

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

THE MICHIGAN DEPARTMENT  
OF ENVIRONMENTAL QUALITY,

Plaintiff,

File No. 03-1755-CE

v

Honorable Joyce Draganchuk

WATEROUS COMPANY,  
a Minnesota corporation,

Defendant.

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Robert P. Reichel (P31878)  
Suzanne D. Sonneborn (P55511)  
Attorneys for Plaintiff  
Assistant Attorneys General  
Environment, Natural Resources,  
and Agriculture Division  
P.O. Box 30755  
Lansing, MI 48909  
(517) 373-7540

Charles M. Denton (P33269)  
Joshua M. Wallish (P60451)  
Krista A. Hoekstra (P66303)  
Attorneys for Defendant  
Varnum, Riddering, Schmidt,  
& Howlett, LLP  
Bridgewater Place, P.O. Box 352  
Grand Rapids, MI 49501-0352  
(616) 336-6000

J. Ross Forman, III (FOR004)  
Burr & Forman, LLP  
Co-Counsel for Defendant  
420 North 20th Street  
Suite 3100  
Birmingham, AL 35203-5206  
(205) 458-5213

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**PARTIAL JUDGMENT ON ACCEPTED OFFER**

At a session of said Court held in the Ingham County Circuit  
Court, State of Michigan, on the 13<sup>th</sup> day of OCT, 2005.


PRESENT: HONORABLE JOYCE DRAGANCHUK  
Circuit Court Judge

Plaintiff, Michigan Department of Environmental Quality, having accepted Defendant's Offer of Judgment in favor of Plaintiff and against Defendant in the amount of \$1,250,000.00, thereby resolving for purposes of settlement only, without any admission by Waterous of liability and without any finding by the Court of any liability of Waterous, Plaintiff's claim in the above-captioned case against Defendant for all response activity costs, including attorneys' fees and interest, as sought in Paragraph C of the Relief Requested portion of Plaintiff's

Complaint, and the offer, notice of acceptance and proof of service of the notice having been filed with the Clerk of the Court pursuant to MCR 2.405; NOW, THEREFORE,

IT IS ORDERED that Partial Judgment is entered in favor of Plaintiff and against Defendant, in the amount of One Million Two Hundred and Fifty Thousand Dollars (\$1,250,000).

IT IS FURTHER ORDERED that this Partial Judgment does not resolve the last pending claim and close the case, and the Court retains jurisdiction for further proceedings on Plaintiff's Complaint.

  
Honorable Joyce Draganchuk  
Circuit Court Judge

Dated: 10-13-05

Order approved as to form:

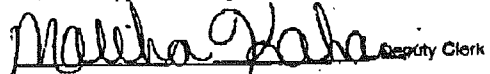


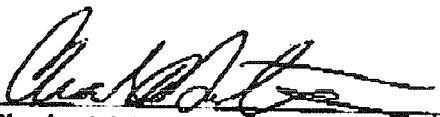
Robert P. Reichel (P31878)  
Suzanne D. Sonneborn (P55511)  
Assistant Attorneys General  
Attorneys for Plaintiff

**CERTIFIED COPY  
30TH CIRCUIT COURT**

OCT 13 2005

I hereby certify that this document is a true and correct copy of the original on file with this court.

  
Deputy Clerk



Charles M. Denton (P33269)  
Joshua M. Wallish (P60451)  
VARNUM, RIDDERING, SCHMIDT & HOWLETT, LLP  
Attorneys for Defendant

#1169499

STATE OF MICHIGAN  
DEPARTMENT OF ATTORNEY GENERAL

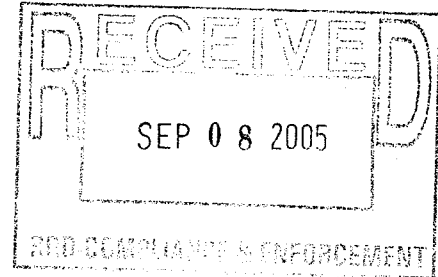


MIKE COX  
ATTORNEY GENERAL

September 1, 2005

Brad Crmisch  
re: Pat McKay  
Tom Shanley

P.O. Box 30755  
LANSING, MICHIGAN 48909



Clerk of the Court  
Ingham County Circuit Court  
Veterans Memorial Courthouse  
313 West Kalamazoo  
P.O. Box 40771  
Lansing, MI 48901

Dear Clerk:

Re: *The Michigan Department of Environmental Quality v Waterous Company*  
Ingham County Circuit Court Case No. 03-1755-CE

Pursuant to MCR 2.405, please find enclosed for filing in the above-entitled matter an original and Judge's Copy of PLAINTIFF'S AGREEMENT TO STIPULATE TO ENTRY OF DEFENDANT'S OFFER OF JUDGMENT, together with a copy of Defendant's Offer of Judgment and Proof of Service.

Very truly yours,

Suzanne D. Sonneborn  
Assistant Attorney General  
Environment, Natural Resources,  
and Agriculture Division  
(517) 373-7540

SDS/js  
Enc.

c: Charles M. Denton/Joshua M. Wallish/Krista A. Hoekstra  
J. Ross Forman

Waterous/2001009087/Cover Letter13

STATE OF MICHIGAN  
IN THE 30TH JUDICIAL CIRCUIT COURT  
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THE MICHIGAN DEPARTMENT  
OF ENVIRONMENTAL QUALITY,

Plaintiff,

v

WATEROUS COMPANY,  
a Minnesota corporation,

Defendant.

File No. 03-1755-CE

Honorable Joyce Draganchuk

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Burr & Forman, LLP  
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Birmingham, AL 35203-5206  
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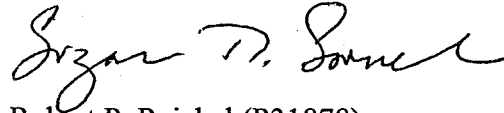
**PLAINTIFF'S AGREEMENT TO STIPULATE TO  
ENTRY OF DEFENDANT'S OFFER OF JUDGMENT**

Plaintiff, Michigan Department of Environmental Quality, by counsel and pursuant to MCR 2.405, agrees to stipulate to the entry of Defendant's Offer of Judgment in favor of Plaintiff and against Defendant in the amount of \$1,250,000.00, thereby resolving Plaintiff's claim in the

above-captioned case against Defendant for all response activity costs, including attorneys' fees and interest, as sought in Paragraph C of the Relief Requested portion of Plaintiff's Complaint.

Respectfully submitted,

Michael A. Cox  
Attorney General



Robert P. Reichel (P31878)  
Suzanne D. Sonneborn (P55511)  
Assistant Attorneys General  
Attorneys for Plaintiff  
Environment, Natural Resources,  
and Agriculture Division  
P.O. Box 30755  
Lansing, MI 48909  
(517) 373-7540

Dated: September 1, 2005

Waterous/2001009087/Agreement

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

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THE MICHIGAN DEPARTMENT  
OF ENVIRONMENTAL QUALITY,

Plaintiff,

Case No.: 03-1755-CE

Hon. Joyce Draganchuk

v.

WATEROUS COMPANY, a Minnesota  
corporation,

Defendant.

---

**DEFENDANT'S OFFER  
OF JUDGMENT**

Robert P. Reichel (P31878)  
Suzanne D. Sonneborn (P55511)  
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Assistant Attorney Generals  
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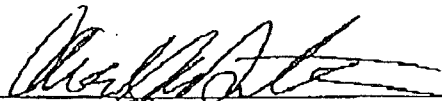
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NOW COMES Defendant Waterous Company, by and through its counsel, Varnum, Riddering, Schmidt & Howlett LLP, and pursuant to MCR 2.405 hereby offers to stipulate to the entry of Judgment in favor of Plaintiff and against Defendant in the amount of \$1,250,000.00 (U.S.) to resolve fully Plaintiff's claim in the above-captioned case against Defendant for all

response activity costs, including attorneys' fees and interest, allegedly incurred by Plaintiff as sought by its Complaint including Paragraph C of the Relief Requested.

VARNUM, RIDDERING, SCHMIDT & HOWLETT LLP  
Attorneys for Defendant Waterous Company

Dated: August 15, 2005

By: 

Charles M. Denton (P33269)

Joshua M. Wallish (P60451)

Krista A. Hoekstra (P66303)

Business Address and Telephone:

Bridgewater Place, P.O. Box 352

Grand Rapids, MI, 49501-0352

(616) 336-6000

J. Ross Forman III, Esq.  
Burr & Forman LLP  
Co-Counsel for Defendant  
3100 South Trust Tower  
420 North 20th Street  
Birmingham, AL 35203

#1144372v1

STATE OF MICHIGAN  
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v

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Defendant.

---

**PROOF OF SERVICE**

On September 1, 2005, I sent by first-class mail a true copy of PLAINTIFF'S AGREEMENT TO STIPULATE TO ENTRY OF DEFENDANT'S OFFER OF JUDGMENT to:

Charles M. Denton  
Joshua M. Wallish  
Krista A. Hoekstra  
Varnum, Riddering, Schmidt  
& Howlett, LLP  
Bridgewater Place  
P.O. Box 352  
Grand Rapids, MI 49501-0352

J. Ross Forman, III  
Burr & Forman, LLP  
420 North 20th Street, Suite 3100  
Birmingham, AL 35203-5206

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

  
Jeri Sherwood