

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

In the Matter of:

Former Goodyear Tire & Rubber Company Plant
2219 Chapin Street, Jackson, Michigan

MDEQ Reference No.: AOC-RRD-03-01

ADMINISTRATIVE ORDER BY CONSENT
FOR PAYMENT OF PAST AND FUTURE RESPONSE ACTIVITY COSTS

A. This Administrative Order by Consent (“Order”) is entered into voluntarily by and between the Michigan Department of Environmental Quality (“MDEQ”), Mike Cox, Attorney General for the State of Michigan (collectively, the “State”), and The Goodyear Tire & Rubber Company (“Goodyear”), pursuant to the authority vested in the Attorney General and the MDEQ by Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (“NREPA”), MCL 324.20101, *et seq.* All terms used in this Order, which are defined in Part 201 of the NREPA and the Part 201 Administrative Rules (“Part 201 Rules”), shall have the same meaning in this Order as in Part 201 of the NREPA and the Part 201 Rules.

B. This Order concerns the settlement between the State and Goodyear (hereinafter, the “Reimbursing Party”) of the State’s Past Response Activity Costs, which were incurred in responding to the release or threat of release of hazardous substances at and emanating from the former Goodyear facility located at 2219 Chapin Street, Jackson, Michigan (the “Property”) and to resolve Goodyear’s liability for any Future Response Activity Costs related to release(s) or

threat(s) of release of hazardous substances at the Facility that occurred prior to the effective date of this Order. The Property and any area, place, or property where concentrations of hazardous substances exceed the residential cleanup criteria of Section 20120a(1)(a) and (17) of Part 201 or the cleanup criteria for unrestricted residential use under Part 213, Leaking Underground Storage Tanks, of the NREPA (the "Facility") is a facility as defined by Part 201 and is subject to regulation under Part 201.

C. Pursuant to Part 201 of the NREPA, the State incurred costs in responding to the release or threat of a release of hazardous substances at the Facility. Pursuant to Section 20126a(1)(a) of the NREPA, a person who is liable under Section 20126 is liable for all response activity costs lawfully incurred by the State. The parties to this Order desire to resolve claims for response activity costs as set forth in Paragraph 1 below. Settlement of this claim is in the public interest and will minimize litigation.

D. The execution of this Order by the Reimbursing Party is neither an admission of liability with respect to any issue covered under this Order nor an admission or denial of any findings of fact or legal determinations stated or implied herein.

E. This Order shall apply to and be binding upon the Reimbursing Party and its successors and assigns. No change or changes in the ownership or corporate status of the Reimbursing Party shall alter in any way the Reimbursing Party's obligations or benefits under this Order. The signatories to this Order certify that they are authorized to execute this Order and legally bind the parties they represent.

BASED UPON THE FOREGOING FACTS AND DETERMINATIONS, THE MDEQ AND THE ATTORNEY GENERAL HEREBY ORDER, AND GOODYEAR HEREBY AGREES TO, THE FOLLOWING:

1. Within ninety (90) days of the effective date of this Order, the Reimbursing Party shall pay to the MDEQ the sum of fifty thousand dollars (\$50,000.00) to resolve all claims for Past Response Activity Costs, including interest claims, by the State against the Reimbursing Party for the Facility and liability for any Future Response Activity Costs. For purposes of this Order, "Past Response Activity Costs" shall mean costs that the State has incurred and paid prior to the effective date of this Order in the performance of response activities at the Facility or related thereto including enforcement costs, and "Future Response Activity Costs" shall mean costs that the State incurs and pays after the effective date of this Order in the performance of response activities to address release(s) or threat(s) of release of hazardous substance that occurred prior to, or stemming from any known condition existing as of, the effective date of this Order.

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

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

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

To ensure proper credit, payments made pursuant to this Order must be made by check referencing the Former Goodyear Plant, Jackson Michigan, the MDEQ Reference No. AOC-RRD-03-001, and Remediation and Redevelopment Division Account Number (RRD 2171). A copy of the transmittal letter and the check shall be provided simultaneously to:

The MDEQ Project Coordinator:
Lori Aronoff
Remediation and Redevelopment Division
Michigan Department of Environmental Quality
301 East Louis Glick Highway
Jackson, Michigan, 49201

and to:

A. Michael Leffler
Assistant Attorney General in Charge
Environment, Natural Resources, and Agriculture Division
Department of Attorney General
Constitution Hall, 5th Floor, South Tower
525 West Allegan Street
Lansing, Michigan 48933.

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

2. If the Reimbursing Party fails to pay the amount indicated in Paragraph 1 pursuant to the schedule set forth therein, the Reimbursing Party also shall pay the State interest on those unreimbursed costs at the rate provided in Section 20126a(3) of the NREPA. If the Reimbursing Party's payment is more than ninety (90) days past due, the Reimbursing Party shall also pay the State stipulated penalties of \$500.00 per day for every day of its noncompliance with Paragraph 1 of this Order.

3. In consideration of the payments to be made by the Reimbursing Party under the terms of this Order, except as otherwise provided in this Order, the State covenants not to sue or to take further administrative action against the Reimbursing Party for the Past and Future Response Activity Costs addressed in Paragraph 1 of this Order. With respect to the Reimbursing Party's liability for Past and Future Response Activity Costs, the State's covenant not to sue shall take effect upon the MDEQ's receipt of full payment from the Reimbursing Party of the amounts specified in Paragraph 1 and of any associated interest and penalties that may have accrued pursuant to Paragraph 2 of this Order. The covenant not to sue applies only to the matters addressed in Paragraph 1. The covenant not to sue shall extend only to the Reimbursing Party and does not extend to any other person.

4. Notwithstanding any other provision of this Order, the State reserves, and this Order is without prejudice to, any right it may have, to institute administrative action or proceedings in this action or in a new action pursuant to the State's authorities under applicable law, seeking to compel the Reimbursing Party (1) to perform further response activities relating to the Facility or (2) to reimburse the State for additional costs of response activity, if, subsequent to entry of this Order:

- (i) conditions at the Facility, previously unknown to the State, are discovered, or,
- (ii) information, previously unknown to the State, is received, in whole or in part,

and the State determines, based on these previously unknown conditions or information, together with other relevant information, that the response activities taken at the Facility are not protective of human health or the environment.

5. For purposes of Paragraph 4, the information and the conditions known to the State shall include only that information and those conditions known to the State as of the date of this Order and that are set forth in the administrative record supporting the response activities at the Facility and forming the basis of this action, including all materials submitted to the MDEQ by Goodyear or its consultants and all information contained in Remediation and Redevelopment Division's files with respect to this Property.

6. Nothing in this Order shall be construed as releasing or discharging any liability of any person to the Reimbursing Party and the Reimbursing Party specifically reserves its rights against such persons.

7. The State reserves all of its rights under state and federal law to perform response activities, to seek recovery of response activity costs not addressed by this Order, the recovery of natural resource damages and costs incurred to assess natural resource damages, monetary penalties, punitive damages for any violation of law or this Order, and liability for criminal acts. The State expressly reserves all of its rights and defenses pursuant to any available legal authority to enforce this Order.

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

9. Pursuant to Section 20129(5) of the NREPA, and to the extent provided in Paragraph 3, the Reimbursing Party shall not be liable for claims for contribution for the matters addressed in this Order. Entry of this Order does not discharge the liability of any other person that may be liable under Section 20126 of the NREPA, or Sections 107 and 113 of the CERCLA, 42 USC § 9607 and § 9613, to the extent allowable by law. Pursuant to Section 20129(9) of the NREPA, any action by the Reimbursing Party for contribution from any person not a party to this Order shall be subordinate to the rights of the State if the State files an action pursuant to Part 201 of the NREPA or other applicable federal or state law.

10. This Order shall become effective upon the date that the Reimbursing Party and the State have signed this Order. All dates for the performance of obligations under this Order shall be calculated from the effective date of this Order. For the purposes of this Order, the term “day” shall mean a calendar day unless otherwise noted.

11. This Order shall be executed in three duplicate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IT IS SO AGREED AND ORDERED BY THE STATE:

Jim Sygo Acting
Jim Sygo, Chief
Remediation and Redevelopment Division
Michigan Department of Environmental Quality

6/25/03
Date

Kathleen L. Cavanaugh
Kathleen L. Cavanaugh (P38006)
Assistant Attorney General
Environment, Natural Resources, and Agriculture Division
Michigan Department of Attorney General

June 24, 2003
Date

IT IS SO AGREED BY THE GOODYEAR TIRE & RUBBER COMPANY:

Vernon L. Dunckel
Name Vernon L. Dunckel
Title Senior Vice President,
Global Product Supply

JUNE 11, 2003
Date

S: NR/Cases/2002005243A/Goodyear/AOC final 5-21-03

ATTEST: Bertram Bell
Bertram Bell
Assistant Secretary