

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

In the Matter of:

Jean Claude Badawi
Former Fresh-Up Car Wash
6505 South Pennsylvania Avenue,
Lansing, Ingham County, Michigan

MDEQ Reference No. AOC-RRD-16-002

Proceeding under Section 21323i of Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.21301, *et seq.*

ADMINISTRATIVE AGREEMENT

This administrative agreement (the Agreement) is entered into voluntarily by and between the Department of Environmental Quality (DEQ) and Mr. Jean Claude Badawi (the Owner) to address a release of regulated substances at or from an underground storage tank system at or in the proximity of real property located at 6505 South Pennsylvania Avenue, Lansing, MDEQ Facility ID No. 0-0000491, MDEQ Site ID No. 33000604 (the Site), pursuant to Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.21301, *et seq.* (Part 213). The effective date of this Agreement is the date it is signed by the DEQ representative (hereinafter, Effective Date). All terms used in this Agreement that are defined in Part 213 shall have the same meaning herein.

Background

1. The Owner has been the fee title holder of the Site since July 2, 2013, as provided in Attachment A (a copy of the deed). The Owner did not conduct and provide a Baseline Environmental Assessment (BEA) to the DEQ within the statutory timeframe provided in MCL 324.21323a(1)(b), and is therefore liable as an owner under Part 213.
2. On April 26, 1991, a confirmed release from a leaking underground storage tank (UST) was reported at the Site. The UST, which was operated by Fresh-

Up Car Wash, was removed in November 1996, but no additional corrective actions were taken. The owner of the former Fresh-Up Car Wash business is deceased.

3. The widow of the former owner of Fresh-Up Car Wash and the Site entered into a land contract with the Owner in 2004. The Owner has been operating a used car lot at the Site since 2004. A warranty deed for the Site was executed in July 2013.

4. A limited amount of state-funded investigation has been conducted which indicated the presence of non-aqueous phase liquid (NAPL), vapor intrusion risks inside the building at the Site, and possible migration of NAPL onto an adjacent restaurant lot.

5. The Site is a "site" as defined in Part 213, MCL 324.21303(i).

6. The DEQ has and will be spending public funds performing corrective actions at the Site and will need access for this purpose. Additionally, a building and canopy will need to be removed to excavate highly contaminated soils at the Site.

Agreement

7. Within thirty (30) days of the Effective Date, the Owner agrees to pay the DEQ five thousand dollars (\$ 5,000) by certified check made payable to the "State of Michigan – Environmental Response Fund" and sent by first class mail to:

Accounting Services Division
Cashier's Office for the MDEQ
P.O. Box 30657
Lansing, Michigan 48909-8157

To ensure proper credit, the check should reference Settlement ID No. RRD50078 and MDEQ Reference No. AOC-RRD-16-002.

8. The Owner agrees to allow the DEQ to raze the 3200 square foot office building, attached former car wash bay, and parking lot canopy at the Site, with a value

of about seventy thousand dollars (\$70,000). The Owner acknowledges the structures will not be replaced. The Owner agrees not to assert any claim against the DEQ, its contractors, subcontractors, legal representatives, assigns, and insurers for any loss or damage arising from or related to the structures identified in Attachment A, the demolition of those structures, and the limited site restoration actions by DEQ as described in Paragraph 12 of this Agreement.

9. The Owner shall provide the DEQ and its officers, employees, agents, contractors, and/or authorized representatives, access to the Site for the purpose of performing corrective actions necessary to address Release No. C-0804-91.

10. The DEQ will use reasonable efforts to minimize any interference with the use of the Site. For the purposes of this paragraph, "reasonable efforts" does not mean taking actions that will result in material cost increases in the corrective actions being conducted by the DEQ.

11. The Owner shall not remove, damage, or interfere with the monitoring wells or other equipment and supplies being used for the purpose of performing corrective actions by the DEQ.

12. Upon completion of corrective actions, the DEQ will remove all equipment installed for the corrective actions, and conduct limited site restoration, such as construction of a parking lot and installation of curbing and lights.

13. The Owner agrees to file a Restrictive Covenant with the Ingham County Register of Deeds in the form provided in Attachment B within ten (10) days of the DEQ's request that will include land or resource use restrictions to promote protection of public health, safety or welfare. The DEQ agrees to work with the Owner to establish the appropriate land or resource use restrictions based on the environmental condition of the Site upon completion of corrective actions by the DEQ.

14. This Agreement does not constitute a warranty of any kind by the DEQ that the corrective actions performed will achieve remedial criteria established by law;

assure protection of public health, safety or welfare, or the environment; or result in closure or cleanup of the Site.

15. Any lease, deed, contract or other agreement entered into by the Owner which transfers to another person a right of control over the Site or a portion of the Site shall contain a provision preserving full rights of the DEQ under this Agreement and obligating the transferee to comply with this Agreement. Additionally, the Owner shall comply with the notice provisions of MCL 324.21304d. Any change in ownership of the Site, or any change in corporate or legal status of the Owner, shall not in any way alter the Owner's obligations under this Agreement. The Owner shall notify the DEQ of any change in ownership or ownership interest in the Site thirty (30) days prior to the change occurring.

16. The Owner shall maintain and, upon the DEQ's request, submit documentation to the DEQ of the actions the Owner is taking to comply with the provisions of MCL 324.21304c.

17. In consideration for the obligations to which the Owner has agreed under this Agreement, the State of Michigan hereby covenants not to sue or take administrative action against the Owner to compel performance of corrective actions or to recover costs incurred by the DEQ for corrective actions related to the Owner's liability for not conducting and providing a BEA to the DEQ within the statutory timeframe provided in MCL 324.21323a(1)(b) for the Site. The DEQ reserves all rights with respect to any matter not covered by the covenant.

18. The covenant not to sue shall take effect upon the DEQ's receipt of full payment by the Owner in accordance with Paragraph 7 of this Agreement and filing of the Restrictive Covenant referenced in Paragraph 13 with the Ingham County Register of Deeds. The covenant not to sue extends only to the Owner and not to any other person or entity.

19. The Owner hereby covenants not to sue or take any civil, judicial or administrative action against the State of Michigan, its agencies, or its authorized

representatives, for any claims or causes of action against the State of Michigan that arise from this Agreement.

20. The State of Michigan reserves all of its rights and defenses to enforce this Agreement.

21. The State of Michigan reserves the right to take action against the Owner if it is discovered at any time that any material information provided to or after entry of this Agreement was false or misleading.

22. Nothing in this Agreement shall limit the power and authority of the DEQ to direct or order all appropriate action to protect the public health, safety, or welfare, or the environment.

23. This Agreement in no way affects the Owner's responsibility to comply with all applicable state, federal, or local laws and regulations.

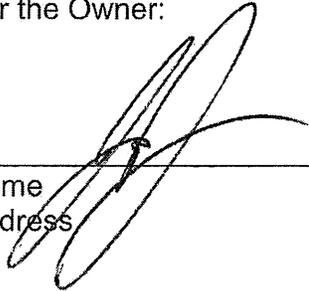
24. This Agreement may only be modified by written agreement of the parties, and may be enforced by filing an action in a court of competent jurisdiction.

25. This Agreement terminates upon notice to the Owner by the DEQ, except the covenants not to sue in Paragraphs 17 and 19 shall survive.

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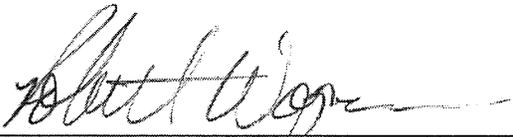
The signature of the Owner indicates his/her agreement with this Agreement. By signing the Agreement, signatories certify that they are authorized to execute the Agreement on behalf of the respective entity. This Agreement is binding upon any successors of the aforementioned persons and entities and becomes effective on the date of the signature of the DEQ representative.

For the Owner:



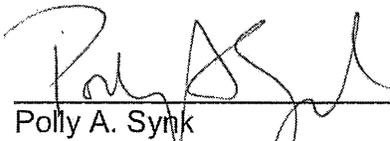
Name _____ Date 5-20-2016
Address _____

For the DEQ:



Robert Wagner, Division Chief
Remediation and Redevelopment Division
Michigan Department of Environmental Quality
Date 6/2/16

Bill Schuette
Attorney General



Polly A. Synk
Assistant Attorney General
Environment, Natural Resources, and Agriculture Division
Michigan Department of Attorney General
Date 6-1-2016