

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

Part 215, Refined Petroleum Fund (formerly Michigan
Underground Storage Tank Financial Assurance
[MUSTFA]), of the Natural Resources and
Environmental Protection Act, 1994 PA 451, as
amended.

File No. QC No. Z00065

AOC-RRD-05-
004

Petition of Environmental Management & Engineering
Services, Inc., Qualified Underground Storage Tank
Consultant No. Z00065

Kenneth T. Brooks (P33834)
Attorney for Petitioner
Honigman Miller Schwartz & Cohn LLP
222 North Washington Square, Suite 400
Lansing, MI 48933-1800
(517) 377-0735

Joshua W. Gubkin (P59972)
Assistant Attorney General
Attorney for Respondent
P.O. Box 30755
Lansing, MI 48909
(517) 373-7540

ADMINISTRATIVE ORDER BY CONSENT

THIS ACTION ARISES from the Michigan Department of Environmental Quality (DEQ), Remediation and Redevelopment Division, administrative action initiated on September 13, 2002, toward revocation of the Qualified Underground Storage Tank Consultant (QC) certificate of Environmental Management & Engineering Services, Inc. (Petitioner). The parties enter into this Administrative Order by Consent (AOC) pursuant to Section 78 of the Administrative Procedures Act, 1969 PA 306, MCL 24.278 *et seq.* (APA) in lieu of proceeding to contested case on the matter.

I. COMPLIANCE MEASURES

1. By entry of this AOC the DEQ rescinds the Notice of Revocation issued against Petitioner, dated September 13, 2002.
2. By entry of this AOC, Petitioner dismisses its Petition dated October 9, 2003.
3. Petitioners QC Certification No. Z00065 (Certification), shall be suspended for a period of one year (the Suspension Period), beginning on August 1, 2005.

Terms of Suspension

- a. Petitioner acknowledges that during the Suspension Period Petitioner shall not perform or subcontract for any activities required to be performed by a QC under Part 213, Part 215 and Michigan Underground Storage Tank Qualified Consultants and Certified Professionals Rules, 1999 AACSR 324.21501 et seq. (QC/CP Rules), promulgated pursuant to Part 215, Refined Petroleum Fund (formerly Michigan Underground Storage Tank Financial Assurance [MUSTFA], of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).
- b. Within 10 days of entry of this AOC, Petitioner shall notify the DEQ pursuant to R 324.21514(4), of all owners and operators for whom the Petitioner provided consulting services as a QC within 30 days prior to entry of this AOC.
- c. The parties agree that at the end of the Suspension Period, if Petitioner is in compliance with this Consent Agreement, the Certification shall be restored subject to Paragraph 4.
- d. Violation of Paragraph 3 constitutes grounds for immediate revocation.

4. The parties agree that upon the Certification being restored, the Certification shall be subject to a probation period of two (2) years (the Probation Period).

Terms of Probation

a. If, during the Probation Period, Petitioner receives two Second Notice of Violation letters signed by a District Supervisor of the Remediation and Redevelopment Division of the DEQ (District Supervisor), then the DEQ may, in its sole discretion, issue a Notice of Revocation for Petitioner's Certification. If the DEQ issues a Notice of Revocation to Petitioner within the Probation Period, Petitioner's Certification shall be revoked.

5. If Certification is revoked under this agreement, Petitioner agrees to waive its rights to the informal hearing process provided under R 324.21514(7); and the contested case hearing process provided under R 324.21514(14). However, Petitioner retains a right to judicial review pursuant to Section 631 of the Revised Judicature Act of 1961, Act No. 236 of the Public Acts of 1961, being Section 600.631 of the Michigan Compiled Laws.

II. FINES, COSTS, PENALTIES

6. Petitioner shall pay to the MDEQ the sum of \$50,000.00.

a. The \$50,000.00 shall be paid according to the following schedule:

- i) \$5,000.00 shall be paid by August 1, 2005
- ii) \$5,000.00 shall be paid by August 1, 2006
- iii) \$20,000.00 shall be paid by August 1, 2007
- iv) \$20,000 shall be paid by August 1, 2008

- b. Payments under Paragraph 6 are to be made by certified check payable to the "State of Michigan-Environmental Response Fund" at the following address:

Michigan Department of Environmental Quality
Revenue Control Unit
Office of Business and Financial Services
PO Box 30657
Lansing, MI 48909

and shall include payment identification number RRD 1008 on the check.

- c. Failure to make timely payments under Paragraph 6 shall result in interest added at rates allowed under the Revised Judicature Act, 1961 PA 236, MCL 600.631.

III. GENERAL MATTERS

7. Petitioner hereby acknowledges that entering into this Consent Agreement is voluntary and that in lieu of entering into such agreement, EMES could choose to have the matter considered by an administrative law judge at a formal contested case hearing conducted pursuant to the provisions of the APA.

8. The Parties declare and represent that they fully understand the terms of this Consent Agreement; that no promises, inducement, or agreement not herein expressed have been made between the parties; that this Consent Agreement contains the entire agreement between the parties and may not be modified, except by subsequent written agreement; and that the terms of this Consent Agreement are contractual and not a mere recital.

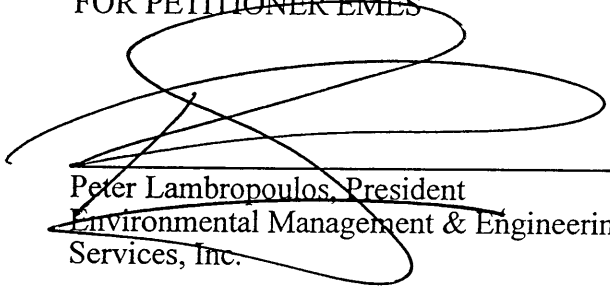
9. The Consent Agreement shall not limit or otherwise affect the authority of the DEQ to enforce Parts 213 and 215 of NREPA and the rules promulgated thereunder, or any other federal or state laws.

10. The parties agree that this Consent Agreement is enforceable in circuit court as an administrative order pursuant to MCL 324.21319a(4) of NREPA.

SIGNATORIES

11. Each undersigned individual represents and warrants that he or she is fully authorized by the party they represent to enter into this Consent Agreement and to legally bind such party to the terms and conditions of this Consent Agreement.

FOR PETITIONER EMES

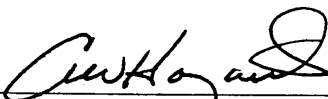


Peter Lambropoulos, President
Environmental Management & Engineering
Services, Inc.

7/11/05

Date


FOR RESPONDENT MDEQ



Andrew Hogarth, Chief
Remediation and Redevelopment Division
Michigan Department of Environmental Quality

7/22/05

Date



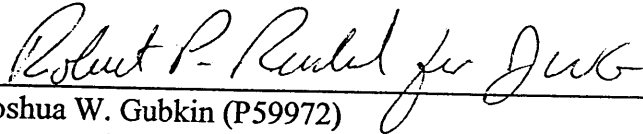
Richard Patterson
Administrative Law Judge
Office of Administrative Hearings
Michigan Department of Environmental Quality

7/25/05

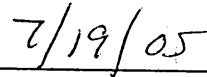
Date

Approved as to Form:

Michael A. Cox
Attorney General



Joshua W. Gubkin (P59972)
Attorney for Respondent
Assistant Attorney General
Environment, Natural Resources, and
Agriculture Division



Date