



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING



LIESL EICHLER CLARK
DIRECTOR

May 18, 2021

UPS NEXT DAY DELIVERY

Mr. Charles Detiege
Verso Escanaba LLC
7100 County Road 426
Escanaba, Michigan 49829

Dear Mr. Detiege:

Enclosed is the final signed copy of the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Air Quality Division (AQD), Stipulation for Entry of Final Order by Consent (Consent Order) AQD No. 2021-11 for Verso Escanaba LLC.

The effective date of this Consent Order was May 17, 2021. Your payment of \$35,000 was received on May 10, 2021, pursuant to paragraph 14 of this Consent Order.

Thank you for your cooperation. If you have any questions, please feel free to contact me.

Sincerely,

Erin Moran
Enforcement Unit
Air Quality Division
MoranE@Michigan.gov

Enclosure

cc/enc: Ms. Sarah Marshall, U.S. Environmental Protection Agency, Region 5
Mr. Neil Gordon, Michigan Department of Attorney General
Mr. Christopher Ethridge, EGLE
Mr. Ed Lancaster, EGLE
Ms. Jenine Camilleri, EGLE
Ms. Sydney Hewson, EGLE

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

In the matter of administrative proceedings
against **VERSO ESCANABA LLC**, a
corporation organized under the laws of the
State of Michigan and doing business at
7100 County Road 426 in the City of
Escanaba, County of Delta, State of Michigan

AQD No. 2021-11

SRN: A0884

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 Verso Escanaba, LLC (Company), a limited liability company organized under the laws of the State of Michigan and doing business at 7100 County Road 426, City of Escanaba, County of Delta, State of Michigan, with State Registration Number (SRN) A0884 (Facility). EGLE alleges that the Company violated the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Industrial, Commercial, and Institutional Boilers and Process Heaters, 40 CFR 63.7480 *et seq.*, (MACT DDDDD); the NESHAP for the Pulp and Paper Industry, 40 CFR 63.440 *et seq.*, (Subpart S); Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, MCL 324.5501 *et seq.*, and the administrative rules promulgated thereunder. Specifically, EGLE alleges that the Company exceeded the hydrochloric acid (HCl) limit in MACT DDDDD during an August 21, 2019 performance test, failed to conduct a valid MACT DDDDD performance test for the No. 11 Boiler, failed to conduct a valid Relative Accuracy Test Audit (RATA) for the No. 11 Boiler and the No. 8 Boiler, and failed to conduct a valid Subpart S performance test for the Thermal Oxidizer and the Bleach Plant Scrubbers, as cited herein and in the Violation Notices dated October 25, 2019 and September 14, 2020. On September 29, 2020, the Company conducted valid MACT DDDDD performance testing and demonstrated compliance with the HCl limit for the No. 11 Boiler as specified in MACT DDDDD. On October 21-22, 2020, the Company conducted valid performance testing for the Thermal Oxidizer and Bleach Plant Scrubbers and

demonstrated compliance with Subpart S. On October 20-21, 2020, the Company conducted a valid RATA for the No. 8 Boiler and for the No. 11 Boiler. 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 Natural Resources and Environmental Protection Act (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 and 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 of this Consent Order) by the AQD Director.

8. The Company shall maintain compliance with the aforementioned regulations in accordance with the requirements contained in this Consent Order.

COMPLIANCE PROGRAM AND IMPLEMENTATION SCHEDULE

9. HCl Emission Limit

A. On and after the effective date of this Consent Order, the Company shall comply with the HCl emission limit for the No. 11 Boiler as specified in MACT DDDDD.

10. Testing

A. HCl Testing

1. On September 29, 2020, the Company conducted performance testing demonstrating compliance with the HCl limit from the No. 11 Boiler, as specified in MACT DDDDD. The Company shall conduct a second performance test for HCl on the No. 11 Boiler no later than October 29, 2021. If the second performance test demonstrates compliance with the HCl emission limit, the Company may return to the testing schedule specified in MACT DDDDD. In the event that the second performance tests does not demonstrate compliance with the HCl emission limit from the No. 11 Boiler, the Company shall conduct additional performance testing no later than every six (6) months from the date of the last test until two (2) consecutive performance tests demonstrate compliance with the HCl emission limit from the No. 11 Boiler.

2. Within sixty (60) days after a completed test, the Company shall submit to the AQD Marquette District Supervisor and the AQD Technical Programs Unit Supervisor, a test report, which includes the test data and results.

3. Not less than seven (7) days prior to any performance testing which will be used to demonstrate compliance for HCl from the No. 11 Boiler, the Company or an authorized agent, shall notify the AQD Marquette District Supervisor and the AQD Technical Programs Unit Supervisor, in writing, of the time and place of the tests and who shall conduct them. A representative of the AQD shall have the opportunity to witness the tests.

4. If the Company is unable to conduct any test described in paragraph 10.A.1 above, the Company shall submit a written request for extension no later than fourteen (14) days prior to the scheduled test date in the approved test plan to the AQD Marquette District Supervisor. The written request shall include the reason for the missed test and a proposed new test date.

11. Operation

A. No later than sixty (60) days after each performance test for HCl from the No. 11 Boiler, the Company shall submit to the AQD Marquette District Supervisor, the necessary notifications under 40 CFR 63.7545(e), which shall include the maximum chlorine fuel

input during the initial fuel analysis according to the procedures in 40 CFR 63.7530(b)(1)(i) through (iii) to remain in compliance with MACT DDDDD.

GENERAL PROVISIONS

12. 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.

13. 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.

14. Within thirty (30) days after the effective date of this Consent Order, 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 \$35,000.00, which includes AQD costs for investigation and enforcement. To ensure proper credit, all payments made pursuant to this Consent Order shall include the "Payment Identification Number AQD40263" 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.

15. On and after the effective date of this Consent Order, if the Company fails to comply with paragraph 9.A of this Consent Order, the Company is subject to a stipulated fine of up to \$4,000.00 per violation per day. On and after the effective date of this Consent Order, if the Company fails to comply with paragraph 11.A of this Consent Order, the Company is subject to a stipulated fine of up to \$2,500.00 per violation per day. On and after the effective date of this Consent Order, if the Company fails to comply with paragraphs 10.A.1, 10.A.2, 10.A.3, or 10.A.4 of this Consent Order, the Company is subject to a stipulated fine of up to \$500.00 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 of 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 AQD40263-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.

16. EGLE, 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.

17. To ensure timely payment of the settlement amount assessed in paragraph 14 and any stipulated fines assessed pursuant to paragraph 15 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 penalty shall be determined at a rate of twelve percent (12%) per year compounded annually, 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 14 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.

18. The Company agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 14. The Company also agrees not to contest the legal basis for any stipulated fines assessed pursuant to paragraph 15 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.

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

20. 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 Marquette 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.

21. In the event Verso Escanaba, LLC sells or transfers the Facility 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, the Company shall also notify the AQD Marquette 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. As a condition of the sale, Verso Escanaba, LLC must obtain the consent of the purchaser and/or transferee, in writing, to assume all of the obligations of this Consent Order. A copy of that agreement shall be forwarded to the AQD Marquette District Supervisor within thirty (30) days after assuming the obligations of this Consent Order.

22. Prior to the effective date of this Consent Order 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.

23. 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.

24. 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 7100 County Road 426, City of Escanaba, County of Delta, State of Michigan. 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. The Company will not seek discharge of the settlement amount and any stipulated fines imposed hereunder in any future bankruptcy proceedings, and the Company will take necessary steps to ensure that the settlement amount and any future stipulated fines are not discharged. The Company, during and after any future bankruptcy proceedings, will ensure that the settlement amount and any future stipulated fines remain an obligation to be paid in full by the Company to the extent allowed by applicable bankruptcy law.

The undersigned certifies that he/she is fully authorized by the Company to enter into this Consent Order and to execute and legally bind the Company to it.

VERSO ESCANABA, LLC

Michael Glodowski, Mill Manager

Print Name and Title

Michael Glodowski Dated: 4/26/21
Signature

Subscribed and sworn to by the above signatory before me on this 26th day of

April, 2021.

Bonnie S Quinn
Notary Public Signature

Bonnie S Quinn
Notary Public Printed Name

6/2/26
My Commission Expires

Approved as to Content:

Mary Ann Dolehanty
Mary Ann Dolehanty, Division Director
AIR QUALITY DIVISION
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES
AND ENERGY

Dated: 5/17/2021

Approved as to Form:

Neil Gordon
Neil Gordon, Section Head
ENVIRONMENTAL REGULATION SECTION
ENVIRONMENT, NATURAL RESOURCES,
AND AGRICULTURE DIVISION
DEPARTMENT OF ATTORNEY GENERAL

Dated: 5/16/2021

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 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


Mary Ann Dolehanty, Director
Air Quality Division

Effective Date: 5/17/2021