



GRETCHEN WHITMER  
GOVERNOR

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

LANSING



LIESL EICHLER CLARK  
DIRECTOR

May 4, 2021

UPS NEXT DAY DELIVERY

Mr. Robert Delicata, President  
RDC Construction Services, LLC  
220 Congress Street  
Detroit, Michigan 48226

Dear Mr. Delicata:

SUBJECT: Notice of Termination for Consent Order AQD No. 33-2016

Enclosed is the Notice of Termination for Stipulation for Entry of Final Order by Consent (Consent Order), AQD 33-2016. This is in response to the request made by your company to the Michigan Department of Environment, Great Lakes, and Energy (EGLE).

If you have any questions regarding the enclosed Notice of Termination, please contact Mr. Jason Wolf, Enforcement Unit, Air Quality Division, at 517-275-0943; WolfJ2@Michigan.gov; or EGLE, P.O. Box 30260, Lansing, Michigan 48909-7760; or you may contact me.

Sincerely,

Mary Ann Dolehanty, Director  
Air Quality Division  
517-284-6773

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  
Ms. Joyce Zhu, EGLE  
Ms. Jenine Camilleri, EGLE  
Mr. Jason Wolf, EGLE

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

In the matter of administrative proceedings  
against **RDC Construction Services, LLC**,  
a corporation organized under the laws of  
the State of Michigan and doing business at  
26400 West 8 Mile Road, City of Southfield,  
County of Oakland, State of Michigan

AQD Order No. 33-2016

NOTICE OF TERMINATION

This Notice of Termination is issued pursuant to a request for termination submitted by RDC Construction Services, LLC pursuant to paragraph 19 of the Stipulation for Entry of Final Order by Consent (Consent Order), AQD Order No. 33-2016. The request contained supporting information as required by paragraph 19 of the Consent Order. Review of this request and supporting information indicates that RDC Construction Services, LLC has achieved compliance with the terms and requirements of the Consent Order.

THEREFORE, effective on the date signed below, the Consent Order for RDC Construction Services, LLC located at 26400 West 8 Mile Road in Southfield, Michigan is terminated. The Michigan Department of Environment, Great Lakes, and Energy reserves the right to pursue administrative, civil, and/or criminal proceedings, including the assessment of monetary fines, for any falsification of information submitted in support of RDC Construction Services, LLC's request for termination of the Consent Order, or for any violation of the Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.101 *et seq.*; and all other applicable laws.

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

Dated: May 4, 2021

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF THE DIRECTOR

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In the matter of administrative proceedings )  
against **RDC CONSTRUCTION** )  
**SERVICES, LLC**, a company organized )  
under the laws of the State of Michigan and )  
doing business at 26400 West 8 Mile Road, in )  
the City of Southfield, County of Oakland, )  
State of Michigan )

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AQD No. 33-2016

STIPULATION FOR ENTRY OF FINAL ORDER  
BY CONSENT

This proceeding resulted from allegations by the Michigan Department of Environmental Quality (MDEQ) Air Quality Division (AQD) against RDC Construction Service, LLC (Company), a Michigan limited liability company doing business at 26400 West 8 Mile Road in Southfield, Michigan. The MDEQ alleges that the Company has violated Section 112 of the federal Clean Air Act (CAA), 42 USC 7412, the federal National Emission Standards for Hazardous Air Pollutants (NESHAP), Title 40 of the Code of Federal Regulations (CFR) Part 61, Subpart M, and Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, Mich Admin Code, R 336.1942 (Rule 942), as specified in Violation Notices dated March 22, 2016 and April 15, 2016. The alleged violations occurred during the asbestos demolition/renovation at facilities located at 14558 Griggs, 5816-18 Beechwood, 15736 West Parkway, 3232 Glynn Court, and 6935 Edward, Detroit, Michigan. Specifically, MDEQ alleges that the Company failed to provide proper notice prior to demolition work. The Company and MDEQ stipulate to the termination of this proceeding by entry of this Stipulation for Entry of a Final Order by Consent (Consent Order).

The Company and MDEQ stipulate as follows:

1. The Natural Resources and Environmental Protection Act, 1994 PA 451, (Act 451), 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 Act 451 (Part 55), MCL 324.5501 *et seq.*, provides for air pollution control regulations in this State.

3. The MDEQ was created as a principal department within the Executive Branch of the State of Michigan pursuant to Executive Order 2011-1 and has all statutory authority, powers, duties, functions and responsibilities to administer and enforce all provisions of Part 55.

4. The Director has delegated authority to the Chief of the AQD (AQD Chief) to enter into this Consent Order.

5. Section 112 of the CAA, provides authority for the Administrator of the United States Environmental Protection Agency (USEPA) to establish emission standards for hazardous air pollutants.

6. The USEPA has promulgated NESHAP regulations for asbestos, which are set forth in the 40 CFR Part 61, Subpart M, Sections 61.140 through 61.156.

7. The USEPA has delegated authority for administration and enforcement of NESHAP asbestos regulations to MDEQ-AQD. This authority was granted in an April 11, 1988 letter from Valdas Adamkus (USEPA Regional Administrator) to Robert Miller (Air Quality Division, Chief).

8. The termination of this matter by a Consent Order pursuant to Section 5528 of Part 55 is proper and acceptable.

9. The Company and the MDEQ 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.

10. This Consent Order becomes effective on the date of execution (effective date of this Consent Order) by the AQD Chief.

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

#### COMPLIANCE PROGRAM

12. On and after the effective date of this Consent Order, the Company shall fully comply with the National Emission Standards for Hazardous Air Pollutants (NESHAP), Title 40 of the Code of Federal Regulations (CFR) Part 61, Subpart M, which is incorporated by reference and made an enforceable part of this Consent Order.

#### GENERAL PROVISIONS

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 Environmental Quality, Accounting Services Division, Cashier's Office, P.O. Box 30657, Lansing, Michigan 48909-8157, a settlement amount of \$8,500.00, which includes AQD costs for investigation and enforcement. The total sum of \$8,500.00 shall be made in four (4) payments as follows: a payment of \$2,125.00 shall be paid within thirty (30) days of the effective date of this Consent Order; a second payment of \$2,125.00 shall be made on or before December 1, 2016; a third payment of \$2,125.00 shall be made on or before March 1, 2017; a final payment of \$2,125.00 shall be made on or before June 1, 2017. To ensure proper credit, all payments made pursuant to this Consent Order shall include the "Payment Identification Number AQD40144" 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 12 of this Consent Order, the Company is subject to stipulated fines of up to \$5,000.00 per violation. The amount of the stipulated fines imposed pursuant to this paragraph shall be within the discretion of the MDEQ. 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 Environmental Quality, 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 AQD40144-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. 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 MDEQ 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 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.

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 MDEQ of stipulated fines is made. In addition, the Company agrees that said fines have not been assessed by the MDEQ pursuant to Section 5529 of Part 55 and therefore are not reviewable under Section 5529 of Part 55.

19. This Consent Order shall remain in full force and effect for a period of at least two (2) years. Thereafter, the Consent Order may be terminated only upon the issuance of a written notice of termination issued by the AQD Chief. Prior to issuance of a written notice of termination, the Company shall submit a request to the AQD Chief at the Michigan Department of Environmental Quality, 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; (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 Division Chief. Termination of this Consent Order shall be executed upon completion of the terms and conditions of this contract and will not be unreasonably withheld.

20. Prior to the effective date of this Consent Order and pursuant to the requirements of Sections 5511 and 5528(3) of Part 55, the public was notified of a 30-day public comment period and was provided the opportunity for a public hearing.

21. Section 5530 Part 55 may serve as a source of authority but not a limitation under which the Consent Order may be enforced. Further, Part 17 of Act 451 and all other applicable laws and any other legal basis or applicable statute may be used to enforce this Consent Order.

22. The Company hereby stipulates that entry of this Consent Order is a result of an action by MDEQ to resolve alleged violations at 14558 Griggs, 5816-18 Beechwood, 15736 West Parkway, 3232 Glynn Court, and 6935 Edward, Detroit, 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.

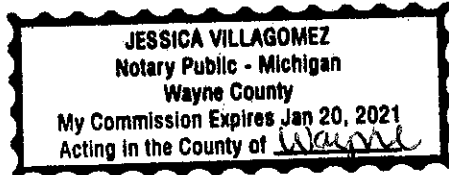
**RDC CONSTRUCTION SERVICES, LLC**

Robert DeLuca, President  
Print Name and Title

[Signature] Date: Sept 20, 2016  
Signature

The above signatory subscribed and sworn to before me this 20<sup>th</sup> day of August, 2016.

[Signature]  
Notary Public Signature



Approved as to Content:

Approved as to Form:

[Signature]  
Lynn Ejdler, Chief  
AIR QUALITY DIVISION  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

[Signature]  
Neil D. Gordon, Section Head  
ENVIRONMENTAL REGULATION SECTION  
ENVIRONMENT, NATURAL RESOURCES,  
AND AGRICULTURE DIVISION  
DEPARTMENT OF ATTORNEY GENERAL

Dated: 10/14/16

Dated: Oct. 4, 2016

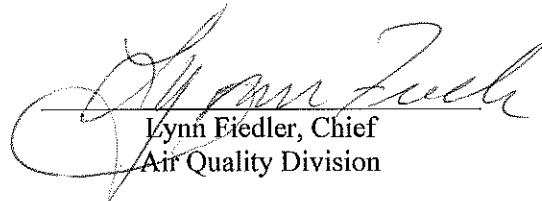


FINAL ORDER

The Chief of the Air Quality Division having had opportunity to review the Consent Order and having been delegated authority to enter into Consent Orders by the Director of the Michigan Department of Environmental Quality pursuant to the provisions of Part 55 of Act 451 and otherwise being fully advised on the premises,

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

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

  
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Lynn Fiedler, Chief  
Air Quality Division

Effective Date: 10/14/16