referred to as the "Escrow Parties"); and First American Title Insurance Company (c/o Cindy Fowler), having its principal place of business at 500 Renaissance Drive, Suite 103, St. Joseph, Michigan 49085 (the "Escrow Agent").

WHEREAS, Ron Streffling owns an interest in certain real property located in the City of Bridgman, County of Berrien and State of Michigan commonly known as 9709 Red Arrow Highway, Bridgman, Michigan 49106 (the "Real Property") and legally described on Attachment 1;

WHEREAS, MDEQ has obtained a judgment against Ron Streffling in *MDNRE v Streffling Oil Company*, et al., Ingham County Case No. 11-156-CE, and has encumbered Ron Streffling's interest in the Real Property pursuant to a Notice of Judgment Lien dated June 25, 2015 and recorded on June 26, 2015 in Liber 3107, Page 0458, Berrien County Records (the "Notice of Judgment");

WHEREAS, the Ingham County Circuit Court in *MDNRE v Streffling Oil Company* has entered orders governing the distribution of income Ron Streffling receives from conveyances of his real property;

WHEREAS, Ron Streffling and others in interest desire to sell and convey the Real Property free and clear of the Notice of Judgment pursuant to the land contract dated August 14, 2014 and attached as Attachment 2 (the "Sale");

WHEREAS, MDEQ is willing to release the Notice of Judgment as to the Real Property to accommodate the Sale, provided that MDEQ is assured that it will retain whatever interest and priority it may have under law in the proceeds from the Sale to be paid in relation to Ron Streffling's interest in the Real Property;

WHEREAS, Roy Streffling also asserts an interest in the proceeds from the Sale to be paid in relation to Ron Streffling's interest in the Real Property and also wants to be assured that he will retain whatever interest and priority he may have under law to those proceeds;

<sup>1</sup> Pursuant to Executive Order 2011-1, administration of certain statutes, including Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.20101 *et seq.* and Part 213, Leaking Underground Storage Tanks, of the NREPA, 1994 PA 451, MCL 324.21301a *et seq.*, were transferred to the newly re-created Michigan Department of Environmental Quality, effective March 13, 2011.

WHEREAS, MDEQ shall execute an appropriate partial release of the Notice of Judgment (the "Release") and place same with the Escrow Agent, and Ron Strefling shall cause any proceeds that would otherwise be distributed to Ron Strefling with respect to the Sale (the "Sale Proceeds") to be tendered to the Escrow Agent, all of which shall be held and released in accordance with the terms and conditions of this Agreement;

WHEREAS, the Sale Proceeds have been determined to be \$33,492.06 as of August 26, 2016; and

WHEREAS, the Escrow Parties may, after placement of the Sale Proceeds with the Escrow Agent, negotiate a resolution of their interests in the Sale Proceeds.

NOW, THEREFORE, in consideration of the premises and agreements of the parties contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Appointment of Agent. The Escrow Parties appoint the Escrow Agent as their agent to hold in escrow, and to administer the disposition of, the Escrow Items (as defined below) in accordance with the terms of this Agreement, and the Escrow Agent accepts such appointment.

2. Establishment of Escrow. Upon the execution of this Agreement, the Escrow Parties shall deposit the following with the Escrow Agent (collectively, the "Escrow Items"):

(a) Ron Strefling shall cause the closing agent administering the Sale to (i) pay \$200.00 of the Sale Proceeds to the Escrow Agent for the fee identified in Section 10 and to pay \$40.00 of the Sale Proceeds to the Escrow Agent for fees for recording the Release; (ii) deposit the remaining Sale Proceeds with the Escrow Agent, which have been determined to be \$33,252.06 as of August 26, 2016; and (iii) provide the Escrow Agent with a verified copy of the closing statement for the Sale, which identifies all of the proceeds that would otherwise be distributed to Ron Strefling, with copies to Roy Strefling and MDEQ; and

(b) MDEQ shall deposit with the Escrow Agent a fully executed Release in recordable form in relation to the Real Property.

3. Deposit of the Sale Proceeds. The Escrow Agent shall deposit the Sale Proceeds in one or more non-interest bearing deposit accounts. The Sale Proceeds shall in all instances be subject to the Escrow Agent's standard funds availability policy. The Escrow Parties understand that deposits of the Sale Proceeds are not necessarily insured by the United States Government or any agency or instrumentality thereof, or of any state or municipality, and that such deposits do not necessarily earn a fixed rate of return. In no instance shall the Escrow Agent have any obligation to provide investment advice of any kind. The Escrow Agent shall not be liable or responsible for any loss resulting from any deposits made pursuant to this Section 3, other than as a result of the gross negligence or willful misconduct of the Escrow Agent.

4. Release of Escrow Items.

(a) The Escrow Agent shall record the Release with the register of deeds, Berrien County, Michigan, upon the Escrow Agent's receipt of all of the items set forth in Section 2(a);

(b) The Escrow Agent shall release, distribute, and pay the Sale Proceeds only upon and pursuant to the Joint Written Instructions of all Escrow Parties delivered to the Escrow Agent ("Joint Written Instructions"). Upon delivery of all of the Sale Proceeds by the Escrow Agent in accordance with the terms of this Escrow Agreement, this Escrow Agreement shall terminate, subject to the provisions of Sections 6 and 20 below.

(c) The Escrow Agent shall have no obligation to follow any directions set forth in any Joint Written Instructions referenced above unless and until the Escrow Agent is satisfied, in its sole discretion, that the persons executing said Joint Written Instructions are authorized to do so. The delivery to the Escrow Agent of a final non-appealable court award or order, from a court of competent jurisdiction, entered in an action in which the Escrow Parties are a party, shall constitute a representation to the Escrow Agent that such award or order complies with the requirements of Section 4(b) and the Escrow Agent shall be entitled to rely thereon without any further duty of inquiry. Any court award or order shall be accompanied by a legal opinion by counsel for the presenting party satisfactory to the Escrow Agent that said award or order is final and non-appealable.

(d) Notwithstanding anything to the contrary in this Agreement, if any amount to be released at any time or under any circumstances exceeds the balance in the Sale Proceeds, the Escrow Agent shall release such balance and shall have no liability or responsibility to the Escrow Parties for any deficiency.

(e) The Escrow Parties agree that in any legal proceeding to determine the distribution of the Sale Proceeds, the parties shall have for the purpose of determining each party's rights the same interest and priority they had under law at the time of the Sale.

5. Responsibilities and Liability of Escrow Agent.

(a) Duties Limited. The Escrow Agent undertakes to perform only such duties as are expressly set forth in this Agreement. The Escrow Agent's duties shall be determined only with reference to this Agreement and applicable laws, and it shall have no implied duties. The Escrow Agent shall not be bound by, deemed to have knowledge of, or have any obligation to make inquiry into or consider any term or provision of any agreement between any of the Escrow Parties and/or any other third party or as to which the escrow relationship created by this Agreement relates, including without limitation any documents referenced in this Agreement.

(b) Limitations on Liability of Escrow Agent. Except in cases of the Escrow Agent's bad faith, willful misconduct, or gross negligence, the Escrow Agent shall be fully protected (i) in acting in reliance upon any certificate, statement, request, notice, advice, instruction, direction, other agreement or instrument or signature reasonably and in good faith believed by the Escrow Agent to be genuine, (ii) in assuming that any person

purporting to give the Escrow Agent any of the foregoing in connection with either this Agreement or the Escrow Agent's duties, has been duly authorized to do so, and (iii) in acting or failing to act in good faith on the advice of any counsel retained by the Escrow Agent. The Escrow Agent shall not be liable for any mistake of fact or law or any error of judgment, or for any act or omission, except as a result of its bad faith, willful misconduct, or gross negligence. The Escrow Agent shall not be responsible for any loss incurred upon any action taken under circumstances not constituting bad faith, willful misconduct, or gross negligence.

In connection with any payments that the Escrow Agent is instructed to make by wire transfer, the Escrow Agent shall not be liable for the acts or omissions of (i) any Escrow Party or other person providing such instructions, including without limitation errors as to the amount, bank information, or bank account number; or (ii) any other person or entity, including without limitation any Federal Reserve Bank, any transmission or communications facility, any funds transfer system, any receiver or receiving depository financial institution, and no such person or entity shall be deemed to be an agent of the Escrow Agent.

Without limiting the generality of the foregoing, it is agreed that in no event will the Escrow Agent be liable for any lost profits or other indirect, special, incidental, or consequential damages which the parties may incur or experience by reason of having entered into or relied on this Agreement or arising out of or in connection with the Escrow Agent's services, even if the Escrow Agent was advised or otherwise made aware of the possibility of such damages; nor shall the Escrow Agent be liable for acts of God, acts of war, breakdowns or malfunctions of machines or computers, interruptions or malfunctions of communications or power supplies, labor difficulties, actions of public authorities, or any other similar cause or catastrophe beyond the Escrow Agent's reasonable control.

In the event that the Escrow Agent shall be uncertain as to its duties or rights under this Agreement, or shall receive any certificate, statement, request, notice, advice, instruction, direction, or other agreement or instrument from any other party with respect to the Escrow Items which, in the Escrow Agent's reasonable and good faith opinion, is in conflict with any of the provisions of this Agreement, or shall be advised that a dispute has arisen with respect to the Escrow Items or any part thereof, the Escrow Agent shall be entitled, without liability to any person, to refrain from taking any action other than to keep safely the Escrow Items until the Escrow Agent shall be directed otherwise in accordance with Joint Written Instructions or an order of a court with jurisdiction over the Escrow Agent. The Escrow Agent shall be under no duty to institute or defend any legal proceedings, although the Escrow Agent may, in its discretion and at the expense of the Escrow Parties as provided in Section 10, institute or defend such proceedings as provided in Section 5(c) immediately below.

(c) Authority to Interplead. The Escrow Parties authorize the Escrow Agent, if the Escrow Agent is threatened with litigation or is sued, to interplead all interested parties in any court of competent jurisdiction and to deposit the Escrow Items with the clerk of that court. In the event of any dispute, the Escrow Agent shall be entitled to petition a court of competent jurisdiction and shall perform any acts ordered by such court.

6. Termination. This Agreement and all the obligations of the Escrow Agent shall terminate upon the earliest to occur of the release of all of the Escrow Items by the Escrow Agent in accordance with this Agreement, the deposit of the Escrow Items by the Escrow Agent in accordance with Section 5(c) above, or exhaustion of all of the Sale Proceeds for Escrow Agent fees, costs, or expenses.

7. Removal of Escrow Agent. Either Escrow Party shall have the unilateral right to terminate the appointment of the Escrow Agent, specifying the date upon which such termination shall take effect. Thereafter, the Escrow Agent shall have no further obligation to the Escrow Parties except to hold the Escrow Items as depository and not otherwise. The Escrow Parties agree that they will jointly appoint a mutually acceptable banking corporation, trust company, or attorney as successor escrow agent. Escrow Agent shall refrain from taking any action until it shall receive Joint Written Instructions from all Escrow Parties designating the successor escrow agent. Escrow Agent shall deliver all of the Escrow Items to such successor escrow agent in accordance with such instructions and upon receipt of the Escrow Items, the successor escrow agent shall be bound by all of the provisions of this Agreement.

8. Resignation of Escrow Agent. The Escrow Agent may resign and be discharged from its duties and obligations hereunder at any time by giving no less than ten (10) days prior written notice of such resignation to the Escrow Parties, specifying the date when such resignation will take effect. Thereafter, the Escrow Items shall have no further obligation to the Escrow Parties except to hold the Escrow Items as depository and not otherwise. In the event of such resignation, the Escrow Parties agree that they will jointly appoint a banking corporation, trust company, or attorney as successor escrow agent within twenty (20) days of notice of such resignation. Escrow Agent shall refrain from taking any action until it shall receive Joint Written Instructions from all Escrow Parties designating the successor escrow agent. Escrow Agent shall deliver all of the Escrow Items to such successor escrow agent in accordance with such instructions and upon receipt of the Escrow Items, the successor escrow agent shall be bound by all of the provisions of this Agreement.

9. Notices, Contact Information. All notices under this Agreement shall be transmitted to the respective parties, shall be in writing and shall be considered to have been duly given or served when personally delivered to any individual party, or on the first (1st) business day after the date of deposit with an overnight courier for next day delivery, postage paid, or on the third (3rd) business day after deposit in the United States mail, certified or registered, return receipt requested, postage prepaid, or on the date of telecopy, fax or similar transmission during normal business hours, as evidenced by mechanical confirmation of such telecopy, fax or similar transmission, addressed in all cases to his or its address set forth above, or to such other address as such party may designate, provided that notices will be deemed to have been given to the Escrow Agent on the actual date received.

Any notice, may only be given on behalf of any party by its authorized representative listed below. In all cases, the Escrow Agent shall be entitled to rely on a copy or a fax transmission of any document with the same legal effect as if it were the original of such document.

For Ron Strefling: Ron Strefling or his attorney Joseph E. Quandt;

For DEQ: Dan Yordanich or its attorney Andrew T. Prins;

For Roy Strefling: Roy Strefling; and

For the Escrow Agent: First American Title Insurance Company (c/o Cindy Fowler).

10. Escrow Agent Fees, Costs, and Expenses. All fees, expenses, and other amounts owed to the Escrow Agent shall be borne equally by the Escrow Parties and be paid out of the Sale Proceeds. The Escrow Agent shall be paid a one-time fee of \$200.00 at the time of closing from the Sale Proceeds for its services as an escrow agent. Any additional customary fees and charges, beyond the \$200.00, for transfer, depository or delivery services rendered in connection with the Escrow Items, or attorney fees pursuant to Section 5(b) or (c), shall be paid from the Sale Proceeds, with copies of bills and invoices provided to the Escrow Parties. The Escrow Parties' obligation to pay the Escrow Agent ceases upon release of all of the Escrow Items by the Escrow Agent in accordance with this Agreement, the deposit of the Escrow Items by the Escrow Agent in accordance with Section 5(c) above, or exhaustion of all of the Sale Proceeds for Escrow Agent fees, costs, or expenses.

11. Accounting. The Escrow Agent shall keep all records on a calendar-year basis. The Escrow Agent shall report the balance of the Sale Proceeds remaining upon request of an Escrow Party.

12. Modifications; Waiver. This Agreement may not be altered or modified without the express prior written consent of all of the parties to this Agreement. No course of conduct shall constitute a waiver of any terms or conditions of this Agreement, unless such waiver is specified in writing, and then only to the extent so specified. A waiver of any of the terms and conditions of this Agreement on one occasion shall not constitute a waiver of the other terms of this Agreement, or of such terms and conditions on any other occasion.

13. Further Assurances. If at any time the Escrow Agent shall determine or be advised that any further agreements, assurances, or other documents are reasonably necessary or desirable to carry out the provisions of this Agreement and the transactions contemplated by this Agreement, the Escrow Parties shall execute and deliver any and all such agreements or other documents, and do all things reasonably necessary or appropriate to carry out fully the provisions of this Agreement.

14. Assignment. This Agreement shall inure to the benefit of and be binding upon the successors, heirs, personal representatives, and permitted assigns of the parties. This Agreement is freely assignable by the Escrow Parties; provided, however, that no assignment by such party, or its successors or assigns, shall be effective unless prior written notice of such assignment is given to the other parties, including, without limitation, the Escrow Agent. This Agreement may not be assigned by the Escrow Agent, except that upon prior written notice to the Escrow Parties, the Escrow Agent may assign this Agreement to an affiliated or successor trust company or other qualified bank entity.

15. Section Headings. The section headings contained in this Agreement are inserted for purposes of convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

16. Governing Law. This Escrow Agreement shall be governed by and construed in accordance with the laws of the State of Michigan, without regard to principles of conflicts of law.

17. Counterparts and Facsimile Execution. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. The exchange of copies of this Escrow Agreement and of signature pages by facsimile transmission shall constitute effective execution and delivery of this Escrow Agreement as to the parties and may be used in lieu of the original Escrow Agreement for all purposes (and such signatures of the parties transmitted by facsimile shall be deemed to be their original signatures for all purposes).

18. Waiver of Jury Trial. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, EACH PARTY HEREBY WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING IN WHOLE OR IN PART UNDER, RELATED TO, BASED ON OR IN CONNECTION WITH THIS AGREEMENT OR THE SUBJECT MATTER HEREOF, WHETHER NOW EXISTING OR HEREFTER ARISING AND WHETHER SOUNDING IN TORT OR CONTRACT OR OTHERWISE. ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH SUCH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

19. Forum Selection. All legal proceedings brought by the parties relating to the disposition of the Sale Proceeds shall be in the State of Michigan, and in the circuit court in Ingham County, Michigan, as a continuation of *MDNRE v Streffling Oil Company* et al., Ingham County Case No. 11-156-CE. The parties waive any and all rights to contest such jurisdiction and venue, and any objection that such county is not convenient.

20. Survival. Notwithstanding anything in this Agreement to the contrary, all provisions necessary to enforce each parties' rights under this Agreement in relation to each other shall survive any resignation or removal of the Escrow Agent, and any termination of this Agreement.

21. End Date. The Escrow Parties shall attempt to resolve and disputes relating to the distribution of the Sale Proceeds by January 1, 2017. A \$25.00 monthly fee shall be deducted from the Sale Proceeds in accordance with Section 10 beginning February 1, 2017, and at the beginning of each month thereafter, until this Agreement is terminated.

22. Effective Date. This Agreement shall become effective upon the date signed by all of the parties.

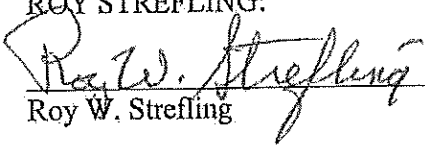
IN WITNESS WHEREOF, the authorized representatives for the parties have executed this Agreement on the dates identified below.

RON STREFLING

  
Ronald G. Streffling

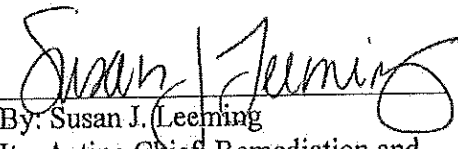
Dated: 8/26/16

ROY STREFLING:

  
Roy W. Streffling

Dated: 8/26/16

MICHIGAN DEPARTMENT  
OF ENVIRONMENTAL QUALITY:

  
By: Susan J. Leeming  
Its: Acting Chief, Remediation and  
Redevelopment Division  
Michigan Department of  
Environmental Quality

Dated: 8/24/2016

FIRST AMERICAN TITLE  
INSURANCE COMPANY (ESCROW AGENT):

  
By: CINDY FOWLER  
Its: AREA MANAGER

Dated: 8/26/16



Attachment 1 Legal Description

The land referred to herein below is situated in the City of Bridgman, Berrien County, State of Michigan, and is described as follows:

Parcel 2: Beginning at the North Quarter Post of Section 19, Township 6 South, Range 19 West; thence West 83.71 feet; thence South parallel with the North and South center line of said Section 134.15 feet; thence East to North Section Line 83.71 feet; thence North along said center line 134.15 feet to the place of beginning.

Tax parcel number: 11-56-0019-0115-00-4

Parcel 3: Commencing on the North Section line at a point that is 124.15 feet West of the North quarter post of Section 19, Township 6 South, Range 19 West; thence parallel with the North and South quarter line Southerly 134.15 feet; thence parallel with the North Section line Westerly 167.2 feet to the right-of-way line of Red Arrow Highway; thence with said right-of-way North  $24^{\circ} 52'$  East 147.85 feet to the North line of said Section; thence with said Section line Easterly 105.04 feet to the place of beginning.

Tax parcel number: 11-56-0019-0115-02-1

## Attachment 2

210  
3  
P

Lori D. Jarvis Register Of Deeds

Barrien County, Michigan

Rec \$16.00

Remon \$4.00

Tax Cnt \$0.00

Recorded

NOVEMBER 26, 2014 12:59:49 PM

Liber 3088 Page 1740, 1742

Receipt # 283077 LAC #2014104758



Liber 3088 Page 1740



## MEMORANDUM OF LAND CONTRACT

### DECLARATIONS:

DATE: August 14, 2014 BUYER: MTM GROUP, LLC, A MICHIGAN LIMITED LIABILITY COMPANY, 1820 NORFOLK DRIVE, STEVENSVILLE, MI 49127.

SELLER: Parcel 1: SH&K Enterprises, a Michigan Co-Partnership, comprised of Ronald G. Streffing, Roy W. Streffing, Linda F. King, Lorene F. Schlutt, and Delora M. Rathburn, Partners 1663 Lemon Creek Rd., Baroda, Michigan 49101.

Parcels 2 and 3: Delora Hadley, a <sup>Rathburn</sup> ~~single~~ woman, Roy Streffing, a married man, Barbara J. Streffing, his wife, Linda King, a ~~married~~ woman, Ronald Streffing, a single man, and Lorene Schlutt, a ~~single~~ woman, as tenants in common, of 1663 Lemon Creek Road, Baroda, Michigan 49101.

Parcel 1, 2 and 3 Sellers are collectively referred to as "Seller"

LEGAL DESCRIPTION OF PROPERTY: See attached Exhibit A.

TAX CODE OF PROPERTY: 11-56-0019-0115-01-2, 11-56-0019-0115-00-4 and 11-56-0019-0115-02-1

ADDRESS OF PROPERTY: 9709 Red Arrow Highway, Bridgman, Michigan 49106

The Seller and Purchaser have entered into this Memorandum of Land Contract on the above date to give record notice of the Land Contract entered into by the Purchaser and the Seller on this date. The Land Contract provides for the sale of the premises identified in the above declaration entitled Legal Description of Property.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

### PARCEL 1 SELLER:

SH & K Enterprises  
A Michigan Co-Partnership

By:

Linda F. King  
Linda F. King, Partner

Date: August 14, 2014.

STATE OF MICHIGAN )  
COUNTY OF BERRIEN ) SS:

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of August, 2014, by Linda F. King, Partner of and on behalf of SH & K Enterprises, a Michigan Co-Partnership.

Signature: Laura Schrepper

Printed Name: LAURA SCHREPPER

Commissioned and Acting in Berrien County, Michigan

My Commission Expires: 9/19/2018

11-56-0019-0115-01-2  
11-56-0019-0115-00-4  
11-56-0019-0115-02-1

Barrien County Register of Deeds  
Received: 11/26/2014 10:35 AM

Barrien County Register of Deeds  
Received: 8/15/2014 10:34 AM

PARCEL 2 SELLERS:

Delora Hadley Rathburn  
Delora Hadley Rathburn

Date: August 14, 2014.

Roy Streffling  
Roy Streffling  
Barbara J Streffling  
BARBARA J STREFFLING  
Linda King  
Linda King

Date: August 14, 2014.

Date: August 14, 2014.

Ronald Streffling  
Ronald Streffling

Date: August 14, 2014.

Lorene Schlutt  
Lorene Schlutt

Date: August 14, 2014.

BUYER:

MTM Group, LLC  
A Michigan Limited Liability Company

By: Martin A. Mason  
Martin A. Mason, Member

Date: August 14, 2014.

STATE OF MICHIGAN ) COUNTY OF BERRIEN)

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of August, 2014, by Martin A. Mason, Member of and on behalf of MTM Group, LLC, a Michigan Limited Liability Company\* by DELORA HADLEY RATHBURN, ROY STREFFLING, BARBARA J STREFFLING, LINDA KING, RONALD STREFFLING, LORENE SCHLUTT, AS SELLERS

Signature: Laura Schreppe  
Printed Name: LAURA SCHREPPER  
IN KALAMAZOO  
Commissioned and Acting in Berrien County, Michigan  
My Commission Expires: 9/19/2018

This instrument drafted by:  
Mark A. Miller  
Miller Johnson Schroeder, PLC  
728 Pleasant Street, Suite 101  
St. Joseph, MI 49085  
Ph. (269) 983-1000

Exhibit A Legal Description

The land referred to herein below is situated in the City of Bridgman, Berrien County, State of Michigan, and is described as follows:

Parcel 1: All that part of the Northwest Quarter of Section 19, Township 6 South, Range 19 West, City of Bridgman, Berrien County, Michigan, which is described as beginning at a point on the North line of said Section 19 that is 83.71 feet West of the North Quarter post of said Section 19; thence West along said Section line 40.55 feet; thence South  $0^{\circ} 11'$  West 134.15 feet; thence East 40.55 feet; thence North  $00^{\circ} 11'$  East 134.15 feet to the place of beginning.

Tax parcel number: 11-56-0019-0115-01-2

Parcel 2: Beginning at the North Quarter Post of Section 19, Township 6 South, Range 19 West; thence West 83.71 feet; thence South parallel with the North and South center line of said Section 134.15 feet; thence East to North Section Line 83.71 feet; thence North along said center line 134.15 feet to the place of beginning.

Tax parcel number: 11-56-0019-0115-00-4

Parcel 3: Commencing on the North Section line at a point that is 124.15 feet West of the North quarter post of Section 19, Township 6 South, Range 19 West; thence parallel with the North and South quarter line Southerly 134.15 feet; thence parallel with the North Section line Westerly 167.2 feet to the right-of-way line of Red Arrow Highway; thence with said right-of-way North  $24^{\circ} 52'$  East 147.85 feet to the North line of said Section; thence with said Section line Easterly 105.04 feet to the place of beginning.

Tax parcel number: 11-56-0019-0115-02-1

## LAND CONTRACT

### DECLARATIONS:

DATE: August 14, 2014

SELLER: Parcel 1: SH&K Enterprises, a Michigan Co-Partnership, comprised of Ronald G. Streffling, Roy W. Streffling, Linda F. King, Lorene F. Schlutt, and Delora M. Rathburn, Partners 1663 Lemon Creek Rd., Baroda, Michigan 49101.

Parcels 2 and 3: Delora Hadley, a single woman, Roy Streffling, a married man, Barbara J. Streffling, his wife, Linda King, a married woman, Ronald Streffling, a single man, and Lorene Schlutt, a married woman, as tenants in common, of 1663 Lemon Creek Road, Baroda, Michigan 49101.

Parcel 1, 2 and 3 Sellers are collectively referred to as "Seller".

PURCHASER: MTM Group, LLC, a Michigan Limited Liability Company  
1820 Norfolk Drive, Stevensville, Michigan 49127.

LEGAL DESCRIPTION OF PROPERTY: See attached Exhibit A.

TAX CODE OF PROPERTY: 11-58-0019-0115-01-2, 11-56-0019-0115-00-4 and 11-56-0019-0115-02-1

ADDRESS OF PROPERTY: 9709 Red Arrow Highway, Bridgman, Michigan 49106

PURCHASE PRICE: \$265,000.00

DEPOSIT ON PURCHASE PRICE: \$50,000.00

BALANCE SECURED BY LAND CONTRACT: \$215,000.00

LAND CONTRACT INTEREST RATE: 5.0% per annum, simple interest.

PAYMENT SCHEDULE: Monthly installments of \$1,418.00, or more, commencing on October 1, 2014, and continuing on a like day of each month thereafter until all sums hereunder are paid in full; provided, however, that Purchaser shall pay the entire balance of principal plus interest due hereunder no later than the Land Contract Due Date.

LAND CONTRACT DUE DATE: September 1, 2016

PAYMENT GRACE PERIOD: 10 days from the payment due date.

PERFORMANCE GRACE PERIOD: 10 days from Notice that the performance is due.

LATE CHARGE: 5% of payment due if not paid within the grace period.

PREPAYMENT: There can be no pre-payments in the first year.

SECURITY DOCUMENTS PROVIDED: Balance is secured by this Land Contract.

### NOTICE REGARDING ESCROW PAYMENTS:

Seller has elected not to have Purchaser escrow the following:

☐ Yes. Seller elects to establish an escrow for the real estate taxes.

☒ No. Seller elects to not establish an escrow for the real estate taxes at this time (see ¶ 3 below).

☐ Yes. Seller elects to establish an escrow for the insurance premiums.

☒ No. Seller elects to not establish an escrow for the insurance premiums at this time (see ¶ 3 below).

Seller initials (Parcel 1) SK

Seller initials (Parcels 2 and 3) RLS [Signature] RK SS

Purchaser initials MM

LAND DIVISION ACT AND FARM RIGHTS DECLARATION: The property is not platted land or part of a condominium and the Michigan Land Division Act and Michigan Right to Farm Act do apply.

RIGHT TO FARM ACT DECLARATION: The Michigan Right to Farm Act applies to this property

DATE AND TIME OF POSSESSION: Day of closing.

### Terms of the Land Contract

This is a Land Contract entered into on the above date between Seller and Purchaser. In consideration of the purchase price being paid and the promises of the parties in this Land Contract, it is agreed between the parties as follows:

1. Safe. The Seller hereby sells and agrees to convey unto the Purchaser the real property described in the above Declaration entitled Legal Description of Property, hereinafter the "premises," together with all tenements, hereditaments, improvements and appurtenances, including all lighting fixtures, plumbing fixtures, building fixtures and window treatments, if any, now on the premises, and subject to all recorded easements, conditions, encumbrances and limitations and to all applicable building and use restrictions, zoning laws and ordinances, if any, affecting the premises.

2. Price and Terms. The Purchaser hereby purchases the premises and agrees to pay Seller the sum stated in the above Declaration entitled Purchase Price. At closing, the Purchaser will first pay to the Seller, in currency of the United States of America or its equivalent, the amount stated in the above Declaration entitled Deposit on Purchase Price. The Purchaser will then pay the sum identified in the above Declaration entitled balance secured by this Land Contract in the manner stated above in the Declaration entitled Payment Schedule. The balance secured by Land Contract will accrue interest at the rate stated in the above Declaration entitled Interest Rate. The Land Contract payments will be applied first to Seller reimbursable costs and attorney's fees, interest and the balance on principal. In the event of a default on this Land Contract by Purchaser, and such default is not cured within 15 days of written notice of such default, then Purchaser shall be liable to Seller for interest on the balance remaining due on this Land Contract at the default rate of interest stated in the above Declarations.

If there is a prepayment penalty noted in the Declarations above, then any payment in excess of the payment schedule will be assessed the prepayment penalty noted. If the prepayment penalty declaration states "none", then the Purchaser has the right to pay larger installments than provided in the payment schedule and to pay the whole or any part of the balance remaining unpaid on this contract at any time before the same, by the terms of this contract, becomes due and payable. Payments shall be made at Seller's address listed above until Purchaser is given written notice to the contrary. Notwithstanding the prepayment of any portion of this contract, the Purchaser is not relieved of the requirements that the Purchaser make the installment payments as stated in the payment schedule declaration. Purchaser shall pay to Seller a late charge as provided for in the above Declaration entitled Late Charge.

3. Taxes, Insurance and Condominium Association Assessments. The Purchaser shall promptly pay, when due, all taxes and assessments of every nature which shall become a lien on the premises after the date hereof, and any installments of special assessments becoming due after the date hereof. Should the Purchaser fail to pay any tax or assessment, or installment thereof, when due, the Seller may pay the same and the amounts thus expended shall be a lien on the premises and may be added to the balance then unpaid hereon and be due at once and bear interest until paid at the rate of interest specified in Paragraph 2, above. Purchaser shall, during the continuance of this contract, keep insured the buildings now on the premises, or which shall hereafter be placed thereon, in the name of the Seller against loss by fire and windstorm; in such company or companies and for such amount as the Seller shall approve, and forthwith deposit all policies of insurance with the Seller, with loss, if any, payable to the Seller, as Seller's interest may appear under this contract. Unless the Seller and the Purchaser otherwise agree in writing, any application of insurance proceeds to principal shall not defer the time for payment of any remaining payments required by the contract. Should the Purchaser fail to keep the buildings insured, the Seller may pay the same and have the buildings insured, and the amounts thus expended shall be a lien on the premises and may be added to the balance then unpaid hereon and be due at once and bear interest until paid at the rate of interest specified in Paragraph 2, above.

In case of damage as a result of which the insurance proceeds are available, the Purchaser may, within sixty (60) days of the loss or damage, give to Seller written notice of Purchaser's election to repair or rebuild the damaged part of the premises, in which event the insurance proceeds shall be used for such purpose. The balance of the proceeds, if any, which remain after completion of the repairing or rebuilding, or all of the insurance proceeds if the Purchaser elects not to repair or rebuild, shall be applied first toward the satisfaction of any existing defaults under the terms of this contract, and then as a prepayment upon the principal and interest balance owing, and without penalty, notwithstanding other terms of this contract to the contrary. No such prepayment shall defer the time for payment of any remaining payments required by the contract. Any surplus of the proceeds in excess of the balance owing hereon shall be paid to the Purchaser.

4. Maintenance. All improvements and fixtures placed within the limits of ownership of the real estate described in the Declarations above shall be a part of the security for the performance of this contract and may not be removed therefrom. Purchaser shall not commit, or suffer any other person to commit, any waste or damage to the premises or the appurtenances and shall keep the premises and all improvements in as good condition as they are now.

5. Forfeiture and Acceleration. Should default be made by the Purchaser in any of the provisions of this contract and continue for five (5) days or more, the Seller may give the Purchaser a written notice specifying the payment default which has occurred and inform the Purchaser in such notice that if such default continues for a period of thirty (30) days after service of such

written notice the Seller may declare the Purchaser in default. Should default be made by the Purchaser in any other provision of this contract (other than non-payment) and continue for five (5) days or more, the Seller may give the Purchaser a written notice specifying the default which has occurred and inform the Purchaser in such notice that if such default continues for a period of thirty (30) days after service of such notice the Seller may declare Purchaser in default. However, in the event of a non-monetary default, if the Purchaser has undertaken steps that will lead to the cure of the noticed default, and Purchaser diligently pursues correcting said noticed default, then the Seller will not declare the Purchaser in default. Upon the Seller declaring Purchaser in default after failing to timely cure a noticed default as provided above, then Seller may without further notice: declare this Land Contract void and forfeited and the buildings, improvements and all payments made on this Land Contract shall be forfeited to the Seller as rental for the use of the premises and as stipulated damages for failure to perform this Land Contract, and the Seller shall be entitled to immediate peaceable possession of the premises without notice and to remove the Purchaser and all persons claiming under him therefrom, and/or the Seller may, without notice to the Purchaser, declare all money remaining unpaid under this Land Contract forthwith due and payable, notwithstanding that the period hereinbefore limited for the payment of the balance may not then have expired, and the Seller may thereafter enforce his rights under this Land Contract in law or in equity, or may take summary proceedings to forfeit the interests of Purchaser or may enforce the contract in any other manner now or hereafter provided. In addition to any other remedy, Seller, on default being made, may consider Purchaser as a tenant holding over without permission and remove Purchaser from the premises, according to the law in such case made and provided. In the event the Seller elects to pursue summary proceedings, a Notice of Forfeiture giving Purchaser fifteen (15) days to cure the default shall be served on Purchaser, as provided by statute. A default in this agreement shall be a default in all of the security documents provided as listed in the above Declarations, if any.

6. Deed and Evidence of Title. If the Purchaser shall, in the time and manner above specified, make all the payments herein provided for and shall observe and perform all the conditions and agreements herein made, the Seller shall thereupon, by good and sufficient Warranty Deed, convey the premises to the Purchaser on the conditions herein agreed upon, and the Seller shall deliver with the deed a complete abstract of title and tax history of the premises certified to date of conveyance and showing a marketable title, subject to restrictions, easements, conditions, encumbrances and limitations of record, in the Seller, or a fee simple title insurance policy guaranteeing title to the premises in the name of Purchaser; provided, however, that the warranty deed, the abstract and the tax history shall be limited so as to except acts or negligence of parties other than the Seller subsequent to the date of this contract. In the event an abstract is delivered, the Purchaser agrees to accept the abstract of title certified to date of conveyance, showing in the Seller a marketable title of record, subject to easements, restrictions, conditions, encumbrances and limitations of record, as defined in Act 200 of the 1945 Public Acts of Michigan, as amended.

In the event that evidence of title in the Seller, by abstract of title or title insurance, has been furnished the Purchaser current with the date of this contract, the Purchaser acknowledges having examined the title insurance commitment covering the premises and agrees that Purchaser accepts the marketability of the title in its current status. Purchaser agrees that except for costs resulting from acts, negligence, or death of the Seller, the cost of additional evidence of title shall be the obligation of the Purchaser.

Parties agree that the deed will be executed simultaneous to the execution of this land contract and will be held in escrow by the party designated as the Escrow Agent in the above Declarations, pursuant to an escrow agreement of the same date as this land contract, the cost of which will be borne exclusively by the Purchaser.

7. Possession. Possession of the premises may be taken by the Purchaser on the date and time as stated in the Declarations above and retained for so long as no default is made by the Purchaser in any of the terms or conditions hereof.

8. Purchaser's Indemnification of Seller. Purchaser shall indemnify Seller for and hold Seller harmless from all claims, demands, liabilities, damages and other expenses, including attorney fees and court costs, which may be imposed upon, incurred by or asserted against Seller by reason of any of the following occurring when this Land Contract is in effect: (a) Any use or condition of the premises; (b) Any negligence on the part of Purchaser or agents, employees, contractors, licensees or invitees of Purchaser; (c) Any personal injury or property damage occurring on or about premises; or (d) Any failure on the part of Purchaser to comply with this agreement.

9. Notices. Until endorsed on this contract to the contrary, each of the parties hereto agrees that notices required hereunder may be sent to the address of the parties first listed above. Such notices, when mailed, postage prepaid, to the address, shall be binding and conclusively presumed to be served upon the parties respectively. Notice of forfeiture of this contract shall be served as provided by law.

10. Condition of Premises. Purchaser accepts the premises in "AS IS" and "WHERE IS" condition. Purchaser agrees that the Seller has made no representations or warranties and makes no representations or warranties as to the condition of the premises.

11. Rents and Profits. Notwithstanding any other provision herein contained or any provision of law, the parties expressly agree that in the event of default not cured by the Purchaser within fifteen (15) days after notice of intent to forfeit the contract is served upon Purchaser, Seller shall have the right to possession of the subject property, and to receive all rents and



profits relative to the subject property from and after the date set forth in the notice for curing such default and such right of Seller shall continue during any period that forfeiture or foreclosure proceedings may be pending and during any period of redemption. Purchaser further agrees that Seller shall have the right to the appointment of a receiver to receive such rents and profits and such receiver may be Seller or an agent of Seller.

12. Attorneys Fees. In the event of default, in addition to any remedies or rights of the party not in default, the party in default shall pay to the party not in default reasonable attorneys fees and expenses incurred in enforcement of any rights hereunder, which sums shall be payable prior to the party in default being deemed to have corrected any such default.

13. Assignment. Purchaser may assign and convey Purchaser's interest in this contract or any part thereof provided, however, that such assignment or conveyance shall not result in the probability of waste or other impairment of Seller's security in the subject premises or the probability of default on behalf of Purchaser as a result of any such assignment or conveyance. Any violation by the Purchaser of this condition shall be considered a default of one of the conditions of this contract. Under no circumstances shall any assignment or conveyance release Purchaser from Purchaser's obligations under the provisions of this contract unless Seller so releases Purchaser in writing. No such Assignment, however, shall be valid until written notice thereof has been given to Seller.

14. Conveyance or Mortgage by Seller. The Seller agrees to not place any new mortgage on the premises during the term of this land contract. In the event a mortgage currently exists on the premises, Seller may continue and renew any existing mortgage on the premises, provided that the aggregate amount due on all outstanding mortgages shall not at any time be greater than the unpaid balance of the contract, and provided that the aggregate payments of principal and interest, whether periodic or final, required in one month in such new or renewal mortgage shall not exceed those named in this contract; nor shall the new or renewal mortgage restrict the time of payments thereon to a date later than is provided for similar payments in this contract. To secure the priority of the lien granted to a new or renewal mortgage as provided for in this paragraph, written notice shall be given to the Purchaser within fifteen (15) days of the execution of all such new mortgages and renewals containing the name and address of the mortgagee, the rate of interest of such mortgage, the amount and due date of payments and maturity of principal. Seller reserves the right to convey Seller's interest in the premises, so long as Seller provides purchaser the right of first refusal for a period of 15 days to buy the premises on the same terms and conditions as Seller provides Purchaser notice in writing. In the event Purchaser does not elect to purchase the property on the terms as being offered by the third party, then Seller may proceed to sell the premises, subject to this land contract, and such conveyance shall not be a cause for rescission.

If the Seller's interest is that of Land Contract Purchaser, or is now or hereafter encumbered by a mortgage, the Seller covenants that it will meet the payments of principal and interest thereon as they mature and produce evidence thereon to the Purchaser upon demand. In the event the Seller shall default upon any such mortgage, the Purchaser shall have the right to do the acts or make the payments necessary to cure such default and shall be reimbursed for so doing by receiving, automatically, credit on this contract to apply on the payments due or to become due hereon.

When payments on this contract have reduced the amount due hereon to the amount due by Seller on any such mortgage or land contract indebtedness, thereafter the Purchaser shall be entitled to make payments due on this contract directly to the mortgagee or land contract vendor for credit on such mortgage or land contract indebtedness, and the Purchaser shall be reimbursed for so doing by receiving, automatically, credit on this contract to apply on the payments due or to become due hereon. Notwithstanding anything contained herein to the contrary, the Seller shall not place any mortgage on the premises from and after the date hereof which contains a due-on-sale provision without the prior written consent of Purchaser.

15. Miscellaneous. The paragraph headings used in this Land Contract are for convenience only and shall not be used in the interpretation hereof. All persons signing this Land Contract on behalf of a corporation, partnership, trust or other entity warrant to the Seller that they are duly and properly authorized to execute this Land Contract. Nothing in this Land Contract shall waive or restrict any right of the Seller granted in any other document or by law. No delay on the part of the Seller in the exercise of any right or remedy shall operate as a waiver. No single or partial exercise by the Seller of any right or remedy shall preclude any other future exercise of that right or remedy or the exercise of any other right or remedy. No waiver or indulgence by the Seller of any default shall be effective unless in writing and signed by the Seller, nor shall a waiver on one occasion be construed as a bar to or waiver of that right on any future occasion. Acceptance of partial or late payments owing on any of the liabilities at any time shall not be deemed a waiver of any default. It is expressly understood and agreed by the parties hereto that time shall be deemed as of the very essence of this contract. All rights, remedies and security granted to the Seller herein are cumulative and in addition to other rights, remedies or security which may be granted elsewhere or by law. Any inspection, audit, appraisal or examination of the Property by or on behalf of the Seller shall be solely for its benefit and shall not create any duty or obligation to the Purchaser or any other person. NO REPRESENTATIONS, WARRANTIES, UNDERTAKINGS, OR PROMISES, WHETHER ORAL, IMPLIED OR OTHERWISE, CAN BE MADE OR HAVE BEEN MADE BY EITHER SELLER OR ITS AGENTS OR BROKERS, TO PURCHASER OR ANYONE UNLESS EXPRESSLY STATED HEREIN OR UNLESS MUTUALLY AGREED IN WRITING BY THE PARTIES. ALL AMENDMENTS, SUPPLEMENTS OR RIDERS HERETO, IF ANY, SHALL BE IN WRITING EXECUTED BY BOTH PARTIES AND ATTACHED TO THIS AGREEMENT. A MEMORANDUM OF LAND CONTRACT HAS BEEN PREPARED FOR RECORDING TO PROVIDE PUBLIC NOTICE OF THIS LAND CONTRACT.

Whenever possible, each provision of this Land Contract shall be interpreted in such manner as to be effective and valid under applicable law. If any provision hereof shall be declared invalid or illegal it shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of the provision or the remaining provisions of this Land Contract. Notice from the Seller to the Purchaser, if mailed, shall be deemed given when mailed to the Purchaser, postage prepaid, at the Purchaser's address set forth at the beginning of this Land Contract or at any other address of the Purchaser in the records of the Seller. This Land Contract shall bind the respective heirs, personal representatives, successors and assigns of the Purchaser. If any payment applied by the Seller to the Liabilities is subsequently set aside, recovered, rescinded or otherwise required to be returned or disgorged by the Seller for any reason (pursuant to bankruptcy proceedings, fraudulent conveyance statutes, or otherwise), the Liabilities to which the payment was applied shall for the purposes of this Land Contract be deemed to have continued in existence, notwithstanding the application, and shall be secured by this Land Contract as fully as if the Seller had not received and applied the payment. If two or more persons execute this Land Contract as the Purchaser, the obligations and grants of liens of such persons herein shall be joint, several, and individual. This Land Contract shall be governed by and interpreted according to the laws of the State of Michigan, and venue for this Land Contract is in the County where the property is located.

16. Transfer of Division Rights Provision. If the property is not platted land, as stated in the above Declaration entitled Land Division Act and Farm Rights Declaration, then the Seller has provided, in the above Declaration entitled Transfer of Division Rights Declaration, the division rights being transferred to Purchaser with the property. If the property is platted land then this paragraph does not apply to this Land Contract.

17. Environmental Disclaimer. Purchaser acknowledges that prior to closing Purchaser will have had an environmental inspection performed or had the opportunity to make such an inspection. Purchaser acknowledges and agrees that Seller has made no representations or warranties about the existence of any underground tanks or asbestos on the premises or the environmental condition of the premises, including the possible contamination of the premises or any of its components, including, but not limited to, the air above it, and the soil and groundwater beneath it, or compliance with any laws or regulations, federal, state or local, dealing with the environmental condition of the property. Upon signing this Land Contract, the Real Property will be deemed accepted in its then existing environmental condition "AS IS".

18. Seller's Disclosure. Purchaser further acknowledges that Seller has provided them with a Seller's Disclosure Statement as required by the State of Michigan Seller's Disclosure Act. By the execution hereof, Purchaser acknowledges receipt of said statement.

19. Interpretation of Contract. The parties hereunto agree that the language of this contract shall not be interpreted or construed against the drafter of the same.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals.

PARCEL 1 SELLER:

SH & K Enterprises  
A Michigan Co-Partnership

By: Linda F. King  
Linda F. King, Partner

Date: August 14, 2014.

STATE OF MICHIGAN )  
COUNTY OF BERRIEN ) SS:

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of August, 2014, by Linda F. King, Partner of and on behalf of SH & K Enterprises, a Michigan Co-Partnership.

Signature: Laura Schaeffer

Printed Name: LAURA SCHAEFFER

IN Kalamazoo  
Commissioned and Acting in Berrien County, Michigan

My Commission Expires: 9/19/2018

PARCEL 2 AND 3 SELLERS:

Delora Hadley Rathbun  
Delora Hadley Rathbun

Date: August 14, 2014.

Roy Streffing  
Roy Streffing

Date: August 14, 2014.

Barbara J. Streffing  
Barbara J. Streffing  
Linda King  
Linda King

Date: August 14, 2014.

Ronald Streffing  
Ronald Streffing

Date: August 14, 2014.

Lorene Schlott  
Lorene Schlott

Date: August 14, 2014.

STATE OF MICHIGAN )  
COUNTY OF BERRIEN ) SS:

The foregoing instrument was acknowledged before me this 14<sup>TH</sup> day of August, 2014, by Delora Hadley, Roy Streffing, Linda King, Ronald Streffing and Lorene Schlott, <sup>RATHBUN</sup> AND BARBARA J STREFFING

Signature: Laura Schrepper

Printed Name: LAURA SCHREPPER

Commissioned and Acting in Berrien County, Michigan

My Commission Expires: 9/19/2018

BUYER:

MTM Group, LLC  
A Michigan Limited Liability Company

By: Martin A. Mason  
Martin A. Mason, Member

Date: August 14, 2014.

STATE OF MICHIGAN )  
COUNTY OF BERRIEN ) SS:

The foregoing instrument was acknowledged before me this 14<sup>TH</sup> day of August, 2014, by Martin A. Mason, Member of and on behalf of MTM Group, LLC, a Michigan Limited Liability Company.

Signature: Laura Schrepper

Printed Name: LAURA SCHREPPER

Commissioned and Acting in Berrien County, Michigan

My Commission Expires: 9/19/2018

DRAFTER HAS NOT EXAMINED AND MAKES NO REPRESENTATIONS RESPECTING; SURVEY, TITLE TO THE PROPERTY, THE EFFECT OF THIS DEED ON TAXES (REAL OR OTHERWISE), OR THE LAND DIVISION ACT.

This instrument drafted by:  
Mark A. Miller  
Miller Johnson Schroeder, PLC  
728 Pleasant Street, Suite 101  
St. Joseph, MI 49085  
Ph. (269) 983-1000

Exhibit A  
Legal Description

The land referred to herein below is situated in the City of Bridgman, Berrien County, State of Michigan, and is described as follows:

Parcel 1: All that part of the Northwest Quarter of Section 19, Township 6 South, Range 19 West, City of Bridgman, Berrien County, Michigan, which is described as beginning at a point on the North line of said Section 19 that is 83.71 feet West of the North Quarter post of said Section 19; thence West along said Section line 40.55 feet; thence South  $0^{\circ} 11'$  West 134.15 feet; thence East 40.55 feet; thence North  $00^{\circ} 11'$  East 134.15 feet to the place of beginning.

Tax parcel number: 11-56-0019-0115-01-2

Parcel 2: Beginning at the North Quarter Post of Section 19, Township 6 South, Range 19 West; thence West 83.71 feet; thence South parallel with the North and South center line of said Section 134.15 feet; thence East to North Section Line 83.71 feet; thence North along said center line 134.15 feet to the place of beginning.

Tax parcel number: 11-56-0019-0115-00-4

Parcel 3: Commencing on the North Section line at a point that is 124.15 feet West of the North quarter post of Section 19, Township 6 South, Range 19 West; thence parallel with the North and South quarter line Southerly 134.15 feet; thence parallel with the North Section line Westerly 167.2 feet to the right-of-way line of Red Arrow Highway; thence with said right-of-way North  $24^{\circ} 52'$  East 147.85 feet to the North line of said Section; thence with said Section line Easterly 105.04 feet to the place of beginning.

Tax parcel number: 11-56-0019-0115-02-1

**Exhibit D**  
**John's Pro Escrow Agreement**

## Escrow Agreement & Instructions

File #  
Escrow Agent: **Chicago Title of Michigan, Inc.**  
Seller: **Ronald G. Streffling**  
Buyer: **Baroda Badlands LLC**  
Lienholder: **Michigan Department of Natural Resources and Environment<sup>1</sup>**

Property: **Cleveland Avenue and Lemon Creek Road, Baroda, MI 49101**  
**Tax ID 11-30-0011-36-0**

Closing Date: **April 3, 2023**

The undersigned hereby recite, acknowledge, agree, and jointly instruct as follows:

- (1) Seller and Lienholder executed a Settlement Agreement effective \_\_\_\_\_ in *MDNRE v Streffling Oil Company, et al.*, Ingham County Case No. 11-156-CE, regarding a monetary judgment entered December 21, 2012, and renewed October 4, 2022. Lienholder recorded two liens related to the monetary judgment at Liber 3107, Page 0458, and Liber 3107, Page 0459, Berrien County Records. The Settlement Agreement contemplated a separate escrow agreement to be signed by Seller and Lienholder (in section VI thereof), and contained provisions (in section VI thereof) dictating terms to be included therein. This Escrow Agreement & Instructions is intended as fulfillment of those provisions of the Settlement Agreement. References to “section”/“§” hereafter are references to sections of the Settlement Agreement.
- (2) Seller and Buyer are consummating the transfer of the Property on the Closing Date. The purchase and sale price is \$130,000.00.
- (3) Upon sale of the Property, the Escrow Agent shall deposit \$129,972.94 (the same being the amount required to be escrowed under Section VI) from the sale (the Sale Proceeds), into escrow for the Michigan Department of Environment, Great Lakes, and Energy (EGLE). Thereafter, Escrow Agent will promptly notify Lienholder of the closing and escrow (§ 6.2) by email to

---

<sup>1</sup> The Michigan Department of Environment, Great Lakes, and Energy (EGLE) is the successor by law to the former Michigan Department of Natural Resources and Environment with respect to *MDNRE v Streffling Oil Company, et al.*, Ingham County Case No 11-156-CE.

Lienholder's representatives at yordanichd@michigan.gov and prinsa@michigan.gov.

- (4) Upon receipt of said notice, Lienholder will mail the Escrow Agent original Partial Lien Releases for the Property in a form suitable for recording that release the Liens with respect to the Property (§6.3). The same may be addressed to: Chicago Title of Michigan, Inc., 2005 Niles Road, St. Joseph, MI 49085.
- (5) Upon Escrow Agent's receipt of the Partial Lien Releases, Escrow Agent shall provide the Partial Lien Releases to buyer to be recorded (§ 6.4).
- (6) Upon Escrow Agent's receipt of a copy of an order entered in *MDNRE v Strefling Oil Company et al.*, Ingham County Case No. 11-156-CE, approving the Settlement Agreement, Escrow Agent shall send the Sale Proceeds to EGLE (§ 6.5).

All payments made pursuant to this Agreement shall be by check, made payable to the "State of Michigan – Environmental Response Fund," and shall be sent by first class mail or courier to:

Via first class mail:  
Accounting Services Division  
Cashier's Office for EGLE  
PO Box 30657  
Lansing, MI 48909-8157

Via courier:

Accounting Services Division  
Van Wagoner Building, 1st Floor West  
Cashier's Office for EGLE  
425 West Ottawa Street  
Lansing, MI 48933-2125

To ensure proper credit, all payments made pursuant to this Agreement shall include the case name *MDNRE v Strefling Oil Company, et al.*, and RRD Account Number RRD60154 on each check.

- (7) These instructions may be modified only by joint or identical written instructions signed by all parties and provided to Escrow Agent. Escrow Agent's liability is limited to its obligations as stated in this Agreement (as may be amended), and is limited to the amount of the escrow.



Signed and agreed this \_\_\_\_\_.

RONALD G. STREFLING

BARODA BADLANDS LLC

\_\_\_\_\_  
Ronald G. Strefling  
Seller

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Buyer

MICHIGAN DEPARTMENT OF  
ENVIRONMENT, GREAT LAKES  
AND ENERGY

CHICAGO TITLE OF MICHIGAN,  
INC.

\_\_\_\_\_  
Josh Mosher, Assistant Division Director  
Remediation and Redevelopment Division  
Lienholder

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Escrow Agent

LF: Strefling Oil Company, DNRE v CC/AG #2007-3000260-B/Escrow Agreement 2023-03-022

**Exhibit E**  
**John's Pro Consent to Enter**

**PART 213 CONSENT TO ENTER PRIVATE PROPERTY FORM**

Location Information for source property (as found in RIDE)

Location Name: John's Pro	Location ID: 00004695
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Signer information (sufficient to identify who is signing the CTE, their relationship to the property, and how to contact them).

Name of Individual Signing this Document:	<input type="checkbox"/> Signer is the/an owner of the property <input checked="" type="checkbox"/> Signer is an authorized representative of the owner.	
Title:	Business Name: Baroda Badlands LLC	
Mailing Address: 8551 Gray Road		
City: Baroda	State: MI	Zip: 49101
Telephone Number:		Email:

Information on the Property being accessed:

Owner Name: Baroda Badlands LLC	Assessor's Property Tax ID Number: 11-30-0011-0031-36-0	
Street Address: Corner of Cleveland Ave and Lemon Creek Road		
City: Baroda	State: MI	Zip: 49101
Other:		

I, \_\_\_\_\_, owner of (or representative authorized by the owner to grant access to) the property described in Attachment A (Property), having been informed of the request of the Michigan Department of Environment, Great Lakes, and Energy (EGLE) to conduct corrective actions on the Property, hereby voluntarily permit and authorize EGLE, its employees, contractors, or authorized representatives to enter, and if necessary re-enter, the Property to undertake corrective actions, including but not limited to, installing soil borings, taking soil samples, and installing one or more monitoring wells. This access is also necessary to collect groundwater samples, survey, measure static water levels, conduct one or more pump tests, and conduct other field assessment activities at the existing and/or newly installed monitoring well(s). This authorization permits photography, videography and data collection from ground level and/or by a small unmanned aerial vehicle.

I agree and understand that all information collected by EGLE is subject to disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246.

I understand that EGLE has the authority pursuant to Section 21326 of Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), to enter public or private property at all reasonable times for purposes that include, but are not limited to, inspecting an underground storage tank system (UST); obtaining samples of any substance from an UST; conducting, monitoring or testing, or taking samples of soils, air, surface water, or groundwater; and taking corrective action.

I understand that I am entitled to accompany EGLE, its employees, contractors, or authorized representatives during these activities; to participate in the collection of any split samples taken as part of these activities; and, if I so request, to receive a copy of any sample analysis results, photographs, or videotapes taken as part of these activities. I agree to comply with the requirements of any EGLE health and safety plan while on the Property during these sampling activities.

I agree that the duration of this entry authorization shall be of such reasonable length to enable EGLE, its employees, contractors, or authorized representatives to satisfactorily complete the activities described above. If I choose to revoke this entry authorization, I agree that I will provide a revocation of entry in writing to Ms. Chelsea Hayden, Field Manager, Kalamazoo District Office, Remediation and Redevelopment Division, EGLE, 7953 Adobe Road, Kalamazoo, Michigan 49009, at least thirty (30) days prior to the effective date of the revocation of entry authorization. I agree that the duration of this entry authorization shall continue until either I revoke it, or the activities described above are completed. I also agree that as long as this entry authorization remains in force, I will not interfere with, interrupt, change, or otherwise disturb any systems or equipment installed or utilized by EGLE, its employees, contractors, or authorized representatives.

Upon completion of any corrective actions performed under this Part 213 Consent to Enter Private Property Form, EGLE will undertake reasonable efforts to restore the Property to the conditions that existed at the time this access was granted, including any property, vegetation, and structures damaged by EGLE. I understand that EGLE contractors are required through their contract with the State of Michigan to carry certain insurance coverages with respect to their activities.

This voluntary written permission is granted to EGLE by:

BARODA BADLANDS LLC

---

By: \_\_\_\_\_

Date

Its: \_\_\_\_\_

## Attachment A

### Legal Description of the Property

Beginning at the Southwest Corner of Section 11, Township 6 South, Range 19 West, in the Township of Baroda, County of Berrien, and State of Michigan; thence North 1 degree 39' 23" East, on West line of Said Section 11, 143 feet; thence South 88 degrees 32' 28" East, parallel with the South line of said Section 11, 182 feet; thence South 1 degree 39' 23" West 143 feet to the South line of said Section 11; thence North 88 degrees 32' 28" West, on said South line, 182 feet to the point of beginning (Property Tax Parcel No. 11-30-0011-0031-36-0, consisting of approximately 0.60 of an acre).

## Escrow Agreement & Instructions

File #

Escrow Agent: **Chicago Title of Michigan, Inc.**

Seller: **Ronald G. Strefling**

Buyer: **Baroda Badlands LLC**

Lienholder: **Michigan Department of Natural Resources and Environment<sup>1</sup>**

Property: **Cleveland Avenue and Lemon Creek Road, Baroda, MI 49101**

**Tax ID 11-30-0011-36-0**

Closing Date: **April 3, 2023**

The undersigned hereby recite, acknowledge, agree, and jointly instruct as follows:

- (1) Seller and Lienholder executed a Settlement Agreement effective March 30, 2023, in *MDNRE v Strefling Oil Company, et al.*, Ingham County Case No. 11-156-CE, regarding a monetary judgment entered December 21, 2012, and renewed October 4, 2022. Lienholder recorded two liens related to the monetary judgment at Liber 3107, Page 0458, and Liber 3107, Page 0459, Berrien County Records. The Settlement Agreement contemplated a separate escrow agreement to be signed by Seller and Lienholder (in section VI thereof), and contained provisions (in section VI thereof) dictating terms to be included therein. This Escrow Agreement & Instructions is intended as fulfillment of those provisions of the Settlement Agreement. References to “section”/“§” hereafter are references to sections of the Settlement Agreement. A copy of the Settlement Agreement is attached as Exhibit A.
- (2) Seller and Buyer are consummating the transfer of the Property on the Closing Date. The purchase and sale price is \$130,000.00.
- (3) Upon sale of the Property, the Escrow Agent shall deposit \$129,972.94 (the same being the amount required to be escrowed under Section VI) from the sale (the Sale Proceeds), into escrow for the Michigan Department of Environment, Great Lakes, and Energy (EGLE). Thereafter, Escrow Agent will promptly notify Lienholder of the closing and escrow (§ 6.2) by email to

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<sup>1</sup> The Michigan Department of Environment, Great Lakes, and Energy (EGLE) is the successor by law to the former Michigan Department of Natural Resources and Environment with respect to *MDNRE v Strefling Oil Company, et al.*, Ingham County Case No 11-156-CE.

Lienholder's representatives at yordanichd@michigan.gov and prinsa@michigan.gov. The Sale Proceeds will be held in a non-interest bearing account. Seller and Buyer shall be responsible for all closing costs, out of pocket, and the closing costs shall not be deducted from the Sale Proceeds.

- (4) Upon receipt of said notice, Lienholder will mail the Escrow Agent original Partial Lien Releases for the Property in a form suitable for recording, that include the legal description attached hereto as Exhibit B and that release the Liens with respect to the Property (§6.3). The same may be addressed to: Chicago Title of Michigan, Inc., 2005 Niles Road, St. Joseph, MI 49085.
- (5) Upon Escrow Agent's receipt of the Partial Lien Releases, Escrow Agent shall record. The recording fees for the Partial Lien Releases shall be the responsibility of Seller and Buyer, out of pocket, and shall not be deducted from the Sale Proceeds.
- (6) Upon Escrow Agent's receipt of a copy of an order entered in *MDNRE v Strefling Oil Company et al.*, Ingham County Case No. 11-156-CE, approving the Settlement Agreement, Escrow Agent shall send the Sale Proceeds to EGLE (§ 6.5).

All payments made pursuant to this Agreement shall be by check, made payable to the "State of Michigan – Environmental Response Fund," and shall be sent by first class mail or courier to:

Via first class mail:  
Accounting Services Division  
Cashier's Office for EGLE  
PO Box 30657  
Lansing, MI 48909-8157

Via courier:

Accounting Services Division  
Van Wagoner Building, 1st Floor West  
Cashier's Office for EGLE  
425 West Ottawa Street  
Lansing, MI 48933-2125


To ensure proper credit, all payments made pursuant to this Agreement shall include the case name *MDNRE v Strefling Oil Company, et al.*, and RRD Account Number RRD60154 on each check.




- (7) These instructions may be modified only by joint or identical written instructions signed by all parties and provided to Escrow Agent. Escrow Agent's liability is limited to its obligations as stated in this Agreement (as may be amended), and is limited to the amount of the escrow.

Signed and agreed this 4-6-2023.


RONALD G. STREFLING

  
\_\_\_\_\_  
Ronald G. Strefling  
Seller

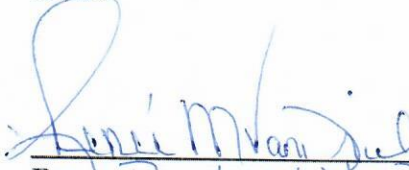
BARODA BADLANDS LLC

  
\_\_\_\_\_  
By: Terry Nicholson  
Its: Owner  
Buyer

MICHIGAN DEPARTMENT OF  
ENVIRONMENT, GREAT LAKES  
AND ENERGY

  
\_\_\_\_\_  
Josh Mosher, Assistant Division Director  
Remediation and Redevelopment Division  
Lienholder

CHICAGO TITLE OF MICHIGAN,  
INC.

  
\_\_\_\_\_  
By: Renee M. Van Driel  
Its: Dr. Commercial Escrow Officer  
Escrow Agent

LP: Strefling Oil Company, DNRE v CCAG #2007-3000260-B/Escrow Agreement 2023-03-031

# Exhibit A

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

MICHIGAN DEPARTMENT OF NATURAL  
RESOURCES AND ENVIRONMENT,

Plaintiff,

No. 11-156-CE

v

HON. WANDA M. STOKES

STREFLING OIL COMPANY, a Michigan  
corporation; STREFLING REAL ESTATE  
INVESTMENTS #1, LLC, a Michigan limited  
liability company; and RONALD G.  
STREFLING,

Defendants.

---

Andrew T. Prins (P70157)  
Richard S. Kuhl (P42042)  
Assistant Attorneys General  
Attorneys for Plaintiff  
Environment, Natural Resources,  
and Agriculture Division  
P.O. Box 30755  
Lansing, MI 48909  
(517) 335-7664  
prinsa@michigan.gov  
kuhlr@michigan.gov

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**SETTLEMENT AGREEMENT**

This Settlement Agreement (Agreement), by and between the Michigan  
Department of Environment, Great Lakes, and Energy<sup>1</sup> (EGLE), and Defendants

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<sup>1</sup> Pursuant to Executive Order 2011-1, administration of Part 201, Environmental Remediation, of Michigan's Natural Resources and Environmental Protection Act (NREPA), MCL 324.20101 *et seq.*, and Part 213, Leaking Underground Storage Tanks, of the NREPA, MCL 324.21301a *et seq.*, was transferred from the Michigan Department of Natural Resources and Environment (MDNRE) to the newly re-

Strefling Oil Company, Strefling Real Estate Investments #1, LLC, and Ronald G. Strefling (collectively, the Parties).

## **I. PARTIES BOUND**

1.1 This Agreement shall apply to and be binding upon the Parties and their successors. Defendants are jointly and severally liable for the performance of all activities specified in this Agreement. Any change in ownership, corporate, or legal status of a Defendant including, but not limited to, any transfer of assets, or of real or personal property, shall in no way alter the Defendant's responsibilities under this Agreement. Defendants shall comply with the requirements of MCL 324.21304d and not transfer any interest in the Litigation Properties unless Defendants provide written notice to the transferee that the real property is a location where a release has occurred, or a threat of release exists from an underground storage tank system, and of the general nature and extent of the release.

1.2 The signatories to this Agreement certify that they are authorized to execute this Agreement and to legally bind the parties they represent.

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created Michigan Department of Environmental Quality (MDEQ), effective March 13, 2011. Pursuant to Executive Order 2019-06, effective April 22, 2019, the Michigan Department of Environmental Quality was renamed the Michigan Department of Environment, Great Lakes, and Energy (EGLE). EGLE is the successor in interest to Plaintiff, MDNRE, in the above-referenced litigation.

## **II. STATEMENT OF PURPOSE**

The purpose of this Agreement is to resolve the monetary judgment set forth in the December 21, 2012, Opinion and Order, entered in the above-referenced action, and renewed on October 4, 2022; and to resolve the Defendants' obligation to perform corrective actions at three sites in Southwest Michigan pursuant to the February 16, 2012, Order Granting Partial Summary Disposition, also entered in the above-referenced action.

## **III. DEFINITIONS**

3.1 "Day" means a calendar day.

3.2 "Defendants" means Strefling Oil Company, Strefling Real Estate Investments #1, LLC, and Ronald G. Strefling.

3.3 "Effective Date" means the day the Agreement has been signed by all parties.

3.4 "Red Arrow Escrow Agreement" means the escrow agreement entered August 26, 2016, between Ronald Strefling, Roy W. Strefling, and EGLE, as escrow parties, and First American Title Insurance Company (c/o Toni Harbin), 500 Renaissance Drive, Suite 103, St. Joseph, Michigan 49085, as escrow agent.

3.5 "EGLE" means the Michigan Department of Environment, Great Lakes, and Energy, its successor entities, and those authorized persons or entities acting on its behalf. EGLE is the successor in interest to Plaintiff, MDNRE, in the above-referenced litigation.

3.6 “Litigation Properties” means the following real properties that were the subject matter of the above-referenced litigation: the Galien Filling Station located at 120 US 12, Galien, Michigan 49113; John’s Pro Filling Station located at the corner of Cleveland Avenue and Lemon Creek Road, Baroda, Michigan 49101; and the Streffling Bulk Plant located at 1663 Lemon Creek Road, Baroda, Michigan 49101.

3.7 “Part 201” means Part 201, Environmental Remediation, of Michigan’s Natural Resources and Environmental Protection Act (NREPA), MCL 324.20101 *et seq.*, the criteria developed pursuant to MCL 324.20120a(1), and the Part 201 Administrative Rules.

3.8 “Part 213” means Part 213, Leaking Underground Storage Tanks, of the NREPA, MCL 324.21301a *et seq.*

3.9 “Party” means either EGLE or a Defendant. “Parties” means EGLE and the Defendants.

3.10 Unless otherwise stated herein, all other terms used in this Agreement, which are defined in Part 3, Definitions, of the NREPA, MCL 324.301, or Part 201 or Part 213, shall have the same meaning in this Agreement as in Parts 3, 201 and 213.

#### **IV. RECITALS**

4.1 The Michigan Department of Natural Resources and Environment (MDNRE) filed a civil action against the Defendants on February 2, 2011, pursuant to Parts 201 and 213 of the NREPA in the above-referenced litigation due to the

Defendants' failure to address contamination resulting from leaking underground storage tank systems at the Litigation Properties.

4.2 Releases of regulated substances were confirmed at the Litigation Properties on: February 9, 1994 (Release No. C-0071-94) at the Galien Filling Station located at 120 US 12, Galien, Michigan 49113; March 22, 2000 (Release No. C-300-00) at John's Pro Filling Station located at the corner of Cleveland Avenue and Lemon Creek Road, Baroda, Michigan 49101; and March 22, 2000 (Release No. C-301-00) and October 4, 2001 (Release No. C-1294-01) at the Strefling Bulk Plant located at 1663 Lemon Creek Road, Baroda, Michigan 49101.

4.3 The circuit court granted MDNRE's motion for partial summary disposition on February 16, 2012, determining liability and enjoining the Defendants to complete corrective actions in accordance with Part 213 with respect to the releases at the Litigation Properties. (Ex A, 2/16/12 Order Granting Partial Summary Disposition, pp 2–3.)

4.4 The circuit court held an evidentiary hearing, and on December 21, 2012, a final order was entered finding the Defendants were liable for: \$48,809.72 in "past costs of corrective action"; \$20,625.00 in attorney fees; \$499,842.00 in civil fines; and \$275,500.00 in administrative penalties. (Ex B, 12/21/12 Order and Opinion.)

4.5 The circuit court entered an order on February 21, 2013, enjoining the Defendants from, "disposing of, selling, transferring and/or encumbering any assets without an [o]rder of the [court]." (2/21/13 Order, p 2.)

4.6 The circuit court entered an order on April 29, 2013, modifying its February 21, 2013, Order, allowing the Defendants to sell their real property to fund corrective actions at the Litigation Properties, so long as: a 14-day notice and terms of the proposed sale was given to MDNRE in writing; the net proceeds of any sale were placed into an escrow account to be used exclusively for corrective action at the Litigation Properties; and closing documents were provided to MDNRE upon the closing. (4/29/13 Order, p 2.)

4.7 The Michigan Court of Appeals reversed the attorney fee award and remanded the case for the ministerial task of amending the judgment to assess administrative penalties solely against Defendant Strefling Oil Company. (*Dep't of Natural Res & Env't v Strefling Oil Co, et al.*, unpublished opinion per curiam of the Court of Appeals, issued July 29, 2014 (Docket No. 314336).)

4.8 The circuit court amended its final order on August 1, 2014, as directed by the Michigan Court of Appeals, assessing the \$275,500.00 in administrative penalties solely against Defendant Strefling Oil Company. (8/1/14 Order.)

4.9 EGLE filed the following judgment liens with respect to the monetary judgment:

- (a) Defendant Strefling Oil Company, St. Joseph County, Liber 1788, Page 831.
- (b) Defendant Ronald G. Strefling, Van Buren County, Liber 1621, Page 732.



- (c) Defendant Ronald G. Strefling, Cass County, Liber 1092, Page 832.
- (d) Defendant Strefling Oil Company, Allegan County, Liber 3939, Page 838.
- (e) Defendant Ronald G. Strefling, Allegan County, Liber 3939, Page 839.
- (f) Defendant Strefling Oil Company, Berrien County, Liber 3107, Page 0459.
- (g) Defendant Ronald G. Strefling, Berrien County, Liber 3107, Page 0458.
- (h) Defendant Strefling Oil Company, Ottawa County, Document No. 2015-0023565.
- (i) Defendant Ronald G. Strefling, Ottawa County, Document No. 2015-0023566.

4.10 Roy W. Strefling, EGLE and Defendant Ronald Strefling established an escrow on August 26, 2016, that was funded with sale proceeds that were due Defendant Ronald Strefling as a partial owner of 9709 Red Arrow Highway, Bridgman, Michigan 49106 (the Red Arrow Escrow Agreement). (Ex C, 8/26/16 Red Arrow Escrow Agreement, pp 1–2.) Roy W. Strefling also asserted an interest in Defendant Ronald Strefling’s proceeds from the sale. (*Id.*, p 1.) Ultimately, \$33,252.06 in proceeds from the sale was used to fund the escrow and approximately \$20,000.00, remains (Red Arrow Sale Proceeds). (*Id.*, Section 2(a).)

The proceeds of the escrow may be disbursed pursuant to “Joint Written Instructions” of all Escrow Parties. (*Id.*, Section 4(c).)

4.11 On March 8, 2023, Defendant Ronald Strefling entered a Real Estate Purchase Agreement for the sale of John’s Pro Filling Station located at the corner of Cleveland Avenue and Lemon Creek Road, Baroda, Michigan 49101, with Baroda Badlands LLC, for the purchase price of \$130,000.00.

WHEREFORE, the Parties mutually agree that it would be in their best interest to compromise and resolve the Defendants’ outstanding corrective action and monetary judgment obligations as set forth below, and in consideration of the following rights and obligations, agree:

## **V. PAYMENT OF ESCROW**

5.1 Within 7 days of entry of an order setting forth the Court’s approval of this Agreement, Defendant Ronald Strefling, together with EGLE, shall issue Joint Written Instructions to the escrow agent under the Red Arrow Escrow Agreement directing the escrow agent to pay the remainder of the Red Arrow Sale Proceeds to EGLE.

## **VI. SALE OF JOHN’S PRO FILLING STATION**

6.1 EGLE and Defendants agree to execute a new escrow agreement for the sale of John’s Pro Filling Station, at Exhibit D (the John’s Pro Escrow Agreement), that outlines the actions of the escrow agent identified in the paragraphs below.

6.2 Upon sale of John's Pro Filling Station, the closing agent shall deposit the \$129,972.94 from the sale (the John's Pro Sale Proceeds), into the escrow for EGLE.

6.3 The escrow agent shall provide notice to EGLE that the John's Pro Sale Proceeds have been deposited into the escrow account within 48 hours.

6.4 EGLE shall provide to the escrow agent partial lien releases that release John's Pro Filling Station from the liens identified in Paragraphs 4.9(g) and 4.9(f) after receipt of the notice described in Paragraph 6.3.

6.5 Once the lien releases are received by the escrow agent, the escrow agent shall provide the lien releases to Baroda Badlands LLC, to be recorded.

6.6 Upon entry of an order setting forth the Court's approval of this Agreement, the escrow agent shall send the John's Pro Sale Proceeds to EGLE.

## **VII. ENVIRONMENTAL CONDITION**

7.1 EGLE shall make available any information it has regarding Contamination at John's Pro Filling Station located at the corner of Cleveland Avenue and Lemon Creek Road, Baroda, Michigan 49101.

## **VIII. ACCESS**

8.1 With respect to John's Pro Filling Station, corner of Cleveland Avenue and Lemon Creek Road, Baroda, Michigan 49101, Defendants shall secure from the persons to whom the property is transferred pursuant to Section VI, written access agreements in a form similar to Exhibit E that provides to EGLE and its authorized

employees, agents, representatives, contractors, and consultants, access to the property at all reasonable times for the following purposes:

- (a) Inspecting an underground storage tank system;
- (b) Obtaining samples of any substance from an underground storage tank system;
- (c) Requiring and supervising the conduct of monitoring or testing of an underground storage tank system, its associated equipment, or contents;
- (d) Conducting monitoring or testing of an underground storage tank system in cases where there is no identified responsible party;
- (e) Conducting monitoring or testing, or taking samples of soils, air, surface water, or groundwater;
- (f) Taking corrective action; and
- (g) Inspecting and copying any records related to an underground storage tank system.

## **IX. SATISFACTION OF JUDGMENT**

9.1 EGLE shall file a full satisfaction of judgment with the Ingham County Circuit Court with respect to the Defendants for the December 21, 2012, Opinion and Order, renewed October 4, 2022, if the following conditions are met:

- (a) Defendant Ronald Strefling issues Joint Written Instructions to the escrow agent under the Red Arrow Escrow Agreement

directing the escrow agent to pay the remainder of the Red Arrow Sale Proceeds in accordance with Section V, and EGLE receives the proceeds.

- (b) Defendants pay EGLE the \$129,972.94 payment in accordance with Section VI.

## **X. RELEASE OF JUDGMENT LIENS**

10.1 Upon entry of an order setting forth the Court's approval of this Agreement, and compliance with Sections V and VI, and satisfaction of the conditions in Paragraph 9.1, EGLE shall file lien releases for the liens identified in Paragraph 4.9.

## **XI. COVENANT NOT TO SUE BY EGLE**

11.1 Upon compliance with Sections V and VI, and satisfaction of the conditions in Paragraph 9.1, except as specifically reserved by EGLE below, EGLE covenants not to sue in federal or state court or take new or further administrative action against Defendants:

- (a) To recover upon the monetary judgment set forth in the December 21, 2012, Opinion and Order, renewed on October 4, 2022; or
- (b) To compel completion of corrective actions in accordance with Part 213 of the NREPA with respect to the releases at the Litigation Properties identified in Paragraph 4.2.

11.2 The covenants not to sue shall take effect under this Agreement as follows:

- (a) With respect to the Defendants' liability the monetary judgment set forth in the December 21, 2012, Opinion and Order, renewed on October 4, 2022, the covenant not to sue shall take effect upon satisfaction of the conditions in Paragraph 9.1.
- (b) With respect to compelling corrective actions with respect to the releases identified in Paragraph 4.2, the covenant not to sue shall take effect upon satisfaction of the conditions in Paragraph 9.1.

11.3 The covenants not to sue extend only to Defendants and do not extend to any other person.

## **XII. RESERVATION OF RIGHTS BY EGLE**

12.1 The covenants not to sue apply only to those matters specified in Paragraph 11.1 of Section XI (Covenants Not to Sue by EGLE) of this Agreement. EGLE expressly reserves, and this Agreement is without prejudice to, all rights to take administrative action, or to file a new action pursuant to any applicable authority against Defendants with respect to the following:

- (a) Releases at the Litigation Properties not identified in Paragraph 4.2.
- (b) The past, present, or future treatment, handling, disposal, release, or threat of release of hazardous substances that occur

outside of the Litigation Properties and that are not attributable to the Litigation Properties;

- (c) The past, present, or future treatment, handling, disposal, release, or threat of release of hazardous substances taken from the Litigation Properties;
- (d) Damages for injury to, destruction of, or loss of natural resources, and the costs for any natural resource damage assessment;
- (e) Criminal acts;
- (f) Any other violations of state or federal law for which Defendants have not received a covenant not to sue; and
- (g) Any issue addressed in MCL 324.21323g(5) as it relates to unknown conditions at the Litigation Properties and/or attributable to the Litigation Properties.

12.2 EGLE reserves the right to take action against the Defendants, if it discovers at any time, that any material information provided by the Defendants in connection with negotiating the terms of this Agreement, that was materially relied upon by EGLE in entering into this Agreement, was known by the Defendants to be false or materially misleading at the time it was provided as proven to a court.

12.3 EGLE expressly reserves all of their rights and defenses pursuant to any available legal authority to enforce this Agreement.

12.4 Subject to, and without modifying or limiting the scope or effect of the covenant not to sue or take any new or further administrative action in Paragraph 11.1, EGLE retains all of its authority and reserves all of its rights to perform, or contract to have performed, any corrective actions that EGLE determines are necessary under applicable law.

12.5 Subject to, and without modifying or limiting the scope or effect of the covenant not to sue or take any new or further administrative action in Paragraph 11.1, the State retains all of its information-gathering, inspection, access, and enforcement authorities and rights under Part 213, and any other applicable statute or regulation.

12.6 Failure by EGLE to enforce any term, condition, or requirement of this Agreement in a timely manner shall not:

- (a) Provide or be construed to provide a defense for Defendants' noncompliance with any such term, condition, or requirement of this Agreement.
- (b) Estop or limit the authority of EGLE enforce any such term, condition, or requirement of the Agreement, or to seek any other remedy provided by law.

12.7 This Agreement does not constitute a warranty or representation of any kind by EGLE that corrective actions performed by EGLE at the Litigation Properties will result in the achievement the risk-based screening levels established



by law, or that those corrective actions will assure protection of public health, safety, or welfare, or the environment.

12.8 Nothing in this Order shall limit the power and authority of EGLE or the State of Michigan, pursuant to MCL 324.21319a and MCL 324.20123, as provided for under MCL 324.21323g(7), 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 Litigation Properties or attributable to the Litigation Properties.

### **XIII. COVENANTS NOT TO SUE BY DEFENDANTS**

13.1 Defendants hereby covenant not to sue or to take any civil, judicial, or administrative action against the State of Michigan, its agencies, or their authorized representatives, for any claims or causes of action against the State of Michigan that arise from this Agreement, including, but not limited to, any direct or indirect claim for reimbursement from the Cleanup and Redevelopment Fund pursuant to MCL 324.20119(5) or any other provision of law.

13.2 After the Effective Date of this Order, if the Michigan Department of Attorney General (MDAG) initiates any administrative or judicial proceeding for injunctive relief, recovery of response activity costs, or other appropriate relief relating to the Litigation Properties, Defendants agree not to assert and shall not maintain any defenses or claims that are based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, or claim-splitting; or that are based

upon a defense that contends any claims raised by EGLE or the MDAG in such a proceeding were or should have been brought in this case, provided, however, that nothing in this Paragraph affects the enforceability of the covenants not to sue set forth in Section XI (Covenants Not to Sue by EGLE) of this Agreement.

#### **XIV. COMPLIANCE WITH LAWS**

14.1 Except as set forth in this Agreement, this Agreement in no way affects Defendants' responsibility to comply with any applicable state, federal, or local laws and regulations, including Parts 201 and 213 of the NREPA.

#### **XV. CONTACTS**

15.1 Each Party shall designate one or more designated contact person for notification purposes. Notices may be initially provided by electronic means, but a hard copy must be concurrently sent. If any Party changes any of its designated contact persons, the name, address, telephone number, and email address of the successor or additional contact person shall be provided to the other Party, in writing, as soon as practicable.

As to EGLE at:

Division Director  
Remediation and Redevelopment Division  
Michigan Department of Environment, Great Lakes, and Energy  
Constitution Hall 5<sup>th</sup> Floor South  
P.O. Box 30426  
Lansing, Michigan 48909  
Phone: (517) 284-5087  
Fax: (517) 241-9581  
and by email to: yordanichd@michigan.gov

and to Defendants at:

Ronald G. Strefling  
608 East Snow Road  
Baroda, Michigan 49101  
Phone: (269) 208-2560  
and by email to: rstrefling@att.net

## **XVI. PAYMENTS**

16.1 All payments made pursuant to this Agreement shall be by check, made payable to the “State of Michigan – Environmental Response Fund,” and shall be sent by first class mail or courier to:

Via first class mail:

Accounting Services Division  
Cashier’s Office for EGLE  
PO Box 30657  
Lansing, MI 48909-8157

Via courier:

Accounting Services Division  
Cashier’s Office for EGLE  
Van Wagoner Building, 1st Floor West  
425 West Ottawa Street  
Lansing, MI 48933-2125

To ensure proper credit, all payments made pursuant to this Agreement shall include the case name *MDNRE v Strefling Oil Company, et al.*, and RRD Account Number RRD60154 on each check.

## **XVII. MODIFICATIONS**

17.1 The Parties may only modify this Agreement according to the terms of this Section. Modification of any provision of this Agreement shall be made only by written agreement between, the RRD Director, or his or her authorized representative, and the designated representative of the MDAG, and each Defendant.

## **XVIII. SEPARATE DOCUMENTS**


18.1. The Parties may execute this Agreement in duplicate original form for the primary purpose of obtaining multiple signatures, each of which shall be deemed an original, but all of which together shall constitute the same instrument.

## **XIX. SEVERABILITY**

19.1 The provisions of this Agreement shall be severable. If a court of competent jurisdiction declares that any provision of this Agreement is inconsistent with state or federal law and therefore unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.

IT IS SO AGREED BY:

MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

  
Josh Mosher  
Assistant Division Director  
Remediation and Redevelopment Division

03/30/2023  
Dated

MICHIGAN DEPARTMENT OF ATTORNEY GENERAL

Andrew Prins

Andrew T. Prins (P70157)  
Assistant Attorney General  
Environment, Natural Resources,  
and Agriculture Division

3-30-23

Dated

STREFLING OIL COMPANY

Ronald Streffling  
By: Ronald Streffling  
Its: President

3-24-23

Dated

STREFLING REAL ESTATE INVESTMENTS #1, LLC

Ronald Streffling  
By: Ronald Streffling  
Its: Agent

3-24-23

Dated

RONALD G. STREFLING

Ronald G. Streffling  
Ronald G. Streffling

3-24-23

Dated

I, Roy W. Strefling, consent to the provisions of this Agreement affecting the sales of the properties identified in Paragraph 6.1 and waive any claims that I may have as a result of those provisions.

Roy W. Strefling  
Roy W Strefling

3-27-23  
Dated

Subscribed and sworn to before me  
this 27 day of March, 2023.

Adrienne Lacy

Adrienne Lacy  
Notary Public State of Michigan  
County of Berrien  
My commission expires July 20, 2027

Notary Public  
State of Michigan, County of Berrien  
My Commission Expires: July 20, 2027

LF: Strefling Oil Company, DNRE v CC/AG #2007-3000260-B/Settlement Agreement 2023-03-06

**Exhibit A**  
**2/16/12 Order Granting Partial**  
**Summary Disposition**

2/11/2012 11:28 0174836501

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

MICHIGAN DEPARTMENT OF  
NATURAL RESOURCES AND  
ENVIRONMENT,

Plaintiff,

Case No. 11-156-CE

Hon. Rosemarie E. Aquilina

STRETLING OIL COMPANY, a  
Michigan corporation, STRETLING  
REAL ESTATE INVESTMENTS #1,  
LLC, a Michigan limited liability  
company, and RONALD G.  
STRETLING,

Defendants.

FILED  
2012 FEB 16 P 3:36  
CLERK OF THE COURT  
JUDICIAL CIRCUIT-30TH  
INGHAM COUNTY

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Grand Rapids, MI 49503-2793  
(616) 235-3500

ORDER GRANTING PARTIAL SUMMARY DISPOSITION

At a session of court held in the courthouse in  
City of Lansing, County of Ingham,  
State of Michigan on January 25, 2012.

Present: Honorable Rosemarie E. Aquilina Circuit Court Judge



The Court has reviewed Plaintiff Michigan Department of Natural Resources and Environment's (MDNRE) Motion for Partial Summary Disposition Pursuant to MCR 2.116(C)(10), Defendants' Response to Plaintiff's Motion and Request for Summary Disposition pursuant to MCR 2.116(I)(2), Plaintiff's Reply to Defendant's Response, the exhibits and opinions attached in support and in opposition, and has heard oral argument. It appears to the Court that there is no genuine issue of any material fact and that as a matter of law Plaintiff is entitled to partial summary disposition on all legal issues. An evidentiary hearing will be held to determine the costs and penalties that Defendants are liable to pay to Plaintiff based upon the rulings in this Order.

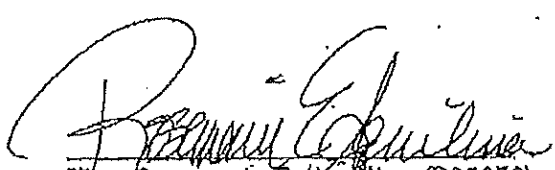
IT IS ORDERED:

1. Defendants Streffing Oil Company (Streffing Oil) and Streffing Real Estate Investments.#1 LLC (SREI) are liable for past "response activity costs" incurred by MDNRE relating to the John's Pro Filling Station and the Streffing Bulk Plant;
2. Defendants Streffing Oil and Ron Streffing are liable for past "response activity costs" incurred by MDNRE relating to the Galien Filling Station;
3. The Defendants are jointly and severally liable for past "response activity costs" incurred by MDNRE that are multi-site costs;
4. Defendants Streffing Oil and SREI are liable for future "response activity costs" incurred by MDNRE relating to the John's Pro Filling Station and the Streffing Bulk Plant;

5. Defendants Streffing Oil and Ron Streffing are liable for future "response activity costs" incurred by MDNRE relating to the Galien Filling Station.
6. Defendants Streffing Oil and SREI are not in compliance with Part 213 and are required to complete corrective actions in connection with the releases of hazardous substances at John's Pro Filling Station and the Streffing Bulk Plant;
7. Defendants Ron Streffing and Streffing Oil are not in compliance with Part 213 and are required to complete corrective actions in connection with the release of hazardous substances at the Galien Filling Station;
8. Defendant Streffing Oil is liable to MDNRE for administrative penalties due to its failure to submit statutorily required reports under Part 213; and
9. Defendants are in violation of Part 213 and are subject to civil penalties pursuant to MCL 324.21323(1)(d).
10. An evidentiary hearing will be held on the currently scheduled trial date of April 9, 2012 to determine the amount of past response activity costs, administrative penalties, and civil penalties that Defendants are liable to pay to Plaintiffs based upon the rulings in this Order.

IT IS SO ORDERED.

Dated: 16 Feb 12

  
Hon. Rosemarie E. Aquilina (P37670)  
30<sup>th</sup> Circuit Court Judge

**Exhibit B**  
**12/21/12 Opinion and Order**

STATE OF MICHIGAN

IN THE 30<sup>TH</sup> CIRCUIT COURT FOR THE COUNTY OF INGHAM

---

MICHIGAN DEPARTMENT OF NATURAL  
RESOURCES AND ENVIRONMENT,

Plaintiff,

v

STREFLING OIL COMPANY, STREFLING  
REAL ESTATE INVESTMENTS #1, LLC,  
and RONALD G. STREFLING,

Defendants.

---

ORDER AND OPINION

HON. ROSEMARIE E. AQUILINA

Docket No: 11-156-CE

Dept. of Attorney General  
**RECEIVED**

At a session of said Court held in the City of  
Lansing, County of Ingham, State of Michigan  
this 21<sup>st</sup> day of December, 2012

DEC 26 2012

NATURAL RESOURCES  
DIVISION

**PRESENT: The Honorable Rosemarie E. Aquilina  
30<sup>th</sup> Judicial Circuit Court Judge**

This matter comes before the Court as an *Evidentiary Hearing*. This Honorable Court, after reviewing all briefs, motions, supporting documents, depositions, and testimony; and after reviewing all applicable law, states the following:

**BACKGROUND FACTS**

This case concerns the release of petroleum products from the underground storage tank systems at two gasoline stations and a bulk storage facility owned by Defendants. On February 16, 2012, this Court issued an order granting Partial Summary Disposition in this case, as to the liability of the parties, pursuant to MCR 2.116(C)(10). This Court ruled there is no genuine issue of any material fact and that as a matter of law Plaintiff is entitled to Partial Summary Disposition as it pertains to all legal issues. This Court ordered: (1) Defendants Strefling Oil

Company and Strefling Real Estate are liable for past and future “responsive activity costs” incurred by Plaintiff, Michigan Department of Natural Resources and Environment (“MDNRE”), relating to John’s Pro Filling Station and the Strefling Bulk Plant; (2) Defendants Strefling Oil Company and Ron Strefling are liable for past and future “responsive activity costs” incurred by MDNRE relating to the Galien Filling Station; (3) Defendants are jointly and severally liable for all past “responsive activity costs” incurred by MDNRE that are multisite costs; (4) Defendants Strefling Oil Company and Strefling Real Estate are not in compliance with Part 213 and 201 of the Natural Resources & and Environmental Protection Act (“NREPA”) and are required to complete corrective actions in connection with the release of hazardous substances at John’s Pro Filling Station and the Strefling Bulk Plant; (5) Defendants Ron Strefling and Strefling Oil are not in compliance with Part 213 and required to complete corrective actions in connection with the releases of hazardous substances at the Galien Filling Station; (6) Defendant Strefling Oil is liable for administrative penalties due to their failure to submit statutorily required reports under Part 213; and (7) Defendants are in violation of Part 213 and are subject to civil penalties pursuant to MCL 324.21323(1)(d). All issues of liability were resolved in the February 16, 2012 Order. The sole issues to be resolved in this Opinion and Order are the amount of damages. These damages are the past response activity costs, administrative penalties, civil penalties, and attorney’s fees.

Part 213, Leaking Underground Storage Tanks, of NREPA, MCL 324.21301a, *et seq.* was amended by the Legislature. Prior to the amendments, Part 213 and Part 201 of NREPA worked collectively to regulate enforcement and remediation of the leaks from underground storage tanks. The Michigan Court of Appeals has ruled the 2012 amendments are retroactive. *BP Products North America, Inc v Department of Environmental Quality*, 2012 Mich App Lexis

1633 (Mich App, August 15, 2012). This Court has held that the amendments will be applied retroactively.

### PLAINTIFF'S ARGUMENT

In addressing Defendants' claim that: (1) administrative penalties were untimely pursuant to MCL 600.5813; and (2) civil fines were untimely pursuant to MCL 324.213231. Plaintiff points out that MDNRE's claims for administrative penalties have already been determined by this Court to be timely. Based on the language of Section 21313a, each day an owner or operator fails to comply with the statutory obligations constitutes a new violation. A new cause of action occurs each day the obligation has not been fulfilled. MCL 600.5813 would only bar violations which occurred six years prior to MDNRE filing its complaint. MDNRE filed its complaint on February 4, 2011 and the administrative penalties alleged are for a period between September 20, 2006 and January 18, 2007, which is within the six-year statute of limitations period.

As to the claim of civil fines pursuant to MCL 324.213221, MCL 324.213221a requires owners and operators submit a Final Assessment Report ("FAR") within 365 days of a release. Failure to timely submit a FAR is a violation of Part 213. *Attorney General v Bulk Petroleum Corp*, 276 Mich App 654, 660 (2007). Defendants claim the civil fines are untimely because the claim was filed 3 years after the FAR was due is mistaken because every day that a FAR is not submitted is a new violation under Part 213. Therefore, an award of civil fines is permissible because a new action occurs each day Defendant fails to submit a FAR and comply with the statute. MDNRE may, therefore, recover for violations occurring within the three year statute of limitation period prior to filing the complaint.

Plaintiff requests a total of \$44,414.78 in costs of corrective action, \$37,713.13 in attorney fees, \$275,500 in administrative penalties, and \$1,562,400 in civil fines.

## DEFENDANTS' ARGUMENT

Defendants maintain that MDNRE's request for costs of corrective action, with the exception of \$8,994.79, should be denied because they are not costs of corrective action as defined under Part 213. Specifically, all but \$8,994.79 consists of salaries and wages of employees of the State of Michigan. It is Defendant's assertion, based on a plain reading of the statute, that the statute does not include these costs and to include them would constitute judicial redrafting. These costs were not to prevent, minimize, or mitigate injury to the public health, safety, or welfare because the cost of these employees would have been paid regardless. Lastly, the cost of corrective action for the wages and salaries are not supported by factual evidence. This is because MDNRE relies on "time reports" that do not specifically identify the action MDNRE engaged in which constituted preventing, minimizing, or mitigating injuries to the public health, safety, or welfare.

The attorney fees requested by MDNRE do not comply with the standard under Michigan law and MDNRE does not meet the burden of showing the attorney fees are reasonable. The billing records submitted by MDNRE do not meet this requirement because MDNRE's attorneys do not keep detailed billing records, as is admitted by MDNRE to be the practice of attorneys employed by the State of Michigan.

In regard to administrative penalties pursuant to MCL 324.21313a, Defendants maintain this Court should decline to assess these penalties so Defendants can complete the actions necessary to clean up the sites. Defendants do not have the necessary resources to both engage in the corrective actions needed to clean up the site and pay the administrative penalties and civil fines. Additionally, the MDNRE claim for administrative penalties was not done in a timely manner. The claim is untimely and this Court should apply the six year statute of limitations in

MCL 600.5813. This Court should use the date the FARs were due as the measuring date for the six year period in determining whether the complaint was timely.

In regard to the civil fines, Defendants do not have the necessary resources to engage in corrective actions to clean up the site and pay the administrative penalties and civil fines. In order to maintain the capability to clean up the sites, this Court should refuse to assess civil fines. The claim for violation of Part 213 is untimely because the Complaint was not filed until February 4, 2011, more than six years after the FARs were due. Each day should not be treated as a violation, but the day the FAR was due should be treated as the sole day of the violation. Hence, the filing of the claim is untimely.

#### CONCLUSIONS OF LAW

This Court has previously ruled Defendants are liable for past “response activity costs.” Based on the 2012 amendments, MDNRE is now able to recover for “costs of corrective action” instead of “response activity costs.” *See* MCL 324.21323b(1)(a). All parties are jointly and severally liable. *Id.* Costs of corrective action are all costs “lawfully incurred by the state relating to the selection and implementation of corrective action under this part.” *Id.* Corrective action “means the investigation, assessment, cleanup, removal, containment, isolation, treatment, or monitoring of regulated substances released into the environment from an underground storage tank system that is necessary under this part to prevent, minimize, or mitigate injury to the public health, safety, or welfare, the environment, or natural resources.” MCL 324.21302(h).

Plaintiff requests this Court award the costs of corrective action for a period through February 24, 2011. MDNRE requests \$4,886.06 as a result of the release of regulated substances at the Galien Filling Station, \$6,455.34 as a result of the release of regulated substances at the John’s Pro Filing Station, \$9,976.72 as a result of the release of regulated substances at the



Strefling Bulk Plant, and \$27,491.66 in multi-site costs as a result of the release of regulated substances at the Galien Filling Station, John's Pro Filing Station, and Strefling Bulk Plant.

"A person challenging the recovery of costs under this subsection has the burden of establishing the costs were not reasonably incurred under the circumstances that existed at the time the costs were incurred." *See* MCL 324.21323b(2).

This Court finds Defendants have not shown the costs requested by Plaintiff were unreasonably incurred under the circumstances. While the majority of the costs incurred by Plaintiff are for salaries and wages incurred by MDNRE, which would have been paid regardless, these employees could have worked on other assignments. Instead, they were used to prevent, mitigate, and minimize injuries to the public's health, safety, and welfare to the environment and natural resources resulting from Defendants actions. Based on a plain reading of the statute, the costs Plaintiff incurred meet the standard regardless of the fact they were already previously employed. Courts must apply and interpret statutes by giving the words their plain meaning. *Ligons v Critten Hosp*, 490 Mich 61, 70 (2011). The tasks the employees completed were related to the prevention, mitigation, and minimization of injuries to the public, health, safety, and welfare to the environment and natural resources. Therefore, the costs are reasonable and meet the standard set forth in the statute. This Court consequently awards costs of corrective action to Plaintiff for a period through February 24, 2011. Cost for corrective action are as follows: \$4,886.06 as a result of the release of regulated substances at the Galien Filling Station; \$6,455.34 as a result of the release of regulated substances at the John's Pro Filing Station; \$9,976.72 as a result of the release of regulated substances at the Strefling Bulk Plant; and \$27,491.66 as a result of the release of regulated substances at the Galien Filling Station; John's Pro Filing Station, and Strefling Bulk Plant.

### Attorney Fees

Pursuant to MCL 324.21323b(3), MDNRE is entitled to “attorney fees” and ‘costs of litigation” because it is the “prevailing or substantially prevailing party” in the action. MPNRE seeks \$3,421.88 in attorney fees and costs of litigation related to the Galien Filling Station, \$1,916.25 in attorney fees and costs of litigation related to the John’s Pro Filling Station, \$2,098.75 in attorney fees and costs of litigation related to the Strefling Bulk Plant, and \$30,276.25 in attorney fees and costs of litigation related to the multi-site costs. Plaintiff requests \$135.00 per hour for the work completed by Elaine Fishoff, and \$182.50 per hour for work completed by Andrew Prins and Danielle Allison-Yokom.

This Court finds Plaintiff is entitled to attorney fees pursuant to MCL 324.21323b(3). Plaintiff relies upon the 1994 Desktop Reference on the Economics of Law Practice in Michigan, the 2007 Economics of Law Practice Summary Report, along with affidavits from attorneys from the State of Michigan who worked on the case. Defendant asks this Court to hold the attorney fees are not reasonable because, as Plaintiff acknowledges, the Attorney General’s Office does not keep detailed billing records and billing summaries. This Court relies upon the factors set forth in *Smith v Khouri*, 481 Mich 519 (2008) to determine a reasonable attorney fee. Those factors include:

[T]he professional standing and experience of the attorney; (2) the skill, time and labor involved; (3) the amount in question and the results achieved; (4) the difficulty of the case; (5) the expenses incurred; and (6) the nature and length of the professional relationship with the client. *Id*; *Wood v Detroit Automobile Inter-Ins Exch*, 413 Mich 573; NW2d 653 (1982).

While Plaintiffs did not keep detailed billing records, they do offer sufficient evidence of the time expended on the case and of what is a reasonable fee through empirical studies and attorney affidavits. Therefore, based on the evidence presented to this Court and Michigan law,

the Court awards attorney fees of \$80.00 per hour for the work completed by Elaine Fishoff and \$100.00 per hour for work completed by Andrew Prins and Dannelle Allison-Yokom. This results in a total of \$1,875 in attorney fees and costs of litigation related to the Galien Filling Station, \$1,050 in attorney fees and costs of litigation related to the John's Pro Filling Station, \$1,150 in attorney fees and costs of litigation related to the Streffling Bulk Plant, and \$16,650 in attorney fees and costs of litigation related to the multi-site costs.

#### Civil Fines

Plaintiff is seeking a fine of \$100 for each day Defendants violated Sections 21307, 21311a, or 21309a, dating from February 4, 2008 thru November 4, 2012. Plaintiff is seeking a civil fine for a total of 1,736 days in which Defendants were not in compliance. This Court agrees with Plaintiff that each day not in compliance with the statutes, constitutes a new violation. Therefore, the three year statute of limitations does not begin to run until Defendants are no longer in violation of the statutes.

The "free product" that escaped into the environment has resulted in unacceptable risks to public health, safety, and welfare. Defendants' assertion that they could not afford the cleanup is not a valid defense anywhere in the law. When evaluating the totality of this case, this Court determines that \$50 per day is a reasonable civil fine in this matter. However, the environmental concerns and the accumulating fines and costs in this matter could have significantly been reduced by the actions of Plaintiff. All of the violations found by Plaintiff have been occurring since at least 2002. Some date back to 1996. Plaintiff had the authority and the resources to take action to stop the "free product" at each site from continuing to contaminate additional soil and groundwater, yet did not file this action until February 4, 2011. Only now is Plaintiff moving to have the sites cleaned up and the costs passed along to Defendants. Due to the inaction of

Plaintiff, this Court will reduce the civil fine for each day to \$1 per violation after the filing of this case, as it was obvious to Plaintiff that Defendants were unwilling or unable to comply with the statutes and Plaintiff also let the contamination continue.

In regard to the Galien Filling Station, this Court assesses a civil fine of \$54,900 for the first 1,098 days and \$638 for the remaining 638 days since this matter was filed, for violation of Section 21307. This Court also assesses \$55,538 for the 1,736 days Defendants have been in violation of Section 21311a, and an additional \$55,538 for the 1,736 days Defendants have been in violation of Section 21309a. This Court assesses a total of \$166,614 as a civil fine against Defendants for violations occurring at the Galien Filling Station.

In consideration of John's Pro Filling Station, this Court assesses a civil fine of \$54,900 for the first 1,098 days and \$638 for the remaining 638 days since this matter was filed, for violation of Section 21311a. The Court further assesses \$55,538 for 1,736 days of violations of Section 21309a. This Court assesses a total of \$111,076 as a civil fine against Defendants for violations occurring at John's Pro Filling Station.

There were two confirmed releases at the Strefling Bulk Plant. For the first release, this Court assesses a civil fine of \$54,900 for the first 1,098 days and \$638 for the remaining 638 days since this matter was filed, for violation of Section 21311a. This Court also assesses \$55,538 for the 1,736 days Defendants have been in violation of Section 21309a. For the second release, this Court assesses \$55,538 for the 1,736 days Defendants were in violation of Section 21311a. The Court further assesses \$55,538 for 1,736 days Defendants violated Section 21309a. This Court assesses a total of \$222,152 as a civil fine against Defendants for violations occurring at the Strefling Bulk Plant. The total civil fine to be paid by Defendants is \$499,842 for violations occurring at all three of the properties involved in this matter.

### Administrative Penalties

This Court has previously ruled that Defendant is liable to MDNRE for administrative penalties due to their failure to submit the statutorily reports required under Part 213. This Court stands by its previous ruling that the claim for administrative penalties is timely and based on a plain reading of the law each day of non-compliance is a new violation, causing a new claim to accrue.

Under the NREPA, a FAR must be completed by a liable party within 365 days after a release has been discovered. This Court has already determined that Defendants have failed to submit the reports in a timely manner and have to date, not submitted them.

Section 21313a provides that:

(1) Beginning on the effective date of the 2012 amendatory act that amended this section, except as provided in subsection (6), and except for the confirmation provided in section 21312a(2) if a required submittal under section 21308a, 21311a, or 21312a(1) is not provided during the time required, the department may impose a penalty according to the following schedule:

- (a) Not more than \$100.00 per day for the first 7 days that the report is late.
- (b) Not more than \$500.00 per day for days 8 through 14 that the report is late.
- (c) Not more than \$1,000.00 per day for each day beyond day 14 that the report is late.

Plaintiff seeks to impose a penalty for the period between September 20, 2006 and January 18, 2007 for all three sites. In accordance with Section 21313a, in regard to the Galien Filling Station, Plaintiff assessed \$700 in penalties for days one thorough seven, \$3,500 in penalties for days eight though 14, and \$106,000 for days 15 through 120. This is a total of \$110,200. For the Strefling Bulk Plant, Plaintiff assessed penalties of \$525 in penalties for days one thorough seven, \$2,625 in penalties for days eight though 14, and \$79,500 for days 15 through 120. This is a total of \$82,650. For John's Pro Filling Station, Plaintiff assessed penalties of \$525 in penalties for days one thorough seven, \$2,625 in penalties for days eight

though 14 and \$79,500 for days 15 through 120. This is a total of \$82,650. The total penalty for all three sites is \$275,500.

In reviewing the law and the evidence presented to this Court, this Court finds the amount is reasonable considering the circumstances and the long period of time this violation has continued. This Court finds \$275,500 to be reasonable for Defendants failure to submit a FAR for the three sites between September 20, 2006 and January 18, 2007, and awards this amount to Plaintiff as administrative penalties.

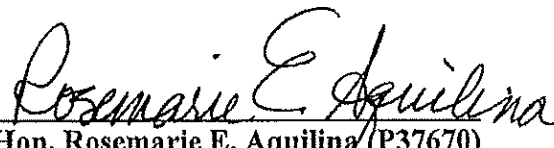
**THEREFORE, IT IS ORDERED** that Plaintiff is entitled costs of corrective action from Defendants totaling \$44,414.78.

**IT IS FURTHER ORDERED** that Plaintiff is entitled to \$20,625 in attorney fees from Defendants.

**IT IS FURTHER ORDERED** that Defendants pay \$499,842 in civil fines for violations extending 1,736 days.


**IT IS FURTHER ORDERED** that Plaintiff is entitled to administrative penalties from Defendants of \$275,500. In compliance with MCR 2.602(A)(3), this Court finds that this decision resolves the last pending claims and closes the case.

**IT IS SO ORDERED.**

  
Hon. Rosemarie E. Aquilina (P37670)  
Court of Claims Judge

### PROOF OF SERVICE

I certify that I have served the above order upon the Plaintiff and Defendants by placing a copy of the Order in sealed envelopes addressed to the attorney of each party and deposited for mailing with the United States Mail at Lansing, Michigan on December 21, 2012.

  
\_\_\_\_\_  
Luke A. Goodrich (P72090)  
Law Clerk

**Exhibit C**  
**8/26/16 Escrow Agreement**



AUG 31 2016

**ESCROW AGREEMENT**

**NATURAL RESOURCES  
DIVISION**

This Escrow Agreement (this "Agreement") is by and among Ronald G. Streffling of 608 East Snow Road, Baroda, Michigan 49101 ("Ron Streffling"), Roy W. Streffling of 9989 Rose Hill Road, Berrien Springs, Michigan 49103 ("Roy Streffling"), and the Michigan Department of Environmental Quality of 525 West Allegan Street, Lansing, Michigan 48933 ("MDEQ"), successor to the Michigan Department of Natural Resources and Environment,<sup>1</sup> (all of the foregoing parties hereinafter sometimes collectively referred to as the "Escrow Parties"); and First American Title Insurance Company (c/o Cindy Fowler), having its principal place of business at 500 Renaissance Drive, Suite 103, St. Joseph, Michigan 49085 (the "Escrow Agent").

WHEREAS, Ron Streffling owns an interest in certain real property located in the City of Bridgman, County of Berrien and State of Michigan commonly known as 9709 Red Arrow Highway, Bridgman, Michigan 49106 (the "Real Property") and legally described on Attachment 1;

WHEREAS, MDEQ has obtained a judgment against Ron Streffling in *MDNRE v Streffling Oil Company*, et al., Ingham County Case No. 11-156-CE, and has encumbered Ron Streffling's interest in the Real Property pursuant to a Notice of Judgment Lien dated June 25, 2015 and recorded on June 26, 2015 in Liber 3107, Page 0458, Berrien County Records (the "Notice of Judgment");

WHEREAS, the Ingham County Circuit Court in *MDNRE v Streffling Oil Company* has entered orders governing the distribution of income Ron Streffling receives from conveyances of his real property;

WHEREAS, Ron Streffling and others in interest desire to sell and convey the Real Property free and clear of the Notice of Judgment pursuant to the land contract dated August 14, 2014 and attached as Attachment 2 (the "Sale");

WHEREAS, MDEQ is willing to release the Notice of Judgment as to the Real Property to accommodate the Sale, provided that MDEQ is assured that it will retain whatever interest and priority it may have under law in the proceeds from the Sale to be paid in relation to Ron Streffling's interest in the Real Property;

WHEREAS, Roy Streffling also asserts an interest in the proceeds from the Sale to be paid in relation to Ron Streffling's interest in the Real Property and also wants to be assured that he will retain whatever interest and priority he may have under law to those proceeds;

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<sup>1</sup> Pursuant to Executive Order 2011-1, administration of certain statutes, including Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.20101 *et seq.* and Part 213, Leaking Underground Storage Tanks, of the NREPA, 1994 PA 451, MCL 324.21301a *et seq.*, were transferred to the newly re-created Michigan Department of Environmental Quality, effective March 13, 2011.

WHEREAS, MDEQ shall execute an appropriate partial release of the Notice of Judgment (the "Release") and place same with the Escrow Agent, and Ron Strefling shall cause any proceeds that would otherwise be distributed to Ron Strefling with respect to the Sale (the "Sale Proceeds") to be tendered to the Escrow Agent, all of which shall be held and released in accordance with the terms and conditions of this Agreement;

WHEREAS, the Sale Proceeds have been determined to be \$33,492.06 as of August 26, 2016; and

WHEREAS, the Escrow Parties may, after placement of the Sale Proceeds with the Escrow Agent, negotiate a resolution of their interests in the Sale Proceeds.

NOW, THEREFORE, in consideration of the premises and agreements of the parties contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Appointment of Agent. The Escrow Parties appoint the Escrow Agent as their agent to hold in escrow, and to administer the disposition of, the Escrow Items (as defined below) in accordance with the terms of this Agreement, and the Escrow Agent accepts such appointment.

2. Establishment of Escrow. Upon the execution of this Agreement, the Escrow Parties shall deposit the following with the Escrow Agent (collectively, the "Escrow Items"):

(a) Ron Strefling shall cause the closing agent administering the Sale to (i) pay \$200.00 of the Sale Proceeds to the Escrow Agent for the fee identified in Section 10 and to pay \$40.00 of the Sale Proceeds to the Escrow Agent for fees for recording the Release; (ii) deposit the remaining Sale Proceeds with the Escrow Agent, which have been determined to be \$33,252.06 as of August 26, 2016; and (iii) provide the Escrow Agent with a verified copy of the closing statement for the Sale, which identifies all of the proceeds that would otherwise be distributed to Ron Strefling, with copies to Roy Strefling and MDEQ; and

(b) MDEQ shall deposit with the Escrow Agent a fully executed Release in recordable form in relation to the Real Property.

3. Deposit of the Sale Proceeds. The Escrow Agent shall deposit the Sale Proceeds in one or more non-interest bearing deposit accounts. The Sale Proceeds shall in all instances be subject to the Escrow Agent's standard funds availability policy. The Escrow Parties understand that deposits of the Sale Proceeds are not necessarily insured by the United States Government or any agency or instrumentality thereof, or of any state or municipality, and that such deposits do not necessarily earn a fixed rate of return. In no instance shall the Escrow Agent have any obligation to provide investment advice of any kind. The Escrow Agent shall not be liable or responsible for any loss resulting from any deposits made pursuant to this Section 3, other than as a result of the gross negligence or willful misconduct of the Escrow Agent.

4. Release of Escrow Items.

(a) The Escrow Agent shall record the Release with the register of deeds, Berrien County, Michigan, upon the Escrow Agent's receipt of all of the items set forth in Section 2(a);

(b) The Escrow Agent shall release, distribute, and pay the Sale Proceeds only upon and pursuant to the Joint Written Instructions of all Escrow Parties delivered to the Escrow Agent ("Joint Written Instructions"). Upon delivery of all of the Sale Proceeds by the Escrow Agent in accordance with the terms of this Escrow Agreement, this Escrow Agreement shall terminate, subject to the provisions of Sections 6 and 20 below.

(c) The Escrow Agent shall have no obligation to follow any directions set forth in any Joint Written Instructions referenced above unless and until the Escrow Agent is satisfied, in its sole discretion, that the persons executing said Joint Written Instructions are authorized to do so. The delivery to the Escrow Agent of a final non-appealable court award or order, from a court of competent jurisdiction, entered in an action in which the Escrow Parties are a party, shall constitute a representation to the Escrow Agent that such award or order complies with the requirements of Section 4(b) and the Escrow Agent shall be entitled to rely thereon without any further duty of inquiry. Any court award or order shall be accompanied by a legal opinion by counsel for the presenting party satisfactory to the Escrow Agent that said award or order is final and non-appealable.

(d) Notwithstanding anything to the contrary in this Agreement, if any amount to be released at any time or under any circumstances exceeds the balance in the Sale Proceeds, the Escrow Agent shall release such balance and shall have no liability or responsibility to the Escrow Parties for any deficiency.

(e) The Escrow Parties agree that in any legal proceeding to determine the distribution of the Sale Proceeds, the parties shall have for the purpose of determining each party's rights the same interest and priority they had under law at the time of the Sale.

5. Responsibilities and Liability of Escrow Agent.

(a) Duties Limited. The Escrow Agent undertakes to perform only such duties as are expressly set forth in this Agreement. The Escrow Agent's duties shall be determined only with reference to this Agreement and applicable laws, and it shall have no implied duties. The Escrow Agent shall not be bound by, deemed to have knowledge of, or have any obligation to make inquiry into or consider any term or provision of any agreement between any of the Escrow Parties and/or any other third party or as to which the escrow relationship created by this Agreement relates, including without limitation any documents referenced in this Agreement.

(b) Limitations on Liability of Escrow Agent. Except in cases of the Escrow Agent's bad faith, willful misconduct, or gross negligence, the Escrow Agent shall be fully protected (i) in acting in reliance upon any certificate, statement, request, notice, advice, instruction, direction, other agreement or instrument or signature reasonably and in good faith believed by the Escrow Agent to be genuine, (ii) in assuming that any person

purporting to give the Escrow Agent any of the foregoing in connection with either this Agreement or the Escrow Agent's duties, has been duly authorized to do so, and (iii) in acting or failing to act in good faith on the advice of any counsel retained by the Escrow Agent. The Escrow Agent shall not be liable for any mistake of fact or law or any error of judgment, or for any act or omission, except as a result of its bad faith, willful misconduct, or gross negligence. The Escrow Agent shall not be responsible for any loss incurred upon any action taken under circumstances not constituting bad faith, willful misconduct, or gross negligence.

In connection with any payments that the Escrow Agent is instructed to make by wire transfer, the Escrow Agent shall not be liable for the acts or omissions of (i) any Escrow Party or other person providing such instructions, including without limitation errors as to the amount, bank information, or bank account number; or (ii) any other person or entity, including without limitation any Federal Reserve Bank, any transmission or communications facility, any funds transfer system, any receiver or receiving depository financial institution, and no such person or entity shall be deemed to be an agent of the Escrow Agent.

Without limiting the generality of the foregoing, it is agreed that in no event will the Escrow Agent be liable for any lost profits or other indirect, special, incidental, or consequential damages which the parties may incur or experience by reason of having entered into or relied on this Agreement or arising out of or in connection with the Escrow Agent's services, even if the Escrow Agent was advised or otherwise made aware of the possibility of such damages; nor shall the Escrow Agent be liable for acts of God, acts of war, breakdowns or malfunctions of machines or computers, interruptions or malfunctions of communications or power supplies, labor difficulties, actions of public authorities, or any other similar cause or catastrophe beyond the Escrow Agent's reasonable control.

In the event that the Escrow Agent shall be uncertain as to its duties or rights under this Agreement, or shall receive any certificate, statement, request, notice, advice, instruction, direction, or other agreement or instrument from any other party with respect to the Escrow Items which, in the Escrow Agent's reasonable and good faith opinion, is in conflict with any of the provisions of this Agreement, or shall be advised that a dispute has arisen with respect to the Escrow Items or any part thereof, the Escrow Agent shall be entitled, without liability to any person, to refrain from taking any action other than to keep safely the Escrow Items until the Escrow Agent shall be directed otherwise in accordance with Joint Written Instructions or an order of a court with jurisdiction over the Escrow Agent. The Escrow Agent shall be under no duty to institute or defend any legal proceedings, although the Escrow Agent may, in its discretion and at the expense of the Escrow Parties as provided in Section 10, institute or defend such proceedings as provided in Section 5(c) immediately below.

(c) Authority to Interplead. The Escrow Parties authorize the Escrow Agent, if the Escrow Agent is threatened with litigation or is sued, to interplead all interested parties in any court of competent jurisdiction and to deposit the Escrow Items with the clerk of that court. In the event of any dispute, the Escrow Agent shall be entitled to petition a court of competent jurisdiction and shall perform any acts ordered by such court.

6. Termination. This Agreement and all the obligations of the Escrow Agent shall terminate upon the earliest to occur of the release of all of the Escrow Items by the Escrow Agent in accordance with this Agreement, the deposit of the Escrow Items by the Escrow Agent in accordance with Section 5(c) above, or exhaustion of all of the Sale Proceeds for Escrow Agent fees, costs, or expenses.

7. Removal of Escrow Agent. Either Escrow Party shall have the unilateral right to terminate the appointment of the Escrow Agent, specifying the date upon which such termination shall take effect. Thereafter, the Escrow Agent shall have no further obligation to the Escrow Parties except to hold the Escrow Items as depository and not otherwise. The Escrow Parties agree that they will jointly appoint a mutually acceptable banking corporation, trust company, or attorney as successor escrow agent. Escrow Agent shall refrain from taking any action until it shall receive Joint Written Instructions from all Escrow Parties designating the successor escrow agent. Escrow Agent shall deliver all of the Escrow Items to such successor escrow agent in accordance with such instructions and upon receipt of the Escrow Items, the successor escrow agent shall be bound by all of the provisions of this Agreement.

8. Resignation of Escrow Agent. The Escrow Agent may resign and be discharged from its duties and obligations hereunder at any time by giving no less than ten (10) days prior written notice of such resignation to the Escrow Parties, specifying the date when such resignation will take effect. Thereafter, the Escrow Items shall have no further obligation to the Escrow Parties except to hold the Escrow Items as depository and not otherwise. In the event of such resignation, the Escrow Parties agree that they will jointly appoint a banking corporation, trust company, or attorney as successor escrow agent within twenty (20) days of notice of such resignation. Escrow Agent shall refrain from taking any action until it shall receive Joint Written Instructions from all Escrow Parties designating the successor escrow agent. Escrow Agent shall deliver all of the Escrow Items to such successor escrow agent in accordance with such instructions and upon receipt of the Escrow Items, the successor escrow agent shall be bound by all of the provisions of this Agreement.

9. Notices, Contact Information. All notices under this Agreement shall be transmitted to the respective parties, shall be in writing and shall be considered to have been duly given or served when personally delivered to any individual party, or on the first (1st) business day after the date of deposit with an overnight courier for next day delivery, postage paid, or on the third (3rd) business day after deposit in the United States mail, certified or registered, return receipt requested, postage prepaid, or on the date of telecopy, fax or similar transmission during normal business hours, as evidenced by mechanical confirmation of such telecopy, fax or similar transmission, addressed in all cases to his or its address set forth above, or to such other address as such party may designate, provided that notices will be deemed to have been given to the Escrow Agent on the actual date received.

Any notice, may only be given on behalf of any party by its authorized representative listed below. In all cases, the Escrow Agent shall be entitled to rely on a copy or a fax transmission of any document with the same legal effect as if it were the original of such document.

For Ron Streffling: Ron Streffling or his attorney Joseph E. Quandt;

For DEQ: Dan Yordanich or its attorney Andrew T. Prins;

For Roy Streffling: Roy Streffling; and

For the Escrow Agent: First American Title Insurance Company (c/o Cindy Fowler).

10. Escrow Agent Fees, Costs, and Expenses. All fees, expenses, and other amounts owed to the Escrow Agent shall be borne equally by the Escrow Parties and be paid out of the Sale Proceeds. The Escrow Agent shall be paid a one-time fee of \$200.00 at the time of closing from the Sale Proceeds for its services as an escrow agent. Any additional customary fees and charges, beyond the \$200.00, for transfer, depository or delivery services rendered in connection with the Escrow Items, or attorney fees pursuant to Section 5(b) or (c), shall be paid from the Sale Proceeds, with copies of bills and invoices provided to the Escrow Parties. The Escrow Parties' obligation to pay the Escrow Agent ceases upon release of all of the Escrow Items by the Escrow Agent in accordance with this Agreement, the deposit of the Escrow Items by the Escrow Agent in accordance with Section 5(c) above, or exhaustion of all of the Sale Proceeds for Escrow Agent fees, costs, or expenses.

11. Accounting. The Escrow Agent shall keep all records on a calendar-year basis. The Escrow Agent shall report the balance of the Sale Proceeds remaining upon request of an Escrow Party.

12. Modifications; Waiver. This Agreement may not be altered or modified without the express prior written consent of all of the parties to this Agreement. No course of conduct shall constitute a waiver of any terms or conditions of this Agreement, unless such waiver is specified in writing, and then only to the extent so specified. A waiver of any of the terms and conditions of this Agreement on one occasion shall not constitute a waiver of the other terms of this Agreement, or of such terms and conditions on any other occasion.

13. Further Assurances. If at any time the Escrow Agent shall determine or be advised that any further agreements, assurances, or other documents are reasonably necessary or desirable to carry out the provisions of this Agreement and the transactions contemplated by this Agreement, the Escrow Parties shall execute and deliver any and all such agreements or other documents, and do all things reasonably necessary or appropriate to carry out fully the provisions of this Agreement.

14. Assignment. This Agreement shall inure to the benefit of and be binding upon the successors, heirs, personal representatives, and permitted assigns of the parties. This Agreement is freely assignable by the Escrow Parties; provided, however, that no assignment by such party, or its successors or assigns, shall be effective unless prior written notice of such assignment is given to the other parties, including, without limitation, the Escrow Agent. This Agreement may not be assigned by the Escrow Agent, except that upon prior written notice to the Escrow Parties, the Escrow Agent may assign this Agreement to an affiliated or successor trust company or other qualified bank entity.

15. Section Headings. The section headings contained in this Agreement are inserted for purposes of convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

16. Governing Law. This Escrow Agreement shall be governed by and construed in accordance with the laws of the State of Michigan, without regard to principles of conflicts of law.

17. Counterparts and Facsimile Execution. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. The exchange of copies of this Escrow Agreement and of signature pages by facsimile transmission shall constitute effective execution and delivery of this Escrow Agreement as to the parties and may be used in lieu of the original Escrow Agreement for all purposes (and such signatures of the parties transmitted by facsimile shall be deemed to be their original signatures for all purposes).

18. Waiver of Jury Trial. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, EACH PARTY HEREBY WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING IN WHOLE OR IN PART UNDER, RELATED TO, BASED ON OR IN CONNECTION WITH THIS AGREEMENT OR THE SUBJECT MATTER HEREOF, WHETHER NOW EXISTING OR HEREFTER ARISING AND WHETHER SOUNDING IN TORT OR CONTRACT OR OTHERWISE. ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH SUCH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

19. Forum Selection. All legal proceedings brought by the parties relating to the disposition of the Sale Proceeds shall be in the State of Michigan, and in the circuit court in Ingham County, Michigan, as a continuation of *MDNRE v Streffling Oil Company et al.*, Ingham County Case No. 11-156-CE. The parties waive any and all rights to contest such jurisdiction and venue, and any objection that such county is not convenient.

20. Survival. Notwithstanding anything in this Agreement to the contrary, all provisions necessary to enforce each parties' rights under this Agreement in relation to each other shall survive any resignation or removal of the Escrow Agent, and any termination of this Agreement.

21. End Date. The Escrow Parties shall attempt to resolve and disputes relating to the distribution of the Sale Proceeds by January 1, 2017. A \$25.00 monthly fee shall be deducted from the Sale Proceeds in accordance with Section 10 beginning February 1, 2017, and at the beginning of each month thereafter, until this Agreement is terminated.

22. Effective Date. This Agreement shall become effective upon the date signed by all of the parties.

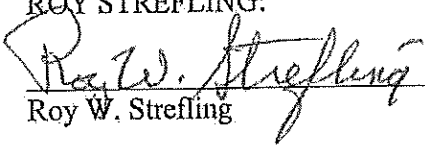
IN WITNESS WHEREOF, the authorized representatives for the parties have executed this Agreement on the dates identified below.

RON STREFLING

  
Ronald G. Streffling

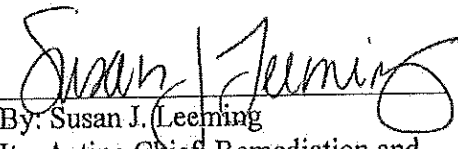
Dated: 8/26/16

ROY STREFLING:

  
Roy W. Streffling

Dated: 8/26/16

MICHIGAN DEPARTMENT  
OF ENVIRONMENTAL QUALITY:

  
By: Susan J. Leeming  
Its: Acting Chief, Remediation and  
Redevelopment Division  
Michigan Department of  
Environmental Quality

Dated: 8/24/2016

FIRST AMERICAN TITLE  
INSURANCE COMPANY (ESCROW AGENT):

  
By: CINDY FOWLER  
Its: AREA MANAGER

Dated: 8/26/16



Attachment 1 Legal Description

The land referred to herein below is situated in the City of Bridgman, Berrien County, State of Michigan, and is described as follows:

Parcel 2: Beginning at the North Quarter Post of Section 19, Township 6 South, Range 19 West; thence West 83.71 feet; thence South parallel with the North and South center line of said Section 134.15 feet; thence East to North Section Line 83.71 feet; thence North along said center line 134.15 feet to the place of beginning.

Tax parcel number: 11-56-0019-0115-00-4

Parcel 3: Commencing on the North Section line at a point that is 124.15 feet West of the North quarter post of Section 19, Township 6 South, Range 19 West; thence parallel with the North and South quarter line Southerly 134.15 feet; thence parallel with the North Section line Westerly 167.2 feet to the right-of-way line of Red Arrow Highway; thence with said right-of-way North  $24^{\circ} 52'$  East 147.85 feet to the North line of said Section; thence with said Section line Easterly 105.04 feet to the place of beginning.

Tax parcel number: 11-56-0019-0115-02-1

## Attachment 2

210  
3  
P

Lori D. Jarvis Register Of Deeds

Barrien County, Michigan

Rec \$16.00

Remon \$4.00

Tax Cnt \$0.00

Recorded

NOVEMBER 26, 2014 12:59:49 PM

Liber 3088 Page 1740, 1742

Receipt # 283077 LAC #2014104758



Liber 3088 Page 1740



## MEMORANDUM OF LAND CONTRACT

### DECLARATIONS:

DATE: August 14, 2014 BUYER: MTM GROUP, LLC, A MICHIGAN LIMITED LIABILITY COMPANY, 1820 NORFOLK DRIVE, STEVENSVILLE, MI 49127.

SELLER: Parcel 1: SH&K Enterprises, a Michigan Co-Partnership, comprised of Ronald G. Streffing, Roy W. Streffing, Linda F. King, Lorene F. Schlutt, and Delora M. Rathburn, Partners 1663 Lemon Creek Rd., Baroda, Michigan 49101.

Parcels 2 and 3: Delora Hadley, a <sup>Rathburn</sup> ~~single~~ woman\*, Roy Streffing, a married man\*, Barbara J. Streffing, his wife, Linda King, a ~~married~~ woman\*, Ronald Streffing, a single man\*, and Lorene Schlutt, a ~~single~~ woman\* as tenants in common, of 1663 Lemon Creek Road, Baroda, Michigan 49101.

Parcel 1, 2 and 3 Sellers are collectively referred to as "Seller"

LEGAL DESCRIPTION OF PROPERTY: See attached Exhibit A.

TAX CODE OF PROPERTY: 11-56-0019-0115-01-2, 11-56-0019-0115-00-4 and 11-56-0019-0116-02-1

ADDRESS OF PROPERTY: 9709 Red Arrow Highway, Bridgman, Michigan 49106

The Seller and Purchaser have entered into this Memorandum of Land Contract on the above date to give record notice of the Land Contract entered into by the Purchaser and the Seller on this date. The Land Contract provides for the sale of the premises identified in the above declaration entitled Legal Description of Property.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

### PARCEL 1 SELLER:

SH & K Enterprises  
A Michigan Co-Partnership

By:

Linda F. King  
Linda F. King, Partner

Date: August 14, 2014.

STATE OF MICHIGAN )  
COUNTY OF BERRIEN ) SS:

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of August, 2014, by Linda F. King, Partner of and on behalf of SH & K Enterprises, a Michigan Co-Partnership.

Signature: Laura Schrepper

Printed Name: LAURA SCHREPPER

Commissioned and Acting in Berrien County, Michigan

My Commission Expires: 9/19/2018

11-56-0019-0115-01-2  
11-56-0019-0115-00-4  
11-56-0019-0115-02-1

Barrien County Register of Deeds  
Received: 11/26/2014 10:35 AM

Barrien County Register of Deeds  
Received: 8/15/2014 10:34 AM

PARCEL 2 SELLERS:

Delora Hadley Rathburn  
Delora Hadley Rathburn

Date: August 14, 2014.

Roy Streffling  
Roy Streffling  
Barbara J Streffling  
BARBARA J STREFFLING  
Linda King  
Linda King

Date: August 14, 2014.

Date: August 14, 2014.

Ronald Streffling  
Ronald Streffling

Date: August 14, 2014.

Lorene Schlutt  
Lorene Schlutt

Date: August 14, 2014.

BUYER:

MTM Group, LLC  
A Michigan Limited Liability Company

By: Martin A. Mason  
Martin A. Mason, Member

Date: August 14, 2014.

STATE OF MICHIGAN ) COUNTY OF BERrien)

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of August, 2014, by Martin A. Mason, Member of and on behalf of MTM Group, LLC, a Michigan Limited Liability Company\* by DELORA HADLEY RATHBURN, ROY STREFFLING, BARBARA J STREFFLING, LINDA KING, RONALD STREFFLING, LORENE SCHLUTT, AS SELLERS

Signature: Laura Schrepfer

Printed Name: LAURA SCHREPFER

Commissioned and Acting in Berrien County, Michigan

My Commission Expires: 9/19/2018

This instrument drafted by:  
Mark A. Miller  
Miller Johnson Schroeder, PLC  
728 Pleasant Street, Suite 101  
St. Joseph, MI 49085  
Ph. (269) 983-1000

Exhibit A Legal Description

The land referred to herein below is situated in the City of Bridgman, Berrien County, State of Michigan, and is described as follows:

Parcel 1: All that part of the Northwest Quarter of Section 19, Township 6 South, Range 19 West, City of Bridgman, Berrien County, Michigan, which is described as beginning at a point on the North line of said Section 19 that is 83.71 feet West of the North Quarter post of said Section 19; thence West along said Section line 40.55 feet; thence South  $0^{\circ} 11'$  West 134.15 feet; thence East 40.55 feet; thence North  $00^{\circ} 11'$  East 134.15 feet to the place of beginning.

Tax parcel number: 11-56-0019-0115-01-2

Parcel 2: Beginning at the North Quarter Post of Section 19, Township 6 South, Range 19 West; thence West 83.71 feet; thence South parallel with the North and South center line of said Section 134.15 feet; thence East to North Section Line 83.71 feet; thence North along said center line 134.15 feet to the place of beginning.

Tax parcel number: 11-56-0019-0115-00-4 .

Parcel 3: Commencing on the North Section line at a point that is 124.15 feet West of the North quarter post of Section 19, Township 6 South, Range 19 West; thence parallel with the North and South quarter line Southerly 134.15 feet; thence parallel with the North Section line Westerly 167.2 feet to the right-of-way line of Red Arrow Highway; thence with said right-of-way North  $24^{\circ} 52'$  East 147.85 feet to the North line of said Section; thence with said Section line Easterly 105.04 feet to the place of beginning.

Tax parcel number: 11-56-0019-0115-02-1

## LAND CONTRACT

### DECLARATIONS:

DATE: August 14, 2014

SELLER: Parcel 1: SH&K Enterprises, a Michigan Co-Partnership, comprised of Ronald G. Streffling, Roy W. Streffling, Linda F. King, Lorene F. Schlutt, and Delora M. Rathburn, Partners  
1663 Lemon Creek Rd., Baroda, Michigan 49101.

Parcels 2 and 3: Delora Hadley, a single woman, Roy Streffling, a married man, Barbara J. Streffling, his wife, Linda King, a married woman, Ronald Streffling, a single man, and Lorene Schlutt, a married woman,  
as tenants in common, of 1663 Lemon Creek Road, Baroda, Michigan 49101.

Parcel 1, 2 and 3 Sellers are collectively referred to as "Seller".

PURCHASER: MTM Group, LLC, a Michigan Limited Liability Company  
1820 Norfolk Drive, Stevensville, Michigan 49127.

LEGAL DESCRIPTION OF PROPERTY: See attached Exhibit A.

TAX CODE OF PROPERTY: 11-58-0019-0115-01-2, 11-56-0019-0115-00-4 and 11-56-0019-0115-02-1

ADDRESS OF PROPERTY: 9709 Red Arrow Highway, Bridgman, Michigan 49106

PURCHASE PRICE: \$265,000.00

DEPOSIT ON PURCHASE PRICE: \$50,000.00

BALANCE SECURED BY LAND CONTRACT: \$215,000.00

LAND CONTRACT INTEREST RATE: 5.0% per annum, simple interest.

PAYMENT SCHEDULE: Monthly installments of \$1,418.00, or more, commencing on October 1, 2014, and continuing on a like day of each month thereafter until all sums hereunder are paid in full; provided, however, that Purchaser shall pay the entire balance of principal plus interest due hereunder no later than the Land Contract Due Date.

LAND CONTRACT DUE DATE: September 1, 2016

PAYMENT GRACE PERIOD: 10 days from the payment due date.

PERFORMANCE GRACE PERIOD: 10 days from Notice that the performance is due.

LATE CHARGE: 5% of payment due if not paid within the grace period.

PREPAYMENT: There can be no pre-payments in the first year.

SECURITY DOCUMENTS PROVIDED: Balance is secured by this Land Contract.

### NOTICE REGARDING ESCROW PAYMENTS:

Seller has elected not to have Purchaser escrow the following:

☐ Yes. Seller elects to establish an escrow for the real estate taxes.

☒ No. Seller elects to not establish an escrow for the real estate taxes at this time (see ¶ 3 below).

☐ Yes. Seller elects to establish an escrow for the insurance premiums.

☒ No. Seller elects to not establish an escrow for the insurance premiums at this time (see ¶ 3 below).

Seller initials (Parcel 1) SK

Seller initials (Parcels 2 and 3) RLS [Signature] RK SS

Purchaser initials MM

LAND DIVISION ACT AND FARM RIGHTS DECLARATION: The property is not platted land or part of a condominium and the Michigan Land Division Act and Michigan Right to Farm Act do apply.

RIGHT TO FARM ACT DECLARATION: The Michigan Right to Farm Act applies to this property

DATE AND TIME OF POSSESSION: Day of closing.

### Terms of the Land Contract

This is a Land Contract entered into on the above date between Seller and Purchaser. In consideration of the purchase price being paid and the promises of the parties in this Land Contract, it is agreed between the parties as follows:

1. Safe. The Seller hereby sells and agrees to convey unto the Purchaser the real property described in the above Declaration entitled Legal Description of Property, hereinafter the "premises," together with all tenements, hereditaments, improvements and appurtenances, including all lighting fixtures, plumbing fixtures, building fixtures and window treatments, if any, now on the premises, and subject to all recorded easements, conditions, encumbrances and limitations and to all applicable building and use restrictions, zoning laws and ordinances, if any, affecting the premises.

2. Price and Terms. The Purchaser hereby purchases the premises and agrees to pay Seller the sum stated in the above Declaration entitled Purchase Price. At closing, the Purchaser will first pay to the Seller, in currency of the United States of America or its equivalent, the amount stated in the above Declaration entitled Deposit on Purchase Price. The Purchaser will then pay the sum identified in the above Declaration entitled balance secured by this Land Contract in the manner stated above in the Declaration entitled Payment Schedule. The balance secured by Land Contract will accrue interest at the rate stated in the above Declaration entitled Interest Rate. The Land Contract payments will be applied first to Seller reimbursable costs and attorney's fees, interest and the balance on principal. In the event of a default on this Land Contract by Purchaser, and such default is not cured within 15 days of written notice of such default, then Purchaser shall be liable to Seller for interest on the balance remaining due on this Land Contract at the default rate of interest stated in the above Declarations.

If there is a prepayment penalty noted in the Declarations above, then any payment in excess of the payment schedule will be assessed the prepayment penalty noted. If the prepayment penalty declaration states "none", then the Purchaser has the right to pay larger installments than provided in the payment schedule and to pay the whole or any part of the balance remaining unpaid on this contract at any time before the same, by the terms of this contract, becomes due and payable. Payments shall be made at Seller's address listed above until Purchaser is given written notice to the contrary. Notwithstanding the prepayment of any portion of this contract, the Purchaser is not relieved of the requirements that the Purchaser make the installment payments as stated in the payment schedule declaration. Purchaser shall pay to Seller a late charge as provided for in the above Declaration entitled Late Charge.

3. Taxes, Insurance and Condominium Association Assessments. The Purchaser shall promptly pay, when due, all taxes and assessments of every nature which shall become a lien on the premises after the date hereof, and any installments of special assessments becoming due after the date hereof. Should the Purchaser fail to pay any tax or assessment, or installment thereof, when due, the Seller may pay the same and the amounts thus expended shall be a lien on the premises and may be added to the balance then unpaid hereon and be due at once and bear interest until paid at the rate of interest specified in Paragraph 2, above. Purchaser shall, during the continuance of this contract, keep insured the buildings now on the premises, or which shall hereafter be placed thereon, in the name of the Seller against loss by fire and windstorm; in such company or companies and for such amount as the Seller shall approve, and forthwith deposit all policies of insurance with the Seller, with loss, if any, payable to the Seller, as Seller's interest may appear under this contract. Unless the Seller and the Purchaser otherwise agree in writing, any application of insurance proceeds to principal shall not defer the time for payment of any remaining payments required by the contract. Should the Purchaser fail to keep the buildings insured, the Seller may pay the same and have the buildings insured, and the amounts thus expended shall be a lien on the premises and may be added to the balance then unpaid hereon and be due at once and bear interest until paid at the rate of interest specified in Paragraph 2, above.

In case of damage as a result of which the insurance proceeds are available, the Purchaser may, within sixty (60) days of the loss or damage, give to Seller written notice of Purchaser's election to repair or rebuild the damaged part of the premises, in which event the insurance proceeds shall be used for such purpose. The balance of the proceeds, if any, which remain after completion of the repairing or rebuilding, or all of the insurance proceeds if the Purchaser elects not to repair or rebuild, shall be applied first toward the satisfaction of any existing defaults under the terms of this contract, and then as a prepayment upon the principal and interest balance owing, and without penalty, notwithstanding other terms of this contract to the contrary. No such prepayment shall defer the time for payment of any remaining payments required by the contract. Any surplus of the proceeds in excess of the balance owing hereon shall be paid to the Purchaser.

4. Maintenance. All improvements and fixtures placed within the limits of ownership of the real estate described in the Declarations above shall be a part of the security for the performance of this contract and may not be removed therefrom. Purchaser shall not commit, or suffer any other person to commit, any waste or damage to the premises or the appurtenances and shall keep the premises and all improvements in as good condition as they are now.

5. Forfeiture and Acceleration. Should default be made by the Purchaser in any of the provisions of this contract and continue for five (5) days or more, the Seller may give the Purchaser a written notice specifying the payment default which has occurred and inform the Purchaser in such notice that if such default continues for a period of thirty (30) days after service of such

written notice the Seller may declare the Purchaser in default. Should default be made by the Purchaser in any other provision of this contract (other than non-payment) and continue for five (5) days or more, the Seller may give the Purchaser a written notice specifying the default which has occurred and inform the Purchaser in such notice that if such default continues for a period of thirty (30) days after service of such notice the Seller may declare Purchaser in default. However, in the event of a non-monetary default, if the Purchaser has undertaken steps that will lead to the cure of the noticed default, and Purchaser diligently pursues correcting said noticed default, then the Seller will not declare the Purchaser in default. Upon the Seller declaring Purchaser in default after failing to timely cure a noticed default as provided above, then Seller may without further notice: declare this Land Contract void and forfeited and the buildings, improvements and all payments made on this Land Contract shall be forfeited to the Seller as rental for the use of the premises and as stipulated damages for failure to perform this Land Contract, and the Seller shall be entitled to immediate peaceable possession of the premises without notice and to remove the Purchaser and all persons claiming under him therefrom, and/or the Seller may, without notice to the Purchaser, declare all money remaining unpaid under this Land Contract forthwith due and payable, notwithstanding that the period hereinbefore limited for the payment of the balance may not then have expired, and the Seller may thereafter enforce his rights under this Land Contract in law or in equity, or may take summary proceedings to forfeit the interests of Purchaser or may enforce the contract in any other manner now or hereafter provided. In addition to any other remedy, Seller, on default being made, may consider Purchaser as a tenant holding over without permission and remove Purchaser from the premises, according to the law in such case made and provided. In the event the Seller elects to pursue summary proceedings, a Notice of Forfeiture giving Purchaser fifteen (15) days to cure the default shall be served on Purchaser, as provided by statute. A default in this agreement shall be a default in all of the security documents provided as listed in the above Declarations, if any.

6. Deed and Evidence of Title. If the Purchaser shall, in the time and manner above specified, make all the payments herein provided for and shall observe and perform all the conditions and agreements herein made, the Seller shall thereupon, by good and sufficient Warranty Deed, convey the premises to the Purchaser on the conditions herein agreed upon, and the Seller shall deliver with the deed a complete abstract of title and tax history of the premises certified to date of conveyance and showing a marketable title, subject to restrictions, easements, conditions, encumbrances and limitations of record, in the Seller, or a fee simple title insurance policy guaranteeing title to the premises in the name of Purchaser; provided, however, that the warranty deed, the abstract and the tax history shall be limited so as to except acts or negligence of parties other than the Seller subsequent to the date of this contract. In the event an abstract is delivered, the Purchaser agrees to accept the abstract of title certified to date of conveyance, showing in the Seller a marketable title of record, subject to easements, restrictions, conditions, encumbrances and limitations of record, as defined in Act 200 of the 1945 Public Acts of Michigan, as amended.

In the event that evidence of title in the Seller, by abstract of title or title insurance, has been furnished the Purchaser current with the date of this contract, the Purchaser acknowledges having examined the title insurance commitment covering the premises and agrees that Purchaser accepts the marketability of the title in its current status. Purchaser agrees that except for costs resulting from acts, negligence, or death of the Seller, the cost of additional evidence of title shall be the obligation of the Purchaser.

Parties agree that the deed will be executed simultaneous to the execution of this land contract and will be held in escrow by the party designated as the Escrow Agent in the above Declarations, pursuant to an escrow agreement of the same date as this land contract, the cost of which will be borne exclusively by the Purchaser.

7. Possession. Possession of the premises may be taken by the Purchaser on the date and time as stated in the Declarations above and retained for so long as no default is made by the Purchaser in any of the terms or conditions hereof.

8. Purchaser's Indemnification of Seller. Purchaser shall indemnify Seller for and hold Seller harmless from all claims, demands, liabilities, damages and other expenses, including attorney fees and court costs, which may be imposed upon, incurred by or asserted against Seller by reason of any of the following occurring when this Land Contract is in effect: (a) Any use or condition of the premises; (b) Any negligence on the part of Purchaser or agents, employees, contractors, licensees or invitees of Purchaser; (c) Any personal injury or property damage occurring on or about premises; or (d) Any failure on the part of Purchaser to comply with this agreement.

9. Notices. Until endorsed on this contract to the contrary, each of the parties hereto agrees that notices required hereunder may be sent to the address of the parties first listed above. Such notices, when mailed, postage prepaid, to the address, shall be binding and conclusively presumed to be served upon the parties respectively. Notice of forfeiture of this contract shall be served as provided by law.

10. Condition of Premises. Purchaser accepts the premises in "AS IS" and "WHERE IS" condition. Purchaser agrees that the Seller has made no representations or warranties and makes no representations or warranties as to the condition of the premises.

11. Rents and Profits. Notwithstanding any other provision herein contained or any provision of law, the parties expressly agree that in the event of default not cured by the Purchaser within fifteen (15) days after notice of intent to forfeit the contract is served upon Purchaser, Seller shall have the right to possession of the subject property, and to receive all rents and



profits relative to the subject property from and after the date set forth in the notice for curing such default and such right of Seller shall continue during any period that forfeiture or foreclosure proceedings may be pending and during any period of redemption. Purchaser further agrees that Seller shall have the right to the appointment of a receiver to receive such rents and profits and such receiver may be Seller or an agent of Seller.

12. Attorneys Fees. In the event of default, in addition to any remedies or rights of the party not in default, the party in default shall pay to the party not in default reasonable attorneys fees and expenses incurred in enforcement of any rights hereunder, which sums shall be payable prior to the party in default being deemed to have corrected any such default.

13. Assignment. Purchaser may assign and convey Purchaser's interest in this contract or any part thereof provided, however, that such assignment or conveyance shall not result in the probability of waste or other impairment of Seller's security in the subject premises or the probability of default on behalf of Purchaser as a result of any such assignment or conveyance. Any violation by the Purchaser of this condition shall be considered a default of one of the conditions of this contract. Under no circumstances shall any assignment or conveyance release Purchaser from Purchaser's obligations under the provisions of this contract unless Seller so releases Purchaser in writing. No such Assignment, however, shall be valid until written notice thereof has been given to Seller.

14. Conveyance or Mortgage by Seller. The Seller agrees to not place any new mortgage on the premises during the term of this land contract. In the event a mortgage currently exists on the premises, Seller may continue and renew any existing mortgage on the premises, provided that the aggregate amount due on all outstanding mortgages shall not at any time be greater than the unpaid balance of the contract, and provided that the aggregate payments of principal and interest, whether periodic or final, required in one month in such new or renewal mortgage shall not exceed those named in this contract; nor shall the new or renewal mortgage restrict the time of payments thereon to a date later than is provided for similar payments in this contract. To secure the priority of the lien granted to a new or renewal mortgage as provided for in this paragraph, written notice shall be given to the Purchaser within fifteen (15) days of the execution of all such new mortgages and renewals containing the name and address of the mortgagee, the rate of interest of such mortgage, the amount and due date of payments and maturity of principal. Seller reserves the right to convey Seller's interest in the premises, so long as Seller provides purchaser the right of first refusal for a period of 15 days to buy the premises on the same terms and conditions as Seller provides Purchaser notice in writing. In the event Purchaser does not elect to purchase the property on the terms as being offered by the third party, then Seller may proceed to sell the premises, subject to this land contract, and such conveyance shall not be a cause for rescission.

If the Seller's interest is that of Land Contract Purchaser, or is now or hereafter encumbered by a mortgage, the Seller covenants that it will meet the payments of principal and interest thereon as they mature and produce evidence thereon to the Purchaser upon demand. In the event the Seller shall default upon any such mortgage, the Purchaser shall have the right to do the acts or make the payments necessary to cure such default and shall be reimbursed for so doing by receiving, automatically, credit on this contract to apply on the payments due or to become due hereon.

When payments on this contract have reduced the amount due hereon to the amount due by Seller on any such mortgage or land contract indebtedness, thereafter the Purchaser shall be entitled to make payments due on this contract directly to the mortgagee or land contract vendor for credit on such mortgage or land contract indebtedness, and the Purchaser shall be reimbursed for so doing by receiving, automatically, credit on this contract to apply on the payments due or to become due hereon. Notwithstanding anything contained herein to the contrary, the Seller shall not place any mortgage on the premises from and after the date hereof which contains a due-on-sale provision without the prior written consent of Purchaser.

15. Miscellaneous. The paragraph headings used in this Land Contract are for convenience only and shall not be used in the interpretation hereof. All persons signing this Land Contract on behalf of a corporation, partnership, trust or other entity warrant to the Seller that they are duly and properly authorized to execute this Land Contract. Nothing in this Land Contract shall waive or restrict any right of the Seller granted in any other document or by law. No delay on the part of the Seller in the exercise of any right or remedy shall operate as a waiver. No single or partial exercise by the Seller of any right or remedy shall preclude any other future exercise of that right or remedy or the exercise of any other right or remedy. No waiver or indulgence by the Seller of any default shall be effective unless in writing and signed by the Seller, nor shall a waiver on one occasion be construed as a bar to or waiver of that right on any future occasion. Acceptance of partial or late payments owing on any of the liabilities at any time shall not be deemed a waiver of any default. It is expressly understood and agreed by the parties hereto that time shall be deemed as of the very essence of this contract. All rights, remedies and security granted to the Seller herein are cumulative and in addition to other rights, remedies or security which may be granted elsewhere or by law. Any inspection, audit, appraisal or examination of the Property by or on behalf of the Seller shall be solely for its benefit and shall not create any duty or obligation to the Purchaser or any other person. NO REPRESENTATIONS, WARRANTIES, UNDERTAKINGS, OR PROMISES, WHETHER ORAL, IMPLIED OR OTHERWISE, CAN BE MADE OR HAVE BEEN MADE BY EITHER SELLER OR ITS AGENTS OR BROKERS, TO PURCHASER OR ANYONE UNLESS EXPRESSLY STATED HEREIN OR UNLESS MUTUALLY AGREED IN WRITING BY THE PARTIES. ALL AMENDMENTS, SUPPLEMENTS OR RIDERS HERETO, IF ANY, SHALL BE IN WRITING EXECUTED BY BOTH PARTIES AND ATTACHED TO THIS AGREEMENT. A MEMORANDUM OF LAND CONTRACT HAS BEEN PREPARED FOR RECORDING TO PROVIDE PUBLIC NOTICE OF THIS LAND CONTRACT.

Whenever possible, each provision of this Land Contract shall be interpreted in such manner as to be effective and valid under applicable law. If any provision hereof shall be declared invalid or illegal it shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of the provision or the remaining provisions of this Land Contract. Notice from the Seller to the Purchaser, if mailed, shall be deemed given when mailed to the Purchaser, postage prepaid, at the Purchaser's address set forth at the beginning of this Land Contract or at any other address of the Purchaser in the records of the Seller. This Land Contract shall bind the respective heirs, personal representatives, successors and assigns of the Purchaser. If any payment applied by the Seller to the Liabilities is subsequently set aside, recovered, rescinded or otherwise required to be returned or disgorged by the Seller for any reason (pursuant to bankruptcy proceedings, fraudulent conveyance statutes, or otherwise), the Liabilities to which the payment was applied shall for the purposes of this Land Contract be deemed to have continued in existence, notwithstanding the application, and shall be secured by this Land Contract as fully as if the Seller had not received and applied the payment. If two or more persons execute this Land Contract as the Purchaser, the obligations and grants of liens of such persons herein shall be joint, several, and individual. This Land Contract shall be governed by and interpreted according to the laws of the State of Michigan, and venue for this Land Contract is in the County where the property is located.

16. Transfer of Division Rights Provision. If the property is not platted land, as stated in the above Declaration entitled Land Division Act and Farm Rights Declaration, then the Seller has provided, in the above Declaration entitled Transfer of Division Rights Declaration, the division rights being transferred to Purchaser with the property. If the property is platted land then this paragraph does not apply to this Land Contract.

17. Environmental Disclaimer. Purchaser acknowledges that prior to closing Purchaser will have had an environmental inspection performed or had the opportunity to make such an inspection. Purchaser acknowledges and agrees that Seller has made no representations or warranties about the existence of any underground tanks or asbestos on the premises or the environmental condition of the premises, including the possible contamination of the premises or any of its components, including, but not limited to, the air above it, and the soil and groundwater beneath it, or compliance with any laws or regulations, federal, state or local, dealing with the environmental condition of the property. Upon signing this Land Contract, the Real Property will be deemed accepted in its then existing environmental condition "AS IS".

18. Seller's Disclosure. Purchaser further acknowledges that Seller has provided them with a Seller's Disclosure Statement as required by the State of Michigan Seller's Disclosure Act. By the execution hereof, Purchaser acknowledges receipt of said statement.

19. Interpretation of Contract. The parties hereunto agree that the language of this contract shall not be interpreted or construed against the drafter of the same.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals.

PARCEL 1 SELLER:

SH & K Enterprises  
A Michigan Co-Partnership

By: Linda F. King  
Linda F. King, Partner

Date: August 14, 2014.

STATE OF MICHIGAN )  
COUNTY OF BERRIEN ) SS:

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of August, 2014, by Linda F. King, Partner of and on behalf of SH & K Enterprises, a Michigan Co-Partnership.

Signature: Laura Schaeffer

Printed Name: LAURA SCHAEFFER

IN Kalamazoo  
Commissioned and Acting in Berrien County, Michigan

My Commission Expires: 9/19/2018

PARCEL 2 AND 3 SELLERS:

Delora Hadley Rathbun  
Delora Hadley Rathbun

Date: August 14, 2014.

Roy Streffling  
Roy Streffling

Date: August 14, 2014.

Barbara J. Streffling  
Barbara J. Streffling  
Linda King  
Linda King

Date: August 14, 2014.

Ronald Streffling  
Ronald Streffling

Date: August 14, 2014.

Lorene Schlott  
Lorene Schlott

Date: August 14, 2014.

STATE OF MICHIGAN )  
COUNTY OF BERRIEN ) SS:

The foregoing instrument was acknowledged before me this 14<sup>TH</sup> day of August, 2014, by Delora Hadley, Roy Streffling, Linda King, Ronald Streffling and Lorene Schlott, <sup>RATHBUN</sup> AND BARBARA J STREFFLING

Signature: Laura Schrepper

Printed Name: LAURA SCHREPPER

Commissioned and Acting in Berrien County, Michigan

My Commission Expires: 9/19/2018

BUYER:

MTM Group, LLC  
A Michigan Limited Liability Company

By: Martin A. Mason  
Martin A. Mason, Member

Date: August 14, 2014.

STATE OF MICHIGAN )  
COUNTY OF BERRIEN ) SS:

The foregoing instrument was acknowledged before me this 14<sup>TH</sup> day of August, 2014, by Martin A. Mason, Member of and on behalf of MTM Group, LLC, a Michigan Limited Liability Company.

Signature: Laura Schrepper

Printed Name: LAURA SCHREPPER

Commissioned and Acting in Berrien County, Michigan

My Commission Expires: 9/19/2018

DRAFTER HAS NOT EXAMINED AND MAKES NO REPRESENTATIONS RESPECTING; SURVEY, TITLE TO THE PROPERTY, THE EFFECT OF THIS DEED ON TAXES (REAL OR OTHERWISE), OR THE LAND DIVISION ACT.

This instrument drafted by:  
Mark A. Miller  
Miller Johnson Schroeder, PLC  
728 Pleasant Street, Suite 101  
St. Joseph, MI 49085  
Ph. (269) 983-1000

Exhibit A  
Legal Description

The land referred to herein below is situated in the City of Bridgman, Berrien County, State of Michigan, and is described as follows:

Parcel 1: All that part of the Northwest Quarter of Section 19, Township 6 South, Range 19 West, City of Bridgman, Berrien County, Michigan, which is described as beginning at a point on the North line of said Section 19 that is 83.71 feet West of the North Quarter post of said Section 19; thence West along said Section line 40.55 feet; thence South  $0^{\circ} 11'$  West 134.15 feet; thence East 40.55 feet; thence North  $00^{\circ} 11'$  East 134.15 feet to the place of beginning.

Tax parcel number: 11-56-0019-0115-01-2

Parcel 2: Beginning at the North Quarter Post of Section 19, Township 6 South, Range 19 West; thence West 83.71 feet; thence South parallel with the North and South center line of said Section 134.15 feet; thence East to North Section Line 83.71 feet; thence North along said center line 134.15 feet to the place of beginning.

Tax parcel number: 11-56-0019-0115-00-4

Parcel 3: Commencing on the North Section line at a point that is 124.15 feet West of the North quarter post of Section 19, Township 6 South, Range 19 West; thence parallel with the North and South quarter line Southerly 134.15 feet; thence parallel with the North Section line Westerly 167.2 feet to the right-of-way line of Red Arrow Highway; thence with said right-of-way North  $24^{\circ} 52'$  East 147.85 feet to the North line of said Section; thence with said Section line Easterly 105.04 feet to the place of beginning.

Tax parcel number: 11-56-0019-0115-02-1

**Exhibit D**  
**John's Pro Escrow Agreement**

## Escrow Agreement & Instructions

File #  
Escrow Agent: **Chicago Title of Michigan, Inc.**  
Seller: **Ronald G. Streffling**  
Buyer: **Baroda Badlands LLC**  
Lienholder: **Michigan Department of Natural Resources and Environment<sup>1</sup>**

Property: **Cleveland Avenue and Lemon Creek Road, Baroda, MI 49101**  
**Tax ID 11-30-0011-36-0**

Closing Date: **April 3, 2023**

The undersigned hereby recite, acknowledge, agree, and jointly instruct as follows:

- (1) Seller and Lienholder executed a Settlement Agreement effective \_\_\_\_\_ in *MDNRE v Streffling Oil Company, et al.*, Ingham County Case No. 11-156-CE, regarding a monetary judgment entered December 21, 2012, and renewed October 4, 2022. Lienholder recorded two liens related to the monetary judgment at Liber 3107, Page 0458, and Liber 3107, Page 0459, Berrien County Records. The Settlement Agreement contemplated a separate escrow agreement to be signed by Seller and Lienholder (in section VI thereof), and contained provisions (in section VI thereof) dictating terms to be included therein. This Escrow Agreement & Instructions is intended as fulfillment of those provisions of the Settlement Agreement. References to “section”/“§” hereafter are references to sections of the Settlement Agreement.
- (2) Seller and Buyer are consummating the transfer of the Property on the Closing Date. The purchase and sale price is \$130,000.00.
- (3) Upon sale of the Property, the Escrow Agent shall deposit \$129,972.94 (the same being the amount required to be escrowed under Section VI) from the sale (the Sale Proceeds), into escrow for the Michigan Department of Environment, Great Lakes, and Energy (EGLE). Thereafter, Escrow Agent will promptly notify Lienholder of the closing and escrow (§ 6.2) by email to

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<sup>1</sup> The Michigan Department of Environment, Great Lakes, and Energy (EGLE) is the successor by law to the former Michigan Department of Natural Resources and Environment with respect to *MDNRE v Streffling Oil Company, et al.*, Ingham County Case No 11-156-CE.

Lienholder's representatives at yordanichd@michigan.gov and prinsa@michigan.gov.

- (4) Upon receipt of said notice, Lienholder will mail the Escrow Agent original Partial Lien Releases for the Property in a form suitable for recording that release the Liens with respect to the Property (§6.3). The same may be addressed to: Chicago Title of Michigan, Inc., 2005 Niles Road, St. Joseph, MI 49085.
- (5) Upon Escrow Agent's receipt of the Partial Lien Releases, Escrow Agent shall provide the Partial Lien Releases to buyer to be recorded (§ 6.4).
- (6) Upon Escrow Agent's receipt of a copy of an order entered in *MDNRE v Strefling Oil Company et al.*, Ingham County Case No. 11-156-CE, approving the Settlement Agreement, Escrow Agent shall send the Sale Proceeds to EGLE (§ 6.5).

All payments made pursuant to this Agreement shall be by check, made payable to the "State of Michigan – Environmental Response Fund," and shall be sent by first class mail or courier to:

Via first class mail:  
Accounting Services Division  
Cashier's Office for EGLE  
PO Box 30657  
Lansing, MI 48909-8157

Via courier:

Accounting Services Division  
Van Wagoner Building, 1st Floor West  
Cashier's Office for EGLE  
425 West Ottawa Street  
Lansing, MI 48933-2125

To ensure proper credit, all payments made pursuant to this Agreement shall include the case name *MDNRE v Strefling Oil Company, et al.*, and RRD Account Number RRD60154 on each check.

- (7) These instructions may be modified only by joint or identical written instructions signed by all parties and provided to Escrow Agent. Escrow Agent's liability is limited to its obligations as stated in this Agreement (as may be amended), and is limited to the amount of the escrow.



Signed and agreed this \_\_\_\_\_.

RONALD G. STREFLING

BARODA BADLANDS LLC

\_\_\_\_\_  
Ronald G. Strefling  
Seller

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Buyer

MICHIGAN DEPARTMENT OF  
ENVIRONMENT, GREAT LAKES  
AND ENERGY

CHICAGO TITLE OF MICHIGAN,  
INC.

\_\_\_\_\_  
Josh Mosher, Assistant Division Director  
Remediation and Redevelopment Division  
Lienholder

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Escrow Agent

LF: Strefling Oil Company, DNRE v CC/AG #2007-3000260-B/Escrow Agreement 2023-03-022

**Exhibit E**  
**John's Pro Consent to Enter**

**PART 213 CONSENT TO ENTER PRIVATE PROPERTY FORM**

Location Information for source property (as found in RIDE)

Location Name: John's Pro	Location ID: 00004695
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Signer information (sufficient to identify who is signing the CTE, their relationship to the property, and how to contact them).

Name of Individual Signing this Document:	<input type="checkbox"/> Signer is the/an owner of the property <input checked="" type="checkbox"/> Signer is an authorized representative of the owner.	
Title:	Business Name: Baroda Badlands LLC	
Mailing Address: 8551 Gray Road		
City: Baroda	State: MI	Zip: 49101
Telephone Number:	Email:	

Information on the Property being accessed:

Owner Name: Baroda Badlands LLC	Assessor's Property Tax ID Number: 11-30-0011-0031-36-0	
Street Address: Corner of Cleveland Ave and Lemon Creek Road		
City: Baroda	State: MI	Zip: 49101
Other:		

I, \_\_\_\_\_, owner of (or representative authorized by the owner to grant access to) the property described in Attachment A (Property), having been informed of the request of the Michigan Department of Environment, Great Lakes, and Energy (EGLE) to conduct corrective actions on the Property, hereby voluntarily permit and authorize EGLE, its employees, contractors, or authorized representatives to enter, and if necessary re-enter, the Property to undertake corrective actions, including but not limited to, installing soil borings, taking soil samples, and installing one or more monitoring wells. This access is also necessary to collect groundwater samples, survey, measure static water levels, conduct one or more pump tests, and conduct other field assessment activities at the existing and/or newly installed monitoring well(s). This authorization permits photography, videography and data collection from ground level and/or by a small unmanned aerial vehicle.

I agree and understand that all information collected by EGLE is subject to disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246.

I understand that EGLE has the authority pursuant to Section 21326 of Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), to enter public or private property at all reasonable times for purposes that include, but are not limited to, inspecting an underground storage tank system (UST); obtaining samples of any substance from an UST; conducting, monitoring or testing, or taking samples of soils, air, surface water, or groundwater; and taking corrective action.

I understand that I am entitled to accompany EGLE, its employees, contractors, or authorized representatives during these activities; to participate in the collection of any split samples taken as part of these activities; and, if I so request, to receive a copy of any sample analysis results, photographs, or videotapes taken as part of these activities. I agree to comply with the requirements of any EGLE health and safety plan while on the Property during these sampling activities.

I agree that the duration of this entry authorization shall be of such reasonable length to enable EGLE, its employees, contractors, or authorized representatives to satisfactorily complete the activities described above. If I choose to revoke this entry authorization, I agree that I will provide a revocation of entry in writing to Ms. Chelsea Hayden, Field Manager, Kalamazoo District Office, Remediation and Redevelopment Division, EGLE, 7953 Adobe Road, Kalamazoo, Michigan 49009, at least thirty (30) days prior to the effective date of the revocation of entry authorization. I agree that the duration of this entry authorization shall continue until either I revoke it, or the activities described above are completed. I also agree that as long as this entry authorization remains in force, I will not interfere with, interrupt, change, or otherwise disturb any systems or equipment installed or utilized by EGLE, its employees, contractors, or authorized representatives.

Upon completion of any corrective actions performed under this Part 213 Consent to Enter Private Property Form, EGLE will undertake reasonable efforts to restore the Property to the conditions that existed at the time this access was granted, including any property, vegetation, and structures damaged by EGLE. I understand that EGLE contractors are required through their contract with the State of Michigan to carry certain insurance coverages with respect to their activities.

This voluntary written permission is granted to EGLE by:

BARODA BADLANDS LLC

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By: \_\_\_\_\_

Date

Its: \_\_\_\_\_

## Attachment A

### Legal Description of the Property

Beginning at the Southwest Corner of Section 11, Township 6 South, Range 19 West, in the Township of Baroda, County of Berrien, and State of Michigan; thence North 1 degree 39' 23" East, on West line of Said Section 11, 143 feet; thence South 88 degrees 32' 28" East, parallel with the South line of said Section 11, 182 feet; thence South 1 degree 39' 23" West 143 feet to the South line of said Section 11; thence North 88 degrees 32' 28" West, on said South line, 182 feet to the point of beginning (Property Tax Parcel No. 11-30-0011-0031-36-0, consisting of approximately 0.60 of an acre).

## **EXHIBIT B TO ESCROW AGREEMENT & INSTRUCTIONS**

Beginning at the Southwest Corner of Section 11, Township 6 South, Range 19 West, in the Township of Baroda, County of Berrien, and State of Michigan; thence North 1 degree 39' 23" East, on West line of Said Section 11, 143 feet; thence South 88 degrees 32' 28" East, parallel with the South line of said Section 11, 182 feet; thence South 1 degree 39' 23" West 143 feet to the South line of said Section 11; thence North 88 degrees 32' 28" West, on said South line, 182 feet to the point of beginning (Property Tax Parcel No. 11-30-0011-0031-36-0, consisting of approximately 0.60 of an acre).