

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT
OFFICE OF THE DIRECTOR

In the matter of administrative proceedings)
against **PROPERTY SHIELD, LLC**, a)
Limited Liability Company organized under)
the laws of the State of Michigan and doing)
business at 5507 South Cedar Street, City of)
Lansing, County of Ingham, State of)
Michigan)

AQD No. 2-2011

STIPULATION FOR ENTRY OF FINAL ORDER
BY CONSENT

This proceeding resulted from allegations by the Michigan Department of Natural Resources and Environment (DNRE), Air Quality Division (AQD) against Property Shield, LLC (Company), located at 5507 South Cedar Street in the City of Lansing, County of Ingham, State of Michigan. The DNRE 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 is in violation of 2000 MR 18, R 336.1942 (Rule 942) in effect on November 30, 2000; as specified in a Violation Notice dated June 25, 2009. The alleged violations occurred during the asbestos demolition/renovation at the John Bean site located at 1305 South Cedar Street in the City of Lansing, County of Ingham, State of Michigan. Specifically, among other alleged violations, the Company failed to thoroughly inspect the facility for asbestos materials, failed to wet and keep wet the Regulated Asbestos Containing Material (RACM) prior to removal, failed to dispose of any RACM properly, and failed to provide written notice of intent to demolish or renovate and failed to remove all RACM from a facility being demolished before any activity begins that would break up, dislodge, or similarly disturb the material; as required.

Property Shield, LLC and DNRE 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 DNRE stipulate as follows:

1. The Natural Resources and Environmental Protection Act, 1994 PA 451, (Act 451), MCL 324.101 *et seq.* is an act to control pollution 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 DNRE was created as a principal department within the Executive Branch of the State of Michigan pursuant to Executive Order 2009-45 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 Asbestos NESHAP, Sections 61.140 through 61.156.

7. The USEPA has delegated authority for the administration of NESHAP asbestos regulations to MDEQ-AQD. This authority was granted in an April 11, 1998 letter from Valdis Adamkus (USEPA Regional Administrator) to Robert Miller (Air Quality Division, Chief). In addition, MDEQ has authority for the enforcement of the asbestos regulations through the promulgation of MAC Rule 942 on November 30, 2000. Executive Order 2009-45 combined the Michigan Department of Environmental Quality and Department of Natural Resources to form the new Department of Resources and Environment (DNRE) at which time MDEQ-AQD became DNRE-AQD. The Executive Order was signed on October 08, 2009 and became effective on January 17, 2010.

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 DNRE 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 Section 61.145 (c) of the asbestos NESHAP and with Michigan Administrative Code (MAC), 1995

AACS R 336.1942 (Rule 942), including adequately wetting RACM during demolition/renovation activities.

13. On and after the effective date of this Consent Order, the Company shall fully comply with Section 61.150 of the asbestos NESHAP and with Michigan Administrative Code (MAC), 1995 AACS R 336.1942 (Rule 942) including discharging no visible emissions to the outside air during the collection, processing, packaging, or transporting of any RACM.

14. On and after the effective date of this Consent Order, the Company shall fully comply with Section 61.145 (b) and with Michigan Administrative Code (MAC), 1995 AACS R 336.1942 (Rule 942) by providing to the DNRE-AQD the required notification, which accurately describes the work practices and engineering controls to be used to comply with the asbestos NESHAP.

GENERAL PROVISIONS

15. This Consent Order in no way affects the Company's responsibility to comply with any other applicable state and federal, or local laws or regulations, including without limitation, any amendments to the federal Clean Air Act, 42 USC 7401 *et seq.*, Act 451, Part 55 or their rules and regulations, or to the State Implementation Plan.

16. 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.

17. The Company shall pay to the General Fund of the State of Michigan, in the form of checks made payable to the "State of Michigan" and delivered to the Michigan Department of Natural Resources and Environment, Financial and Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909-8157, a settlement amount of \$8,960.00 which includes AQD costs for investigation and enforcement. The total settlement amount sum shall be made in four (4) payments as follows: (1) one payment of \$2,240.00 shall be made on or before thirty (30) days after the effective date of this Consent Order. A second (2nd) payment of \$2,240.00 shall be made on or before three hundred sixty (360) days after the effective date of the Consent Order. A third (3rd) payment of \$2,240.00 shall be made on or before five hundred forty (540) days after the effective date of the Consent Order. A fourth (4th) and final payment of \$2,240.00 shall be made on or before seven hundred twenty (720) days after the effective date of the Consent Order. To ensure proper credit, all payments made pursuant to this Consent Order shall include the Agreement Identification No. AQD-1199 on the face of

the checks. This settlement amount is in addition to any fees, taxes, or other fines that may be imposed on the Company by law.

18. On and after the effective date of this Consent Order, if the Company fails to comply with paragraph 12, 13, or 14 of this Consent Order, the Company is subject to stipulated fines of up to \$2,000.00 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 stipulated fines of up to \$500.00 per violation. The amount of the stipulated fines imposed pursuant to this paragraph shall be within the discretion of the DNRE up to the maximum amount stated. Stipulated fines submitted under this Consent Order shall be by check, payable to the "State of Michigan" within 30 days after written demand and shall be delivered to the Michigan Department of Natural Resources and Environment, Financial & Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909. To ensure proper credit, all payments shall include the Agreement Identification No. AQD-1199S on the face of the check. 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.

19. 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 DNRE 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.

20. To insure timely payment of the settlement amount assessed in paragraph 17 and any stipulated fines assessed pursuant to paragraph 18 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 principle, 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 18 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.

21. The Company agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 17. The Company also agrees not to contest the legal basis for any stipulated fines assessed pursuant to paragraph 18 of this Consent Order, but reserves the right to dispute in a court of

competent jurisdiction the factual basis upon which a demand by DNRE of stipulated fines is made. In addition, the Company agrees that said fines have not been assessed by the DNRE pursuant to Section 5529 of Part 55 and therefore are not reviewable under Section 5529 of Part 55.

22. This Consent Order shall remain in full force and effect for a period of at least three (3) years. Thereafter, the Consent Order shall terminate only upon 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 Natural Resources and Environment, 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 not be unreasonably withheld.

23. In the event the Company transfers their liability in this matter, the Company shall advise any purchaser or transferee of the existence of this Consent Order in connection with such transfer. Within 30 calendar days, the Company shall also notify the DNRE-AQD Lansing District Supervisor, in writing, of such transfer, the identity and address of any transferee, and confirm the fact that notice of this Consent Order has been given to the transferee. As a condition of the transfer, the Company must obtain the consent of the transferee, in writing, to assume all of the obligations of this Consent Order. A copy of that agreement shall be forwarded to the DNRE-AQD Lansing District Supervisor within 30 days of assuming the obligations of this Consent Order.

24. 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.

25. 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.

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.

Property Shield, LLC

Scott O'Berry Mgr
Print Name and Title

[Signature] Date: 1/21/11
Signature

The above signatory subscribed and sworn to before me this 21st day of January, 2011.

CRYSTAL L. ABBOTT
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF INGHAM
My Commission Expires May 25, 2012
Acting in the County of Ingham

Crystal L. Abbott
Notary Public

Approved as to Content:

G. Vinson Hellwig
G. Vinson Hellwig, Chief
AIR QUALITY DIVISION
DEPARTMENT OF NATURAL
RESOURCES AND ENVIRONMENT

Dated: 2/9/11

Approved as to Form:

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

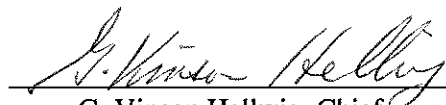
Dated: Feb. 1, 2011

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 Natural Resources and Environment 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 DNRE as a Final Order.

MICHIGAN DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT



G. Vinson Hellwig, Chief
Air Quality Division

Dated: 2/9/11