

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY
OFFICE OF THE DIRECTOR

In the matter of administrative proceedings
against **QUALAWASH HOLDINGS, LLC**, a
foreign limited liability company, organized
under the laws of the State of Florida and
doing business at 50321 East Russell
Schmidt Boulevard in the City of Chesterfield,
County of Macomb, State of Michigan

AQD No. 2024-20

SRN: N7164

STIPULATION FOR ENTRY OF FINAL ORDER
BY CONSENT

This proceeding resulted from allegations by the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Air Quality Division (AQD) against Qualawash Holdings, LLC (Company), a foreign limited liability company organized under the laws of the State of Florida and doing business at 50321 East Russell Schmidt Boulevard, City of Chesterfield, County of Macomb, State of Michigan, with State Registration Number (SRN) N7164. EGLE alleges that the Company is in violation of Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.5501 *et seq.*; Mich Admin Code, R 336.202 (Rule 2); Mich Admin Code, R 336.1210 (Rule 210) and Permit to Install (PTI) No. 79-03C. Specifically, EGLE alleges that the Company has failed to comply with the requirements of PTI No. 79-03C, Special Condition (SC) III.1 for EUEXTERIOR and SC III.2 for FGPROCESSLINE which requires the Company to capture all waste materials and store them in closed containers, failed to comply with the requirements of PTI No. 79-03C, SC I.1 for FGPROCESSLINE and SC 1.3 for FGFACILITY and Rule 210 by exceeding the Volatile Organic Compound (VOC) emission limits of 42.62 tons per year for FGPROCESSLINE and 80.0 tons per year for FGFACILITY, and failed to comply with the requirements of PTI No. 79-03C, SC VI.8 and VI.9 for FGPROCESSLINE which requires the Company to keep records of daily inspections of the heel waste collection system and the container cleaner process, as cited herein and in the Violation Notice dated July 21, 2021. Additionally, EGLE alleges that the Company has failed to comply with Rule 2 for failing to submit updated 2021 VOC annual air emissions report forms for FGPROCESSLINE, failed to conduct testing to verify the butyl cellosolve emission factor from FGPROCESSLINE as required by PTI No. 79-03C, SC V.1, exceeded the hourly totes processed limit for FGOFFLINE as required by PTI No. 79-03C, SC III.4, exceeded the VOC emission limits as required by PTI No. 79-03C, SC I.1 for FGPROCESSLINE and SC I.3 for FGFACILITY, and failed to install a level sensor on the heel waste trough and a vapor control valve on the heel waste tote as required by PTI No. 79-03C, SC III.3 (b)

and (c) for FGPROCESSLINE as cited herein and in the Violation Notice dated September 26, 2022. The Company and EGLE stipulate to the termination of this proceeding by entry of a Stipulation for Entry of a Final Order by Consent (Consent Order).

The Company and EGLE stipulate as follows:

1. The NREPA MCL 324.101 *et seq.*, is an act that controls pollution to protect the environment and natural resources in this State.
2. Article II, Pollution Control, Part 55 of the NREPA (Part 55), MCL 324.5501 *et seq.*, provides for air pollution control regulations in this State.
3. Executive Order 2019-06 renamed the Michigan Department of Environmental Quality as EGLE, and EGLE has all statutory authority, powers, duties, functions, and responsibilities to administer and enforce all provisions of Part 55.
4. The EGLE Director has delegated authority to the Director of the AQD (AQD Director) to enter into this Consent Order.
5. The termination of this matter by a Consent Order pursuant to Section 5528 of Part 55, MCL 324.5528, is proper and acceptable.
6. The Company and EGLE agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the Company that the law has been violated.
7. This Consent Order becomes effective on the date of execution (Effective Date) by the AQD Director.
8. The Company shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in this Consent Order.

COMPLIANCE PROGRAM AND IMPLEMENTATION SCHEDULE

9. Rules and Permits
 - A. On and after the Effective Date, the Company shall comply with Rule 2.
 - B. On and after the Effective Date, the Company shall comply with PTI No. 79-03D, and any subsequent permit revision. PTI No. 79-03D is incorporated by reference into and enforceable under this Consent Order.

10. Testing

A. Within 180 days from the Effective Date of this Consent Order, the Company shall verify the Heel Waste Samples Analytical Results specified in Appendix A of PTI No. 79-03D, by testing at owner's expense, in accordance with the AQD requirements. The testing shall follow the methodology used in the prior testing done on January 16, 2019.

B. Within 180 days from the Effective Date of this Consent Order, the Company shall verify the emissions credit for butyl cellosolve remaining in totes following rinse lines in FGPROCESSLINE as specified in Special Condition (SC) VI.3(a) of PTI No. 79-03D, by testing at the owner's expense, in accordance with the AQD requirements. The permittee shall use sampling and analysis methods approved by the AQD Warren District Supervisor.

C. Within 180 days from the Effective Date of this Consent Order, the Company shall verify the emissions credit for butyl cellosolve disposed of in the wastewater storage tank and shipped off site as specified in SC VI.3(b) of PTI No. 79-03D, by testing at the owner's expense, in accordance with the AQD requirements. The permittee shall use sampling and analysis methods approved by the AQD Warren District Supervisor.

D. Within 60 days prior to each testing/sampling required in paragraphs 10.A, 10.B, or 10.C, the Company shall submit a testing/sampling plan to the AQD Warren District Supervisor and the AQD Technical Programs Unit Supervisor for approval prior to testing.

E. Not less than seven (7) days prior to each testing/sampling, the Company or its authorized agent, shall notify the AQD Warren District Supervisor and the AQD Technical Programs Unit Supervisor, in writing, of the time and place of the tests/sampling and who shall conduct them. A representative of the AQD shall have the opportunity to witness the tests.

F. No later than 60 days after completing each of the testing/sampling, the Company shall submit to the AQD Warren District Supervisor and the AQD Technical Programs Unit Supervisor a report, which includes the test data and results.

GENERAL PROVISIONS

11. This Consent Order in no way affects the Company's responsibility to comply with any other applicable state, federal, or local laws or regulations, including without limitation, any

amendments to the federal Clean Air Act, 42 USC 7401 *et seq.*, Part 55, or their rules and regulations, or to the State Implementation Plan.

12. This Consent Order constitutes a civil settlement and satisfaction as to the resolution of the violations specifically addressed herein; however, it does not resolve any criminal action that may result from these same violations.

13. Within thirty (30) days after the Effective Date, the Company shall pay to the General Fund of the State of Michigan, in the form of a check made payable to the "State of Michigan" and mailed to the Michigan Department of Environment, Great Lakes, and Energy, Accounting Services Division, Cashier's Office, P.O. Box 30657, Lansing, Michigan 48909-8157, a settlement amount of \$98,637.00. This total settlement amount shall be paid within thirty (30) days after the Effective Date. To ensure proper credit, all payments made pursuant to this Consent Order shall include the "Payment Identification Number AQD40346" on the front of the check and/or in the cover letter with the payment. This settlement amount is in addition to any fees, taxes, or other fines that may be imposed on the Company by law.

14. On and after the Effective Date of this Consent Order, if the Company fails to comply with paragraphs 9.A, 9.B, 10.A, 10.B, or 10.C of this Consent Order, the Company is subject to stipulated fines of up to \$5,000.00 per violation per day. On and after the Effective Date of this Consent Order, if the Company fails to comply with paragraphs 10.D, 10.E, or 10.F of this Consent Order, the Company is subject to stipulated fines of up to \$1,500.00 per violation per day. On and after the Effective Date of this Consent Order, if the Company fails to comply with any other provision of this Consent Order, the Company is subject to a stipulated fine of up to \$500 per violation per day. The amount of the stipulated fines imposed pursuant to this paragraph shall be within the discretion of EGLE. Stipulated fines submitted under this Consent Order shall be by check, payable to the State of Michigan within thirty (30) days after written demand and shall be mailed to the Michigan Department of Environment, Great Lakes, and Energy, Accounting Services Division, Cashier's Office, P.O. Box 30657, Lansing, Michigan 48909-8157. To ensure proper credit, all payments shall include the "Payment Identification Number AQD40346-S" on the front of the check and/or in the cover letter with the payment. Payment of stipulated fines shall not alter or modify in any way the Company's obligation to comply with the terms and conditions of this Consent Order.

15. The AQD, at its discretion, may seek stipulated fines or statutory fines for any violation of this Consent Order which is also a violation of any provision of applicable federal and state law,

rule, regulation, permit, or EGLE administrative order. However, the AQD is precluded from seeking both a stipulated fine under this Consent Order and a statutory fine for the same violation.

16. To ensure timely payment of the settlement amount assessed in paragraph 13 and any stipulated fines assessed pursuant to paragraph 14 of this Consent Order, the Company shall pay an interest penalty to the State of Michigan each time it fails to make a complete or timely payment under this Consent Order. The interest payment shall be determined at a rate of interest that is equal to one percent (1%) plus the average interest rate paid at auctions of 5-year United States treasury notes during the six months immediately preceding July 1 and January 1, as certified by the state treasurer, compounded annually, and using the full increment of amount due as principal, calculated from the due date specified in this Consent Order until the date that delinquent payment is finally paid in full. Payment of an interest penalty by the Company shall be made to the State of Michigan in accordance with paragraph 13 of this Consent Order. Interest payments shall be applied first towards the most overdue amount or outstanding interest penalty owed by the Company before any remaining balance is applied to subsequent payment amount or interest penalty.

17. The Company agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 13. The Company also agrees not to contest the legal basis for any stipulated fines assessed pursuant to paragraph 14 of this Consent Order but reserves the right to dispute in a court of competent jurisdiction the factual basis upon which a demand by EGLE of stipulated fines is made. In addition, the Company agrees that said fines have not been assessed by EGLE pursuant to Section 5529 of Part 55, MCL 324.5529, and therefore are not reviewable under Section 5529 of Part 55.

18. This compliance program is not a variance subject to the 12-month limitation specified in Section 5538 of Part 55, MCL 324.5538.

19. This Consent Order shall remain in full force and effect for a period of at least three (3) years. Thereafter, this Consent Order shall terminate only upon written notice of termination issued by the AQD Director. Prior to issuance of a written notice of termination, the Company shall submit a request to the AQD Director at the Michigan Department of Environment, Great Lakes, and Energy, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, consisting of a written certification that the Company has fully complied with all the requirements of this Consent Order and has made all payments including all stipulated fines required by this Consent Order. Specifically, this certification shall include: (i) the date of compliance with each provision of the compliance program and the date any payments or stipulated fines were paid; (ii) a statement that all required information

has been reported to the AQD Warren District Supervisor; (iii) confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the facility; and, (iv) such information as may be requested by the AQD Director. On or after the effective period has elapsed, the AQD Director reserves the right to terminate this Consent Order in lieu of receiving a written request for termination from the Company and may independently determine that the terms and conditions of this Consent Order have been met.

20. In the event Company sells or transfers the facility, with SRN N7164, it shall advise any purchaser or transferee of the existence of this Consent Order in connection with such sale or transfer. Within thirty (30) calendar days of such transaction, the Company shall also notify the AQD Warren District Supervisor, in writing, of such sale or transfer, the identity and address of any purchaser or transferee, and confirm the fact that notice of this Consent Order has been given to the purchaser and/or transferee.

21. Prior to the Effective Date, and pursuant to the requirements of Sections 5511 and 5528(3) of Part 55, MCL 324.5511, and MCL 324.5528(3), the public was notified of a 30-day public comment period and was provided the opportunity for a public hearing.

22. Section 5530 of Part 55, MCL 324.5530, may serve as a source of authority but not a limitation under which this Consent Order may be enforced. Further, Part 17 of the NREPA, MCL 324.1701 *et seq.*, and all other applicable laws and any other legal basis or applicable statute may be used to enforce this Consent Order.

23. The Company hereby stipulates that entry of this Consent Order is a result of an action by EGLE to resolve alleged violations of its facility located at 50321 Russell Schmidt Drive, City of Chesterfield, County of Macomb, State of Michigan. No other locations, if any, are included in this Consent Order. The Company further stipulates that it will take all lawful actions necessary to fully comply with this Consent Order, even if the Company files for bankruptcy in the future and shall not discharge its compliance obligations under bankruptcy law.

The undersigned certifies that they are fully authorized by the Company to enter into this Consent Order and to execute and legally bind the Company to it.

QUALAWASH HOLDINGS, LLC

Print Name and Title

Signature

Date

Approved as to Content:

Approved as to Form:

Annette Switzer, Director
AIR QUALITY DIVISION
DEPARTMENT OF ENVIRONMENT,
GREAT LAKES, AND ENERGY

Margaret Bettenhausen, First Assistant
ENVIRONMENT, NATURAL RESOURCES,
AND AGRICULTURE DIVISION
DEPARTMENT OF ATTORNEY GENERAL

Dated: _____

Dated: _____

FINAL ORDER

The Director of the Air Quality Division having had opportunity to review this Consent Order and having been delegated authority to enter into Consent Orders by the Director of the Michigan Department of Environment, Great Lakes, and Energy pursuant to the provisions of Part 55 of the NREPA and otherwise being fully advised on the premises,

HAS HEREBY ORDERED that this Consent Order is approved and shall be entered in the record of EGLE as a Final Order.

MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

Annette Switzer, Director
Air Quality Division

Effective Date: _____