

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY  
MATERIALS MANAGEMENT DIVISION and AIR QUALITY DIVISION

In the matter of  
The administrative proceedings against:

**KASSOUNI MANUFACTURING, INC.**,  
doing business at 815 South Front Street,  
City of Belding, County of Ionia, State of  
Michigan

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MMD Order No. 111-03-2020  
AQD No. 2020-18  
WDS No. 414642  
SRN No. A1702

**CONSENT ORDER**

This proceeding results from allegations specified in Violation Notices (“VNs”) and an Enforcement Notice (“EN”) issued to Kassouni Manufacturing, Inc., by the Department of Environment, Great Lakes, and Energy (“EGLE”), Materials Management Division (“MMD”) and Air Quality Division (“AQD”). The business located at 815 South Front Street, Belding, County of Ionia, Michigan is operated by Kassouni Manufacturing, Inc. (“Respondent”). The VNs are dated July 3, 2019; July 24, 2019; July 29, 2019; and September 12, 2019. The EN is dated September 26, 2019. EGLE alleged that the Respondent was in violation of Part 111, Hazardous Waste Management (“Part 111”), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, Michigan Compiled Laws (“MCL”) 324.101 *et seq.*, (“NREPA”); the administrative rules promulgated pursuant to Part 111 of the NREPA (“Part 111 Rules”); Part 121, Liquid Industrial By-Product, of the NREPA, as amended, MCL 324.12101 *et seq.*, (“Part 121”); Part 55, Air Pollution Control, of the NREPA, as amended, MCL 324.5501 *et seq.*, (“Part 55”); the administrative rules promulgated pursuant to Part 55 of the NREPA (“Part 55 Rules”); and Permit to Install number 364-07 (“PTI No. 364-07”). Authority is vested in EGLE as a state agency under the federal Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901 *et seq.*, (“RCRA”). The Respondent and EGLE agree to resolve these alleged violations by entry of this Consent Order (“Order”).

STATEMENT OF PURPOSE

In entering into this Order, the mutual objectives of the Respondent and EGLE are to resolve the violations alleged by EGLE in the VNs and the EN and to establish a compliance program and schedule for the Respondent to achieve and maintain compliance with the requirements

specified in Part 111, Part 121, Part 55, the Part 111 and Part 55 Rules, PTI No. 364-07, and the RCRA.

## I. STIPULATIONS

The Respondent and EGLE stipulate as follows:

- 1.1 The NREPA, MCL 324.101 *et seq.*, is an act that controls pollution to protect the environment and natural resources in this State.
- 1.2 Part 55 of the NREPA provides for air pollution control regulations in this State. Additionally, pursuant to its authority under Part 111, Part 55 and Section 105 of the NREPA, EGLE has promulgated administrative rules necessary to implement Part 111 and Part 55; R 299.9101 and R 336.1101 *et seq.*, respectively.
- 1.3 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 and Part 111.
- 1.4 The EGLE Director has delegated authority to the Director of the MMD (“MMD Director”) and the Director of the AQD (“AQD Director”) to enter into this Order.
- 1.5 The resolution of this matter by an Order, pursuant to Section 5528 of Part 55, MCL 324.5528 and Section 11151(1) of Part 111, MCL 324.11151(1), is proper and acceptable.
- 1.6 The Respondent and EGLE agree that entry of this Order is for settlement purposes only and does not constitute an admission by the Respondent of the allegations in the above-referenced VNs and EN, or that the law has been violated.
- 1.7 This Order becomes effective on the date of execution (effective date of this Order) by the MMD and the AQD Directors. The Respondent stipulates that the issuance and entry of this Order is proper and acceptable.
- 1.8 The Respondent shall achieve compliance with the applicable sections and provisions of the aforementioned statutes, rules, regulations, and permits in accordance with the requirements contained in this Order.

- 1.9 The Respondent is a Michigan corporation authorized to do business in Michigan. The Respondent is a “person” as defined by Section 301(h) of the NREPA.
- 1.10 The Respondent is the operator of the manufacturing facility located at 815 South Front Street, Belding, County of Ionia, Michigan (“Facility”). The Respondent currently manufactures several different products including ice/snow melt tablets, snow shovels, and janitorial supplies. The Respondent also manufactured pool chemical (chlorine) tablets utilizing trichloroisocyanuric acid. The Respondent is subject to the requirements of Part 111 and Part 121 and is referenced by Waste Data System (“WDS”) Identification No. 414642.
- 1.11 The Respondent’s pool chemical Tableting Process Area produced air contaminants required to be controlled by an air pollution control device pursuant to Part 55 and the administrative rules promulgated thereunder, including R 336.1224 (“Rule 224”), R 336.1225 (“Rule 225”), R 336.1301 (“Rule 301”), R 336.1331 (“Rule 331”), R 336.1901 (“Rule 901”), and R 336.1910 (“Rule 910”), as specified in PTI No. 364-07. The Respondent is alleged to have failed to properly collect and dispose of an air contaminant as required by R 336.1370 (“Rule 370”). The Respondent’s State Registration Number (“SRN”) is A1702.
- 1.12 During the inspections in June, July, and August of 2019, EGLE staff noted the Respondent failed to properly collect and dispose of an air contaminant in violation of Rule 370(1) and PTI No. 364-07. In addition, it is alleged that operational failures at the Facility led to fires that resulted in chlorine gas releases to the ambient air on June 22, 2019, and July 19, 2019. EGLE staff determined that violations of Part 111, the Part 111 Rules, Part 121, Part 55, the Part 55 Rules, and the RCRA occurred and issued the VNs dated July 3, 2019; July 24, 2019; July 29, 2019; and September 12, 2019, and the EN dated September 26, 2019, to the Respondent.
- 1.13 On August 5, 2019, the MMD received a Site Identification Form EQP5150 (“Site Identification Form”) from the Respondent which identified Kassouni Holdings, LLC as the Facility Owner and the Respondent as the Facility Operator. The Site Identification Form identified the Respondent as a Very Small Quantity Generator (“VSQG”), generating less than, or equal to, 100 kilograms per month (220 pounds per month) of non-acute hazardous waste. MMD issued a new Site Identification Number for the

Facility (MIK 196 055 853). The Facility was previously identified under Site Identification Number MIT 270 013 162.

- 1.14 On August 9, 2019, the Circuit Court for the County of Ionia entered a Stipulation and Order for Injunctive Relief (“Injunction”) which ordered the Respondent to cease all production utilizing trichloroisocyanuric acid handling, use, storage, transportation, and disposal at the Facility.
- 1.15 On November 5, 2019, the Respondent submitted to EGLE a copy of the Ionia County Building Inspector’s approval of the Facility’s roof repair related to the Pool Tableting Process Area.
- 1.16 On March 4, 2020, the Circuit Court for the County of Ionia entered a Consent Judgment between the Respondent and the City of Belding under which the Respondent is prohibited from using, storing or processing products using trichloroisocyanuric acid (“Consent Judgment”). (Attachment 1)

## II. COMPLIANCE PROGRAM

In order to resolve the violations alleged in the above-referenced VNs and EN, the Respondent shall achieve and maintain compliance with the requirements specified below in accordance with the following schedule:

- 2.1 The Respondent acknowledges, by entry of this Order, that all activities involving trichloroisocyanuric acid have ceased pursuant to the Injunction and the Consent Judgment between the Respondent and City of Belding.
- 2.2 On May 30, 2020, the Respondent shall submit an accounting of all applicable waste streams generated at the Facility in 2019, and through March 31, 2020, in compliance with Part 115, Solid Waste Management, Part 111 and Part 121, including the related waste profiles and waste characterization documentation. The Respondent further agrees to submit an annual waste stream evaluation report on or before April 30, 2021, and April 30, 2022, to EGLE.

- 2.3 On and after the effective date of the Order, all hazardous waste generation, storage, transportation, or disposal shall be conducted by the Respondent in compliance with the generation, permitting, licensing, and operating requirements specified in Part 111, the Part 111 Rules, and the RCRA.
- 2.4 The Respondent shall operate the Facility as a VSQG generating less than, or equal to, 100 kilograms per calendar month (220 pounds per month) of non-acute hazardous waste pursuant to R 299.9205 and shall comply with the requirements specified in R 299.9205 and, as such, shall comply with the requirements specified in R 299.9205 in order to maintain compliance with the VSQG status unless the Respondent has complied with Section 2.5 herein.
- 2.5 In the event the Respondent chooses to operate as a Small Quantity Generator or a Large Quantity Generator of hazardous waste, the Respondent shall notify EGLE before such change in operation via an updated Site Identification Form and follow the applicable requirements of Part 111 and the Part 111 Rules.
- 2.6 On and after the effective date of this Order, all liquid industrial by-product (“LIB”) generation, storage, transportation, or disposal shall be conducted by the Respondent in compliance with the notification, registration, and/or operating requirements specified in Part 121.
- 2.7 On and after the effective date of this Order, all air contaminant generation, management, or disposal shall be conducted by the Respondent in compliance with the permitting, licensing, and operating requirements specified in Part 55 and the Part 55 Rules.
- 2.8 Within thirty (30) days after the effective date of this Order, the Respondent shall submit to AQD a request to void PTI No. 364-07. Prior to the Respondent repurposing the pool tableting equipment, which was operating under PTI No. 364-07, for the manufacturing of another product, the Respondent shall submit a PTI application as required by Mich Admin Code R 336.1201 (Rule 201) and receive approval of the permit prior to the startup of the pool tableting equipment for the manufacturing of such product, or provide a demonstration to the AQD Grand Rapids District Supervisor that the repurposing of the pool tableting equipment to be used for the manufacturing of such product meets an

exemption under Mich Admin Code R 336.1280 through R 336.1291 (Rule 280 through Rule 291).

- 2.9 On and after the effective date of this Order, except as otherwise provided by the administrative rules of Part 55, the Respondent shall not install, construct, reconstruct, relocate, alter, or modify any process or process equipment including control equipment pertaining thereto, which may emit an air contaminant, unless a PTI which authorizes such action is issued by EGLE, pursuant to Rule 201.

### III. APPROVAL OF SUBMITTALS

- 3.1 For any proposal, schedule, report, or other document and the attachments thereto ("Submittal"), excluding an application for a permit or license, that is required by this Order to be submitted to EGLE by the Respondent, the following process and terms of approval shall apply.
- 3.2 To be approved by EGLE, any Submittal required by this Order shall be complete and technically adequate such that the Submittal meets the applicable statutory and regulatory requirements and the specific terms of this Order.
- 3.3 EGLE may approve, disapprove, or approve with specific modifications, any Submittal required by this Order. Any Submittal required by this Order shall be, upon approval or approval with specific modifications by EGLE, incorporated into this Order and enforceable in accordance with the terms of this Order. In addition, the Respondent agrees, by entry of this Order, the EGLE approved Submittal shall become incorporated into and enforceable under any applicable license or permit issued for the Facility at the time of, or after, entry of this Order.
- 3.4 In the event EGLE approves a Submittal with specific modifications, EGLE shall notify the Respondent, in writing, of the specific modifications required to be made to such Submittal and the specific reasons for such modifications. EGLE may require the Respondent to submit, within thirty (30) calendar days of receipt of such approval with specific modifications, a revised Submittal that adequately addresses such modifications.

- 3.5 In the event EGLE disapproves a Submittal, EGLE shall notify the Respondent, in writing, of the specific reasons for such disapproval. The Respondent shall submit, within thirty (30) calendar days of receipt of such disapproval, a revised Submittal that adequately addresses the reasons for such disapproval unless EGLE's notification specifies a longer time period.
- 3.6 Failure by the Respondent to submit an approvable revised Submittal within the applicable time period specified in this Section shall subject the Respondent to the enforcement provisions of this Order including, but not limited to, the imposition of stipulated penalties as set forth in Section VIII, Fine, Costs, and Penalties, of this Order. The accrual of stipulated penalties shall commence on the date the approvable Submittal was first due and accumulating until the date EGLE receives an approvable revised Submittal from the Respondent.
- 3.7 Any delays caused by the Respondent's failure to submit an approvable Submittal when due shall in no way affect or alter the Respondent's responsibility to comply with any other deadline(s) required by this Order.
- 3.8 No informal advice, guidance, suggestions, or comments by EGLE regarding any Submittal or any other writing submitted by the Respondent shall be construed as relieving the Respondent of the obligation to obtain written approval from EGLE, if and when required by this Order.
- 3.9 Unless otherwise specified in this Order, all reports and submittals shall be provided to both the MMD and the AQD Grand Rapids District Supervisors ("District Supervisors"), Materials Management Division/Air Quality Division, State Office Building, 350 Ottawa NW, Unit 10, Grand Rapids, Michigan 49503-2341.

#### IV. MODIFICATIONS AND EXTENSIONS

- 4.1 At the request of the Respondent, any Submittal approved or approved with specific modifications by EGLE, with the exclusion of the specified deadlines set forth in Section II, Compliance Program, of this Order, may be modified by the District Supervisors. The specified deadlines set forth in Section II of this Order may only be extended by the

MMD and the AQD Division Directors (“Division Directors”) following the process set forth in Paragraphs 4.2 through 4.4 of this Order, below.

- 4.2 The Respondent and EGLE agree that the Division Directors may, but in no circumstance are obligated to, grant the Respondent an extension of the specified deadlines set forth in this Order. Any extension of a deadline shall be preceded by a timely written request, received by EGLE no later than ten (10) business days prior to the pertinent deadline, which shall include:
- a. An identification of the specified deadline(s) of this Order that will not be met;
  - b. A detailed description of what will prevent the Respondent from meeting the deadline(s);
  - c. A description of the measures the Respondent has taken and/or intends to take to meet the required deadline(s); and
  - d. The length of the extension requested and the specific date(s) on which the obligation(s) will be met.
- 4.3 The Division Directors shall respond promptly to such requests and shall not unreasonably withhold approval for such requests.
- 4.4 Any extension of the specified deadlines or other modifications and amendments of this Order shall require a formal written amendment of this Order. A modification or an amendment of this Order shall be signed by authorized signatories for the Respondent and EGLE (“Parties”); shall become effective on the date signed by the Division Directors; and upon becoming effective, shall be incorporated into this Order and enforceable in accordance with the terms of this Order.

## V. REPORTING

- 5.1 The Respondent shall submit all items required in Section II, Compliance Program, to the District Supervisors, MMD and AQD, EGLE, Grand Rapids District Office, unless specifically directed otherwise within this Order. The cover letter with each submittal shall identify the specific paragraph(s) and requirement(s) of this Order that the submittal is intended to satisfy. If the address of the District Supervisor changes, the Respondent

will be notified and shall make all subsequent submittals to any new address of which they are notified.

- 5.2 The Respondent shall verbally report any violation(s) of the terms and conditions of this Order to the Grand Rapids District Supervisors by no later than the close of the next business day following detection of such violation(s) and shall follow such notification with a written report within five (5) business days following detection of such violation(s). The written report shall include a detailed description of the violation(s), the precise cause or causes of the violation(s), a detailed description of any action(s) taken or proposed to correct the violation(s), and a schedule for the implementation of any proposed corrective action(s). The Respondent shall report any anticipated violation(s) of this Order to the District Supervisors in advance of the relevant deadlines, whenever possible.

#### VI. RETENTION OF RECORDS

- 6.1 Upon request by an authorized representative of EGLE, the Respondent shall make available to EGLE all records, plans, logs, and other documents required to be maintained under this Order or pursuant to Part 111 and the Part 111 Rules, Part 121, or Part 55 and the Part 55 Rules. All such documents shall be retained at the Facility identified in Section I, Stipulations, of this Order or an alternate location approved in writing by EGLE. The period of records retention is as follows unless a longer period retention is required by the applicable act, rule, or regulation:
- a. Three (3) years from the date of generation of the record pursuant to Part 111 and the Part 111 Rules, and Part 121; and
  - b. Five (5) years from the date of generation of the record pursuant to Part 55 and the Part 55 Rules.

#### VII. RIGHT OF ENTRY

- 7.1 The Respondent shall allow any authorized representative or contractor of EGLE, upon presentation of proper credentials, to enter upon the premises of the Facility at all reasonable times for the purpose of monitoring compliance with the provisions of this Order. This paragraph in no way limits the authority of EGLE to conduct tests and

inspections pursuant to the NREPA and its rules or any other applicable statutory provision.

### VIII. FINE, COSTS, AND PENALTIES

- 8.1 Within thirty (30) days after the effective date of this Order, the Respondent shall pay the sum of \$38,334.00. This is the first installment of payments to be made over a duration of twenty-four (24) months, with a total sum of \$115,000.00 to the State of Michigan in settlement of EGLE's claim for a civil fine arising from the violations alleged in the above-referenced VNs and EN. A subsequent second payment of \$38,333.00 must be made on or before November 1, 2021, and a final payment of \$38,333.00 must be made on or before November 1, 2022.
- 8.2 For each failure to comply with the provisions of Section 2.1, 2.2, 2.3, 2.5, 2.6, 2.7, 2.8, and 2.9 of Section II, Compliance Program, of this Order, the Respondent shall pay to the State of Michigan stipulated penalties in an amount of up to \$1,000, per violation, per day, for one (1) through seven (7) days of violation; up to \$1,500, per violation, per day, for eight (8) through fourteen (14) days of violation; and up to \$2,000, per violation, per day, for day fifteen (15) and each day of violation thereafter. Stipulated penalties shall be paid within thirty (30) days after receiving a written demand made by EGLE.
- 8.3 To ensure timely payment of any amounts due under this Order, the Respondent shall pay an interest penalty upon demand to the State of Michigan each time the Respondent fails to make a complete or timely payment. This interest penalty shall be based on the rate set forth at Section 6013(8) of the Revised Judicature Act, 1961 PA 236, as amended, MCL 600.6013(8), using the full increment of amount due as principal, and calculated from the date the payment was due until the date the delinquent payment and any interest penalty is finally made in full.
- 8.4 The Respondent shall make all payments required under this Section by check made payable to the "State of Michigan" and mailed to the following address:

Michigan Department of Environment, Great Lakes, and Energy  
Accounting Services Division, Cashier's Office  
P.O. Box 30657  
Lansing, Michigan 48909-8157

or hand delivered to the Accounting Services, Van Wagoner Building, 1<sup>st</sup> Floor, 425 West Ottawa Street, Lansing, Michigan 48933. To ensure proper credit, all payments made pursuant to this Order shall include the Payment Identification Number "RMD-M-40072" on the front of the check.

- 8.5 The Respondent agrees not to contest the legality of the civil fine assessed pursuant to paragraph 8.1. The Respondent agrees not to contest the legality of any stipulated penalties or interest penalties assessed pursuant to paragraphs 8.2, 8.3, and 8.4 but reserves the right to dispute the factual basis upon which a demand for any stipulated penalties or interest penalties is made by EGLE. EGLE may, at its sole discretion, waive the requirement to pay stipulated penalties or interest penalties under this Section.
- 8.6 Liability for, or payment of, stipulated penalties or interest penalties pursuant to this Order shall not preclude the State of Michigan from seeking injunctive relief or other relief for the Respondent's failure to comply with the requirements of this Order and/or any license(s) or permit(s) required to comply with this Order. EGLE, at its discretion, may seek stipulated fines or statutory fines for any violation of this Order which is also a violation of any provision of applicable federal and state law, rule, regulation, permit, or EGLE administrative order, however, EGLE is precluded from seeking both a stipulated fine under this Order and a statutory fine for the same violation.

#### IX. DISPUTE RESOLUTION

- 9.1 Unless otherwise provided in this Order, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Order and shall apply to all provisions of this Order. However, the procedures set forth in this Section shall not apply to actions by the State of Michigan to enforce obligations of the Respondent that have not been disputed in accordance with this Section. Engagement of a dispute resolution between the Parties shall not be cause for the Respondent to delay the performance of any compliance requirements or response activity.
- 9.2 Any dispute that arises under this Order shall, in the first instance, be the subject of informal negotiations between the Parties. The period of negotiations shall not exceed twenty (20) days from the date of written notice by any Party that a dispute has arisen, unless the time period for negotiations is modified by a written agreement between the Parties. The dispute shall be considered to have arisen when one Party sends the other

Party a written notice of dispute. If an agreement cannot be reached on any issue(s) within this twenty (20) day period, EGLE shall provide a written statement of its decision to the Respondent, and in the absence of initiation of formal dispute resolution by the Respondent under Paragraph 9.3, EGLE's position, as outlined in its written statement of decision, shall be binding on the Parties.

- 9.3 If the Respondent and EGLE cannot informally resolve a dispute under Paragraph 9.2, the Respondent may initiate a formal dispute resolution by requesting a review of the disputed issue(s) by the Division Directors. This written request must be filed with the Division Directors within fifteen (15) days of the Respondent's receipt of EGLE's Statement of Decision that is issued at the conclusion of the informal dispute resolution procedure set forth in Paragraph 9.2. The Respondent's request shall state the issue(s) in dispute; the relevant facts upon which the dispute is based; any factual data, analysis, or opinion supporting its position; and all supporting documentation upon which the Respondent bases its position. Within fifteen (15) days of the Division Directors' receipt of the Respondent's request for a review of disputed issue(s), the Division Directors will provide EGLE's Statement of Decision, in writing, to the Respondent, which will include a statement of his/her understanding of the issue(s) in dispute; the relevant facts upon which the dispute is based; any factual data, analysis, or opinion supporting her/his position; and all supporting documentation relied upon by the Division Directors' review of the disputed issues. The time period for the Division Directors' review of the disputed issues may be extended by written agreement of the Parties. EGLE's Statement of Decision shall be binding on the Parties.
- 9.4 An administrative record of the dispute shall be maintained by EGLE. The administrative record shall include all of the information provided by the Respondent pursuant to Paragraph 9.3, as well as any other documents relied upon by EGLE in making its final decision pursuant to Paragraph 9.3. Where appropriate, EGLE shall allow submission of supplemental statements of position by the Parties to the dispute.
- 9.5 In proceeding on any dispute, the Respondent shall have the burden of demonstrating on the administrative record that the position of EGLE is arbitrary and capricious or otherwise not in accordance with law. In proceedings on any dispute initiated by the Respondent, the Respondent shall bear the burden of persuasion on factual issues.

9.6 Notwithstanding the invocation of dispute resolution proceedings, stipulated penalties shall accrue from the first day of any failure or refusal to comply with any term or condition of this Order, but payment shall be stayed pending resolution of the dispute. Stipulated penalties shall be paid within thirty (30) days after the resolution of the dispute. The Respondent shall pay that portion of a demand for payment of stipulated penalties that is not subject to dispute resolution procedures in accordance with and in the manner provided in Section VIII, Fine, Costs, and Penalties, of this Order.

#### IX. FORCE MAJEURE

- 10.1 The Respondent shall perform the requirements of this Order within the time limits established herein unless performance is prevented or delayed by events that constitute a "Force Majeure." Any delay in the performance attributable to a "Force Majeure" shall not be deemed a violation of the Respondent's obligations under this Order in accordance with this Section.
- 10.2 For the purpose of this Order, "Force Majeure" means an occurrence or nonoccurrence arising from causes not foreseeable, beyond the control of, and without the fault of the Respondent, such as: an Act of God, untimely review of permit applications or submissions by EGLE or other applicable authority, and acts or omissions of third parties that could not have been avoided or overcome by the Respondent's diligence and that delay the performance of an obligation under this Order. "Force Majeure" does not include, among other things, unanticipated or increased cost, changed financial circumstances, or failure to obtain a permit or license as a result of the Respondent's actions or omissions.
- 10.3 The Respondent shall notify EGLE, by telephone, within forty-eight (48) hours of discovering any event that causes a delay in its compliance with any provision of this Order. Verbal notice shall be followed by a written notice within ten (10) calendar days and shall describe, in detail, the anticipated length of delay, the precise cause or causes of delay, the measures taken by the Respondent to prevent or minimize the delay, and the timetable by which those measures shall be implemented. The Respondent shall adopt all reasonable measures to avoid or minimize any such delay.

- 10.4 Failure of the Respondent to comply with the notice requirements of Paragraph 9.3, above, shall render this Section void and of no force and effect as to the particular incident involved. EGLE may, at its sole discretion and in appropriate circumstances, waive the notice requirements of Paragraph 9.3.
- 10.5 If the Parties to this Order agree that the delay or anticipated delay was beyond the control of the Respondent, this may be so stipulated and the Parties to this Order may agree upon an appropriate modification of this Order. However, EGLE is the final decision-maker on whether the matter at issue constitutes a “Force Majeure”. The burden of proving that any delay was beyond the reasonable control of the Respondent, and that all the requirements of this Section have been met by the Respondent, is on the Respondent.
- 10.6 An extension of any given compliance date based upon a particular incident does not necessarily mean that the Respondent qualifies for an extension of a subsequent compliance date without providing proof regarding each incremental step or other requirement for which an extension is sought.

## XI. GENERAL PROVISIONS

- 11.1 With respect to any violations not expressly addressed and resolved by this Order, EGLE reserves the right to pursue any other remedies to which it is entitled for any failure to comply with the requirements of any permit, license, state or federal law, including the NREPA and its rules. This Order in no way affects the Respondent’s responsibility to comply with any other applicable state, federal, or local law, or regulations, and any corrective action or similar requirements applicable to the Facility pursuant to the NREPA and its rules, including without limitation, any amendments to: 1) the federal Resource Conservation and Recovery Act of 1976, as amended (RCRA), Part 111, or their rules and regulations, and 2) the federal Clean Air Act, 42 USC 7401 *et seq.*, Part 55, or their rules and regulations, or to the State Implementation Plan or their rules and regulations. This 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.

- 11.2 After the effective date of this Order, if EGLE or the Michigan Department of Attorney General (“MDAG”) initiates any administrative or judicial proceeding for injunctive relief, recovery of response activity costs, or other appropriate relief relating to the Facility, the Respondent agrees not to assert and shall not maintain any defenses or claims that are based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion or claim splitting or that are based upon a defense that contends any claims raised by EGLE or the MDAG in such a proceeding were or should have been brought in this case.
- 11.3 Execution of the schedule contained in this Order shall not be construed to waive, stop, or otherwise diminish EGLE’s right to seek or impose civil liability upon, and seek appropriate relief from, the Respondent for degradation of waters of the State of Michigan and the designated uses thereof arising out of the failure of the Respondent to achieve compliance pursuant to this Order.
- 11.4 This Order does not constitute a warranty or representation of any kind by EGLE that the response activities performed in accordance with this Order or EGLE approved work plans will ensure protection of public health, safety, welfare, or the environment.
- 11.5 Nothing in this Order is or shall be considered to affect any liability the Respondent may have for natural resources damages caused by the Respondent’s ownership and/or operation of the Facility. The State of Michigan does not waive any rights to bring an appropriate action to recover such damages to the natural resources.
- 11.6 EGLE and the Respondent agree that the terms and conditions of this Order will be enforceable in circuit court. EGLE and the Respondent further agree that the appropriate venue for the enforcement of this Order shall be the Circuit Court for the County of Ionia or the Circuit Court for the County of Ingham, State of Michigan.
- 11.7 If any provision or authority of this Order or the application of this Order to any party or circumstances is held by a judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Order shall remain in force and shall not be affected thereby.

- 11.8 In the event the Respondent sells or transfers the Facility, it shall advise any purchaser or transferee of the existence of this Order in connection with such sale or transfer. Within thirty (30) calendar days, the Respondent shall also notify the District Supervisors, in writing, of such sale or transfer, the identity and address of any purchaser or transferee, and confirm the fact that notice of this Order has been given to the purchaser and/or transferee. As a condition of the sale, Respondent must obtain the consent of the purchaser and/or transferee, in writing, to assume all of the obligations of this Order. A copy of that agreement shall be forwarded to the District Supervisors within thirty (30) days after assuming the obligations of this Order.
- 11.9 Prior to the effective date of this Order and pursuant to the requirements of Sections 5511 and 5528(3) of Part 55, MCL 324.5511 and MCL 5528(3), the public was notified of a thirty (30) day public comment period and was provided the opportunity for a public hearing by EGLE.
- 11.10 Section 5530 of Part 55, MCL 324.5530, may serve as a source of authority but not a limitation under which this 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 Order.
- 11.11 The Respondent hereby stipulates that entry of this Order is a result of an action by EGLE to resolve alleged violations of its Facility located at 815 South Front Street, City of Belding, County of Ionia, Michigan. The Respondent further stipulates that it will take all lawful actions necessary to fully comply with this Order, even if the Respondent files for bankruptcy in the future. The Respondent will not seek discharge of the settlement amount and any stipulated fines imposed hereunder in any future bankruptcy proceedings and the Respondent will take the necessary steps to ensure that the settlement amount and any future stipulated fines are not discharged. The Respondent, 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 Respondent to the extent allowed by applicable bankruptcy law.

## XII. TERMINATION

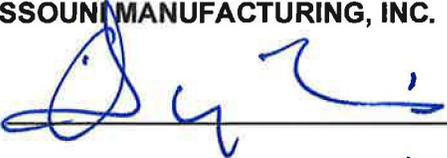
- 12.1 This Order shall remain in full force and effect for a period of at least two (2) years. Thereafter, this Order shall terminate only upon written Notice of Termination issued by the Division Directors. Prior to issuance of a written Notice of Termination, the Respondent shall submit a request, to the MMD and the AQD Directors at the Michigan Department of Environment, Great Lakes, and Energy, P.O. Box 30241, Lansing, Michigan 48909-7760, consisting of a written certification that the Respondent has fully complied with all the requirements of this Order and has made all payments including any and all stipulated fines required by this 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 District Supervisors; (iii) confirmation that all records required to be maintained pursuant to this Order are being maintained at the Facility; and, (iv) such information as may be requested by the Division Directors.

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XIII. SIGNATORIES

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

KASSOUNI MANUFACTURING, INC.

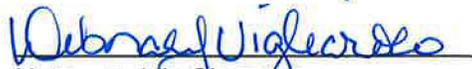
By: 

Name: Yehia G. Kassouh

Title: Trustee - Vra Kassouh Trust

Date: 11/17/20

The above signatory subscribed and sworn to before me this 17<sup>th</sup> day of November, 2020

  
Notary Public Signature

Deborah J. Vigharolo  
Notary Public Printed Name

My Commission Expires: 10/04/23

Ottawa County, Michigan  
Acting in Kent County,  
Michigan

Approved as to Content:

  
Elizabeth M. Browne, Acting Director  
Materials Management Division  
Department of Environment, Great  
Lakes, and Energy

Dated: 12/02/2020

  
Mary Ann Dolehanty, Director  
Air Quality Division  
Department of Environment, Great  
Lakes, and Energy

Dated: 12/02/2020

Approved as to Form:

  
Polly A. Synk (P63473)  
Environmental Regulation Section  
Environment, Natural Resources,  
and Agriculture Division  
Department of Attorney General

Dated: 12/1/2020

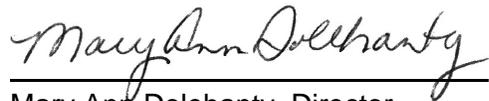
FINAL ORDER

The Directors of the Materials Management Division and Air Quality Division having had an opportunity to review this Order and having been delegated authority to enter into Orders by the Director of the Michigan Department of Environment, Great Lakes, and Energy pursuant to the provisions of Part 111, Part 121, and Part 55 of the NREPA and otherwise being fully advised on the premises,

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

**MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY**

  
Elizabeth M. Browne, Acting Director  
Materials Management Division

  
Mary Ann Dolehanty, Director  
Air Quality Division

Effective Date: 12/02/2020

STATE OF MICHIGAN

IN THE 8<sup>th</sup> CIRCUIT COURT FOR THE COUNTY OF IONIA

THE CITY OF BELDING, a Michigan home rule city,

Plaintiff,

v

KASSOUNI MANUFACTURING, INC., a Michigan corporation, and KASSOUNI HOLDINGS, LLC, a Michigan limited liability company,

Defendants.

Case No. 19-K-34153-CE

Honorable Ronald J. Schafer

FINAL CONSENT JUDGMENT

RECEIVED

MAR 12 2020

IONIA COUNTY CLERK  
8TH CIRCUIT COURT

Ronald M. Redick (P61122)  
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Attorneys for Defendants  
55 Campau Ave., NW, Suite 300  
Grand Rapids, MI 49503  
616-235-3500

WHEREAS, Plaintiff, the City of Belding (“City”), has filed a Complaint for Declaratory and Injunctive Relief for the purpose of seeking to permanently enjoin Defendants, Kassouni Manufacturing Inc. (“KMI”) and Kassouni Holdings, LLC (“KH”) (KMI and KH are hereafter collectively referred to as “Kassouni”), from engaging in the use and/or storage of the chemical compound known as trichloroisocyanuric acid (“TCICA”) within or at Kassouni’s current facility at 815 S. Front Street (the “Facility”) or otherwise within the City’s jurisdictional limits; and,

WHEREAS, the City and Kassouni (the “Parties”) have voluntarily and amicably reached a settlement agreement providing for final resolution of the claims asserted in the City’s Complaint; and,

WHEREAS, the Parties stipulate and agree, as evidenced by the signatures of their respective attorneys below, that this Consent Judgement accurately reflects their settlement agreement, and therefore stipulate and agree to entry of the same by the Court; and,

WHEREAS, the Court has reviewed this Consent Judgment and has determined that it constitutes a fair, just and reasonable resolution of the Parties’ dispute.

NOW, THEREFORE, IT IS HERBY ORDERED AND ADJUDGED AS FOLLOWS:

1. **Facility.** For the purposes of this Consent Judgment, the Facility shall refer to the real property, buildings and structures located at or upon 815 S. Front Street, Belding, MI (Property Tax I.D. # 34-401-250-000-160-00), which may be legally described as follows:

Commencing at a point, said point being 726 feet South of the Southwest corner of Maple and Front Street, or Ruby Street, in the City of Belding, as a place of beginning; thence South along the West side of Front Street to the North line of State Street, also known as State Highway M-44; thence Westerly along the North line of State Street, also known as State Highway M-44, to the East line of Flat River; thence Northwesterly along the Flat River to the intersection of the East line of Flat River and Chesapeake and Ohio Railroad right of way (formerly Pere Marquette Railroad right of way); thence Northerly along the Chesapeake and Ohio Railroad right of way (formerly Pere Marquette Railroad right of way), to a point directly West of the place of beginning; thence East to the place of beginning, being a part of the Southeast quarter of Section 10, T8N, R8W, City of Belding, Ionia County, Michigan;

2. **Definitions.** For the purposes of this Consent Judgment, the following terms shall have the meanings provided below:

(a) “Excluded Compounds” refers to sodium chloride (NaCl) and calcium chloride (CaCl<sub>2</sub>), which shall not be considered to be a Similar Compound.

(b) “Similar Compound” means a chemical compound that has applications or uses that are the same or similar to those of TCICA, including as a disinfectant, algicide, or bactericide (e.g., for the sanitation of swimming pools or spas), or as a bleaching agent; and/or having properties that are the same or similar to those of TCICA with respect to the following factors:

(i) Reactivity: Contact with acids liberates toxic gas(es).

(ii) Possibility of hazardous reactions: An oxidizing agent that supports combustion of other materials and increases intensity of a fire. Heating can cause expansion or decomposition of the material, which can lead to the containers exploding. On contact with nitrogen compounds, fumes of nitrogen trichloride can be formed, which are very explosive.

(iii) Conditions to avoid: Avoid contact with combustible chemicals. Avoid contact with other chemicals. Avoid contact with foodstuffs. Avoid exposure to heat, sources of ignition, and open flame. Avoid exposure to moisture.

(iv) Incompatible materials: Incompatible with combustible materials, acids, water, alkalis, calcium hypochlorite (dry or hydrated), nitrogen compounds, sodium hypochlorite, reducing agents, ammonium compounds, and oils and greases, and, heat and hot surfaces.

(v) Hazardous Decomposition Products: Chlorine; hypochlorous acid; oxides of carbon; and, oxides of nitrogen

(c) “Trichloroisocyanuric acid” or “TCICA” refers to the chemical compound also known and identified as, *inter alia*, TICA, stabilized pool chlorine tablets, trichloroisocyanuric acid tablets, trichlor, trichloro-s-triazine trione, and trichloro-1,3,5-triazine

trione, and which is identified by the Chemical Abstract Service (“CAS”) as having CAS registry Number 87-90-1.

3. **Permanent Injunction Affecting Facility.** There is hereby entered and enacted a permanent injunction that prohibits the Facility from being used for the conducting of any manufacturing process that would involve the storage, and/or production and/or use of TCICA or a Similar Compound.

4. **Permanent Injunction – TCICA at Facility.** Kassouni is hereby permanently enjoined from storing TCICA at the Facility and from using or producing TCICA in any manufacturing process at the Facility.

5. **Permanent Injunction – TCICA within City.** Kassouni is hereby permanently enjoined from storing TCICA at any location within the City’s jurisdictional limits and from using or producing TCICA in any manufacturing process conducted within the City’s jurisdictional limits.

6. **Permanent Injunction – Similar Compounds.** Kassouni is hereby permanently enjoined from engaging in any manufacturing process at the Facility or otherwise within the City’s jurisdictional limits that would involve the use and/or production and/or storage of a Similar Compound.

7. **Limitation of Injunctions.** The terms of this Consent Judgment shall not prohibit or restrict Kassouni from continuing their other existing business operations at the Facility that utilize Excluded Compounds or which otherwise do not involve the use, production or storage of TCICA or a Similar Compound.

8. **Mutual Release of Claims.** The Parties hereby forever release and discharge any and all claims or causes of action they have or might have against each other, whether

previously asserted or not, that accrued prior to entry of this Consent Judgment and which relate to the subject matter of this lawsuit; provided, however, that the Parties are not releasing or waiving any claims for enforcement of this Consent Judgment, nor any claims arising from the use, storage or release by Kassouni of a chemical compound(s) other than TCICA and/or Similar Compounds.

9. **Terms of Consent Judgment Run with Land.** The requirements, permissions, covenants and conditions stated in this Consent Judgment shall run with all of the lands described above in ¶1, and the burdens and benefits thereof shall be binding on the officers, agents, servants, employees, representatives, tenants, lessees, successors, assigns, heirs, corporate affiliates, commonly-controlled business entities, and grantees of each party.

10. **Recording.** This Consent Judgment is hereby declared to be in recordable form, and may be recorded by either party, at the Ionia County Register of Deeds.

11. **Waiver of Appeal Rights.** No party to this action may take an appeal, to the Michigan Court of Appeals or otherwise, from the terms of this Consent Judgment.

12. **Final Order; Continuing Jurisdiction for Enforcement Purposes Only.** This Consent Judgment constitutes a final judgment that resolves all pending claims and closes the case; provided, however, that the Court shall maintain continuing jurisdiction for the purpose of enforcing this Consent Judgment, including, as necessary, by ordering specific performance of any term(s) thereof. Any violation of the terms of the Consent Judgment shall be punishable as contempt, for which the Court shall award the prevailing party its actual reasonable attorney fees and costs incurred in connection with seeking a remedy in court for the violation.

  
\_\_\_\_\_  
Hon. Ronald J. Schafer  
Circuit Court Judge

APPROVED AS TO FORM AND SUBSTANCE:

Dated: March 4, 2020

MIKA MEYERS PLC  
Attorneys for Plaintiff

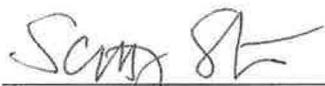
By: 

Ronald M. Redick (P61122)

*Business Address and Telephone:*  
900 Monroe Avenue NW  
Grand Rapids, MI 49503  
(616) 632-8000

Dated: March 4, 2020

RHOADES McKEE PC  
Attorneys for Defendants

By: 

Scott J. Steiner (P42490)

Patrick R. Druke (P56300)

*Business Address and Telephone:*  
55 Campau Avenue NW, Suite 300  
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