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August 19, 2025

Clerk of the Court
Kent County Circuit Court
180 Ottawa Avenue, N.W.
Grand Rapids, MI 49503

Re: *Donna Brandenburg v Byron Township*
Case No. 2025-20557-CK

Dear Clerk:

Enclosed for filing in the above-captioned matter please find original and Judge's copy of Defendant Byron Township's Response to Plaintiff's Motion for Ex Parte Emergency Injunctive Relief, together with Proof of Service.

Please contact me if you have any questions or comments.

Sincerely,



Dominic T. Clolinger

Enclosures

cc: Donna Brandenburg
Byron Township

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF KENT

DONNA BRANDENBURG,

Case No. 2025-20557-CK

Plaintiff,

Honorable Christina Mims

v

PROOF OF SERVICE

BYRON TOWNSHIP,

Defendant.

Donna Brandenburg
In pro per
6842 Byron Shores Ct.
Byron Center, MI 49315-8045
(616) 430-4410

Ross A. Leisman (P41923)
Dominic T. Cololinger (P84705)
Mika Meyers PLC
Attorneys for Defendant
900 Monroe Avenue, N.W.
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dcloolinger@mikameyers.com

I, Marcy Link, hereby state that I am an employee in the law firm of Mika Meyers PLC, and that on August 19, 2025, I served copies of the following document(s):

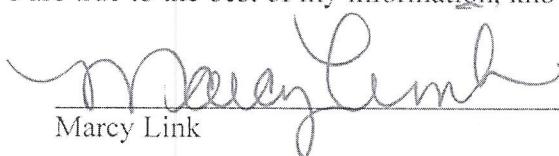
Defendant Byron Township's Response to Plaintiff's Motion for Ex Parte Emergency Injunctive Relief

upon the following individual by first-class mail:

Donna Brandenburg
6842 Byron Shores Ct.
Byron Center, MI 49315

I declare that the statements above are true to the best of my information, knowledge, and belief.

Dated: August 19, 2025


Marcy Link

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF KENT

DONNA BRANDENBURG,

Plaintiff,

v

BYRON TOWNSHIP,

Defendant.

Case No. 2025-20557-CK

Honorable Christina Mims

**DEFENDANT BYRON TOWNSHIP'S
RESPONSE TO PLAINTIFF'S
MOTION FOR EX PARTE
EMERGENCY INJUNCTIVE RELIEF**

Donna Brandenburg
In pro per
6842 Byron Shores Ct.
Byron Center, MI 49315-8045
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Defendant Byron Township (the "Township"), by and through its attorneys, Mika Meyers PLC, submits this brief in response to the motion for temporary restraining order filed by Plaintiff Donna Brandenburg ("Brandenburg").

INTRODUCTION

This case relates to a multi-year sewer extension project located in Byron Township whereby dewatering was necessitated by the project (the "Project"). On August 11, 2025, the Township was served with a "Motion for Ex Parte Emergency Injunctive Relief" (the "Ex Parte Motion") by Brandenburg "pursuant to MCR 3.310 and MCL 324.30316." However, MCL 324.30316 is an enforcement provision located in the Wetlands Protection Act, MCL 324.30301

et. seq. (the “WPA” or “Part 303 of NREPA”). Under the WPA, Brandenburg lacks any sort of authority, capacity, or standing to pursue this matter. As Brandenburg lacks legal capacity, she also lacks the ability to seek a temporary restraining order. MCL 324.30316 of the WPA provides that the Michigan Department of Environment, Great Lakes, and Energy (“EGLE”) and the Michigan Attorney General have exclusive authority to enforce this provision of the WPA. As acknowledged by Brandenburg in paragraph 10 of her Complaint, EGLE is aware of and has issued the required permits for the Project. Contrary to Brandenburg’s belief, she has no authority to supplant EGLE in the supervision of this Project.

Therefore, this Court need not analyze whether injunctive relief is appropriate, as no private right of action exists via MCL 324.30316 to enforce Brandenburg’s claims under the WPA. In the event this Court determines it is necessary to review whether injunctive relief is appropriate, Brandenburg fails to show that she is likely to prevail on the merits, that she will suffer irreparable harm, that she would be harmed more by the absence of an injunction than the Township would be by granting the relief, and that an injunction favors the public interest. All the evidence is contrary to Brandenburg’s position. Brandenburg ignores that the Township, its engineers, and its contractors received the proper approvals from EGLE and that the reduction of the water table during the dewatering process is temporary. See **Exhibit 1**, Affidavit of Jeff Gritter, ¶¶ 7, 11. The Township respectfully requests that Brandenburg’s request for an ex parte temporary restraining order be denied.

STATEMENT OF FACTS

For approximately 20 years, Byron Township has been engaged in a sewer extension improvement Project. Exhibit 1, ¶ 4. In July 2025, this Project entered its second phase whereby Byron Township continues to extend the sewer system eastward from Ivanrest Ave SW and 64th Street towards its population center. **Exhibit 2**, Project Phase 2 Map and Plans; Exhibit 1, ¶ 5. The

goal of the sewer system extension is to improve the capacity of the Township sewer system to meet the community's needs, as the Goose Creek trunk sewer near the Township's population center is near capacity due to the increase of population and density in the Township. Exhibit 1, ¶ 6.

In advance of phase 2 of the Project, the Township and its contractors obtained all necessary approvals and permits for commencing construction of the sewer system extension. Exhibit 1, ¶ 7. Byron Township, its engineers, and contractors also acquired all necessary easements and licenses to perform the work to install phase 2 of the Project. *Id.* The particular sewer being installed—to service a larger quantity of sewage—must be installed at a depth of approximately 25 feet. Exhibit 1, ¶ 8. The water table in the area, however, is above this depth. Exhibit 1, ¶ 9. As such, temporary dewatering must occur in order to evacuate and provide for dry firm bedding to allow for the construction of sewer pipe at the required elevation. Exhibit 1, ¶¶ 8, 10. Here, the contractor needs to remove water approximately 2 feet below the elevation of sewer pipe for installation. Exhibit 1, ¶ 10.

The dewatering process is expensive. Exhibit 1, ¶ 16. Two types of wells are used during the dewatering process: PVC dewatering wells and Kelly wells. Exhibit 1, ¶ 12. PVC wells are placed at a depth of 27 feet, with a pump connected to the wells above the surface. Exhibit 1, ¶ 13. Kelly wells are steel casings that are dug into the ground. Kelly wells are approximately 40 feet in length with a bottom depth of approximately 35 to 37 feet below the surface. Exhibit 1, ¶ 14. The top of the Kelly well sticks above the surface by 3 to 5 feet. *Id.* A submersible pump is dropped into the Kelly well at a dept of 30 to 32 feet and pumps the water that enters the casing out of the casing. *Id.* The depth of dewatering that the contractor is attempting to achieve is the depth

sufficient to temporarily lower the groundwater below a depth of approximately 27 feet so that the sewer pipe may be installed—nothing more. Exhibit 1, ¶¶ 10, 14, 21.

When groundwater is removed via the dewatering process, it is discharged into the adjacent drain—Knights Drain in this instance. See Exhibit 2, Project Phase 2 Map and Plans; Exhibit 1, ¶ 21. Otherwise put, once the groundwater is removed, the water is discharged into the adjacent County Drain where it will have the ability to recharge the groundwater. See Exhibit 1, ¶ 11. The dewatering of the groundwater is temporary and when installation of the sewer pipe is complete the dewatering system is turned off and removed. Exhibit 1, ¶ 11, 35.

Brandenburg allegedly owns property on the proposed line of Phase 3 of the sewer extension Project. Exhibit 1, ¶ 31. This property is not immediately adjacent to phase 2 of the Project. When the Township and its contractors reached out to Brandenburg to investigate her claims that her well was rendered inoperable by the dewatering process, she refused to provide information regarding the depth of her existing well or the name of the well company that was performing an evaluation of the existing well, or allow access to her property without her or her son being present. Exhibit 1, ¶¶ 37-42. Brandenburg later stated she was taking care of the well issue. Exhibit 1, ¶ 39. Further, when the Township and its contractors offered to provide temporary water services to her property, she declined. Exhibit 1, ¶ 38.

In her verified Complaint and request for ex parte injunctive relief, Brandenburg accuses the Township of (i) removing groundwater at a depth exceeding their approvals, and (ii) removing groundwater at a rate exceeding approvals. Brandenburg provides no support for such claims. Byron Township maintains that through the entirety of phase 2, it has complied with its applicable approvals. The Township will note, however, that Brandenburg has been trespassing on land owned by other property owners, causing the Township to receive complaints. Exhibit 1, ¶ 43.

ARGUMENT

I. MCL 324.30316 PROVIDES NO PRIVATE RIGHT OF ACTION

“Generally, where a statute creates a new right or imposes a new duty not previously recognized under the common law, the remedies provided in the statute are presumed exclusive unless the remedies are plainly inadequate or there is a clear contrary intent.” *Stegall v Resource Technology Corp*, 514 Mich 327, 343; 22 NW3d 410 (2024), citing *Pompey v Gen Motors Corp*, 385 Mich 537, 552, 553 n 14; 189 NW2d 243 (1971). “Therefore, a private cause of action must be dismissed under a statute creating a new right or imposing a new duty unless the private cause of action was expressly created by the act or inferred from the fact that the act provides no adequate means of enforcement of its provisions.” *Forster v Delton Sch Dist*, 176 Mich App 582, 584-85; 440 NW2d 421 (1989).

In *Forster*, the plaintiff alleged violations of various statutes, including the campaign financing act. The plaintiff alleged that the campaign finance act put various duties on the defendants, and that defendants failed to perform said duties. These duties were “new in that there were no such duties or obligations under the common law.” *Id.* at 584. Further, the campaign financing act does not allow for enforcement by private individuals. “MCL 169.215 [of the campaign finance act]. . . provides an express remedy to enforce the duties imposed under the campaign financing act.” *Id.* at 585. “The campaign financing act also provides for criminal penalties for knowing violation of the act, and enforcement for such knowing violation may be prosecuted by the Attorney General or local prosecuting attorneys.” *Id.* at 585. As such, the *Forster* court determined that (1) since new duties are imposed by the act, the remedies in the act are the exclusive means of enforcement and (2) since there is an adequate remedy to enforce its provisions, no private right of action can be inferred. Therefore, the *Forster* appeals court determined that the plaintiff’s claims were appropriately dismissed.

The statutes in *Forster* mirror the WPA, which is at issue in this case. As stated above, Brandenburg alleges that her Complaint and Ex Parte Motion are based upon the WPA (i.e. MCL 324.30316). Brandenburg further alleges that the Township violated various duties under the WPA, including (i) an alleged duty under MCL 324.30304 to not drain surface water from a wetland without a permit, (ii) an alleged duty under MCL 324.30312¹ to create a wetland mitigation plan in certain circumstances, and (iii) an alleged duty under MCL 324.32723² to obtain certain permits from the State of Michigan for large quantity water withdrawals. Similar to *Forster*, these duties relating to permitting and mitigation plans do not arise from common law—they are new duties created by the WPA. The WPA provides express remedies to enforce the duties imposed by the act, as detailed in MCL 324.30316 (the provision in which Plaintiff bases her Complaint and Ex Parte Motion). Similar to the statute in *Forester*, MCL 324.30316 permits the Attorney General to enforce violations of the WPA. MCL 324.30316 states, in the relevant part:

The attorney general may commence a civil action for appropriate relief, including injunctive relief upon request of the department under section 30315(1). An action under this subsection may be brought in the circuit court for the county of Ingham or for a county in which the defendant is located, resides, or is doing business. The court has jurisdiction to restrain the violation and to require compliance with this part. In addition to any other relief granted under this section, the court may impose a civil fine of not more than \$10,000.00 per day of violation. A person who violates an order of the court is subject to a civil fine not to exceed \$10,000.00 for each day of violation.

Id. (emphasis added).

¹ Plaintiff may have meant to cite MCL 324.30311d, which discusses the requirement of wetland mitigation under certain circumstances, as opposed to MCL 324.30312, which discusses minor project categories of activities. Nonetheless, MCL 324.30311d is inapplicable here.

² This statute is located in Part 327 of NREPA—not the WPA. The section of the WPA in which Plaintiff bases her Complaint (MCL 324.30316) was not designed to remedy this provision. This is yet another reason why Plaintiff fails to state a claim.

While the WPA creates a cause of action, it does not create a private right of action. The WPA creates new duties, and therefore the remedy provided by the statute is exclusive. The remedy is not plainly inadequate, as it expressly provides the Attorney General with the right to pursue an action. The ability of the Attorney General or a prosecutor to enforce statutory duties was an adequate remedy in *Forester*. Therefore, Brandenburg's request for a TRO should be denied and her claims should be dismissed.

II. PLAINTIFF IS NOT ENTITLED TO INJUNCTIVE RELIEF

An injunction "represents an extraordinary and drastic use of judicial power that should be employed sparingly and only with full conviction of its urgent necessity." *Davis v Detroit Financial Review Team*, 296 Mich App 568, 613 (2012). Because plaintiff requests injunctive relief, it must shoulder "the burden of establishing that a preliminary injunction should be issued." See MCR 3.310(A)(4).

There are four factors that the Court must consider in determining whether to grant a preliminary injunction." *Davis*, 296 Mich App at 613. Those four factors are as follows:

(1) the likelihood that the party seeking the injunction will prevail on the merits, (2) the danger that the party seeking the injunction will suffer irreparable harm if the injunction is not issued, (3) the risk that the party seeking the injunction would be harmed more by the absence of an injunction than the opposing party would be by the granting of the relief, and (4) the harm to the public interest if the injunction is issued.

Id. In analyzing those factors, the Court must bear in mind that injunctive relief is appropriate only when "there is no adequate remedy at law, and there exists a real and imminent danger of irreparable injury." *Id.* at 614.

A. Plaintiff is not likely to succeed on the merits.

1. The Township did not violate MCL 324.30304 because it obtained proper permitting *and* because Brandenburg's factual assertions are patently false.

MCL 324.30304 prohibits removing soil from a wetland, operating in a wetland, and draining surface water from a wetland without a permit from EGLE. The Township applied for Part 303 permitting (as acknowledged by Brandenburg in paragraph 20 of her Complaint), and obtained said permits. See **Exhibit 3**, WPA-related Permits; Exhibit 1, ¶ 25.

Brandenburg also accuses the Township of exceeding the scope of the permit, but does not attach or reference the permit in her Complaint. Rather, Brandenburg accuses the Township without any evidence of "draining 264 million gallons of surface water to a depth of 40 feet" claiming that this exceeds the scope of the Township's permit application. Brandenburg provides no explanation as to how she is formulating these numbers, nor how these numbers violate the permit. For support, Brandenburg relies on Exhibits A, C, and D of her Complaint. Exhibit A is a wetland impact sketch. A more legible version of this exhibit is attached as **Exhibit 4**. Exhibit C to her Complaint appears to be another sketch, but is illegible. Exhibit D to her Complaint appears to be an excerpt from a permit application. None of these exhibits establish the parameters set by EGLE on the Project, but merely elaborate on the Township's Project plans. Further, these exhibits do not support her assertions that 264 million gallons are being removed, that groundwater is being removed to a depth of 40 feet, and that the removal of that amount of groundwater at that depth is not permitted in the first place. In fact, the Part 327 permit expressly allows the Township to withdraw approximately 264 million gallons. See **Exhibit 5**, Part 327 Approval, pg. 4.

It is also worth noting that the wells and pumps used are not lowering the water table to a depth of 40 feet. Exhibit 1, ¶ 14, 22. The PVC wells being installed are approximately 27 feet in depth (Exhibit 1, ¶ 13), and the Kelly wells have pumps installed at approximately 30 to 32 feet

below the surface. Exhibit 1, ¶ 14. Put differently, the lowest pump is only going into the ground at a depth of 32 feet. This does not translate to the water table being lowered to a depth of 40 feet. Brandenburg claims the Township is not permitted to pump below 25 feet. There is no such restriction from EGLE. See Exhibit 5, Part 327 Approval.

The other Exhibits to her Complaint also do not support or clarify her allegations. Exhibit B to the Complaint is an authorization from the Township to its engineers to apply for a permit, Exhibit E show an invoice from a well drilling company, with notes stating that the water table decreasing may have impacted a well. As detailed above and in Jeff Gritter's affidavit, dewatering can temporarily impact the water table. Exhibit 1, ¶ 11. However, dewatering is necessary so that excavation can be performed to place the sewer pipe at the required elevation. Exhibit 1, ¶¶ 8-10. Once the sewer pipe is constructed and the dewatering is turned off, groundwater will typically return to the area it was removed near its prior levels. Exhibit 1, ¶ 11. Exhibit F contains pictures which do not demonstrate any sort of violation of the Township's permits, but do establish the Township's concerns that Brandenburg is trespassing on private property. Exhibits G through I are proffered to show that wetlands exist in the area, which the Township openly acknowledges. See Exhibit 1, ¶ 25.

2. The Township did not violate MCL 324.30312

Brandenburg alleges that the Township violated MCL 324.30312 by failing to have a wetland mitigation plan. MCL 324.30312 does not discuss or require mitigation plans. Regardless, the WPA does not require the Township to obtain a mitigation plan in this instance. This is because the impact on the wetland areas is temporary, and the impacted areas will be restored once construction of the sewer is complete. Exhibit 1, ¶ 28.

3. **The Township did not violate MCL 324.32723 because the Project received the proper permitting and Plaintiffs' factual assertions are patently false.**

MCL 324.32723 is a provision within part 327 of the Natural Resources and Environmental Protection Act (not Part 303, where the WPA is located). This provision requires a person to obtain a permit in certain instances where a project proposal would involve the withdrawal of either 2,000,000 or 1,000,000 gallons of water per day, depending on the purpose of the project. Brandenburg accuses of the Township of not having a permit. See Compl. ¶ 27. This, however, is untrue. The Township's Part 327 approval from EGLE is attached hereto as Exhibit 5. The Township obtained this approval in February of 2025. The approval sets the parameters for the removal of groundwater on the Project. It also states that the withdrawal is not likely to cause an adverse resource impact. Further, Plaintiff's claims that the Township is withdrawing more than 24 million gallons per day are wholly unsupported by evidence, including the exhibits attached to her Complaint. As explained above, Brandenburg fails to describe the basis of her numbers. At all relevant times, the Township and its agents have complied with all applicable approvals. See Exhibit 1, ¶¶ 23, 26, and 36.

4. **Plaintiff fails to state a claim for negligent oversight.**

Brandenburg also alleges that the Township had a duty to monitor its contractors and engineers and breached that duty by failing to do so. Even presuming such an "oversight" duty exists, Brandenburg cannot establish breach of that duty and that it was the Township's "failure to monitor" that caused any of the alleged damages. Again, Brandenburg does not provide any plausible support demonstrating that the Township is not complying with EGLE's permits.

Plaintiff has not established that she will likely succeed on the merits of any of her claims. This factor favors the Township.

B. Plaintiff has not established that she will suffer irreparable harm.

Brandenburg's property is not immediately adjacent to phase 2 of the Project. Plaintiff claims in her motion that the dewatering process in phase 2 is depleting the aquifer by her property. The dewatering process—which is necessary in order to place the sewer system at the proper depth—can occasionally create temporary issues with private well access to groundwater. Exhibit 1, ¶ 15. However, groundwater levels increase again after the dewatering process is completed. Exhibit 1, ¶ 11. In this instance, the water from the dewatering activity is immediately discharged into Knights Drain, where it will have the ability to recharge the groundwater. Exhibit 1, ¶ 11, 21. Brandenburg has provided nothing but speculation that this reduction in the water table is permanent or a violation of the WPA. The Township and its contractors have no incentive to pump more water than is necessary for the Project (which is dewatering the area of the line to a depth of approximately 27 feet). Exhibit 1, ¶ 16.

It is also worth noting that VK Civil, the engineering firm heading the Project for the Township, reached out to Brandenburg in an attempt to provide her with water. Exhibit 1, ¶ 38. VK Civil also requested access to her property to evaluate the purported issues with her well. Exhibit 1, ¶ 39. She refused VK Civil on both accounts. VK Civil attempted to assess the potential issue regardless, only to discover that Brandenburg's well is not in County records and it is not in EGLE records. Exhibit 1, ¶ 40, 42. However, more recent records indicate that a new well was drilled on the property on August 6, 2025 and that the prior well is “still in use for non-drinking water purposes.” See **Exhibit 6**, Well Record at 2930 64th St SE; Exhibit 1, ¶ 42. This factor favors the Township.

C. The Township and its residents would be harmed more with an injunction than Plaintiff would be harmed in the absence of one.

As stated above, the chances of Brandenburg being irreparably harmed by failing to enter an injunction are nonexistent. The dewatering process only temporarily reduces the level of the water table. Exhibit 1, ¶ 11. On the other hand, if the injunction is entered, the Township and its residents will incur excessive monetary damages. Exhibit 1, ¶ 44. The Project will be delayed, potentially causing the Township and its contractors to remediate the site during the period of the injunction and causing permits to expire. Exhibit 1, ¶ 45. As a result, the Township would have to reapply for various approvals from state and local entities and push back the Project timeline. Exhibit 1, ¶ 46. This becomes increasingly problematic as time passes, as the purpose of the Project is to provide capacity relief to an adjacent sewer infrastructure, which is nearing its capacity. Exhibit 1, ¶ 47. Any delay may further exacerbate this capacity issue threatening the health of the community. This factor favors the Township.

D. The harm to the public interest if an injunction is issued is great.

As stated above, the public interest favors the denial of Brandenburg's TRO request. Any well issues related to dewatering are temporary. Exhibit 1, ¶ 11. These issues are a necessary temporary inconvenience as they provide the only pathway to set the foundation for the sewer extension. Exhibit 1, ¶ 9. The public will incur great costs and will likely be forced to shoulder the increased costs related to a Project delay. Further, an injunction further delays the Township's ability to provide relief to the adjacent sewer infrastructure which is nearing capacity, which threatens the public health. Exhibit 1, ¶ 47.

III. REQUEST FOR RELIEF

For all of the reasons set forth herein, Defendant Byron Township respectfully requests that the Court deny Brandenburg's motion for temporary restraining order and preliminary

injunction, award Defendant its costs and attorney fees, and award Defendant such other and further relief as the Court deems equitable and just. Further, Defendant notes that ex parte relief as requested by Plaintiff is inappropriate when all parties are actively involved in the case and the requirements of MCR 3.310 are not met, as detailed above. In the event the Court considers entering a TRO despite Plaintiff's lack of authority to sue, the Township respectfully requests a hearing on the matter and that ex parte relief not be entered.

Respectfully submitted,

MIKA MEYERS PLC
Attorneys for Defendant

Dated: August 19, 2025

By: 

Dominic T. Collinger (P84705)
900 Monroe Ave., N.W.
Grand Rapids, MI 49503
(616) 632-8000

EXHIBIT 1

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF KENT

DONNA BRANDENBURG,

Case No. 2025-20557-CK

Plaintiff,

Honorable Christina Mims

v

AFFIDAVIT OF JEFF GRITTER

BYRON TOWNSHIP,

Defendant.

Donna Brandenburg
In pro per
6842 Byron Shores Ct.
Byron Center, MI 49315-8045
(616) 430-4410

Ross A. Leisman (P41923)
Dominic T. Collinger (P84705)
Mika Meyers PLC
Attorneys for Defendant
900 Monroe Avenue, N.W.
Grand Rapids, MI 49503
(616) 632-8000
rleisman@mikameyers.com
dcollinger@mikameyers.com

Jeff Gritter, being first duly sworn, deposes and states that he is a person of suitable age and discretion and if called to testify could testify to the following facts upon his own knowledge, and not on information and belief, except as otherwise stated herein:

1. I am a senior professional engineer and project manager at VK Civil, also known as Vriesman & Korhorn, which is a civil engineering firm specializing in private and public projects in the Midwest.
2. I have been an engineer for approximately 27 years.
3. I currently serve as one of Byron Township's (the "Township") engineers on the Northwest Byron Sanitary Sewer Extension project (the "Project").

PROJECT BACKGROUND

4. Byron Township has been engaged in studying and planning for a sewer extension project for approximately 20 years. Construction relating to Phase 2 of the Project began in July of 2025.

5. The goal of Phase 2 is to extend the sanitary sewer created in Phase 1 of the project eastward from Ivanrest Avenue and 64th Street toward the Township's population center. See the map attached to Exhibit 2, of the Township's TRO Response Brief.

6. The purpose of the Project is to provide capacity relief to the Township's Goose Creek trunk sewer, which is nearing capacity due to the growth and density of the area.

7. In advance of Phase 2 of the Project, VK Civil and the Township obtained all necessary approvals for commencing construction of the sewer system extension and obtained all necessary easements and permissions from property owners.

DEWATERING PROCESS

8. The Project requires constructing the sewer system at a depth of approximately 25 feet below the surface. To lay the sewer pipe at the specified grade, dry conditions are needed.

9. The water table in the vicinity of the Project, however, is at a depth above 25 feet. As a result, dewatering must occur in order for the installation of the sewer line to proceed.

10. To establish dry conditions for the installation process, contractors need to remove groundwater to a depth approximately 2 feet below the elevation of the sewer pipe. In this instance, groundwater must be removed to a depth of approximately 27 feet.

11. Dewatering is a process by which the groundwater is removed to a certain depth and pumped to another location (oftentimes the adjacent drain, where it will have the ability to recharge the groundwater). **The dewatering process is temporary.** Once the dewatering process is completed, groundwater levels often return to normal or near-normal levels.

12. Two different types of dewatering wells are being utilized for this Project: PVC dewatering wells and Kelly Wells.

13. PVC dewatering wells are placed at a depth of 27 feet. A pump is connected to the well above grade.

14. Kelly Wells are steel casings that are dug into the ground. The Kelly wells are 40 feet in length. However, they are placed at a depth of 35 to 37 feet below the surface, with the top of the casing sticking above the ground by 3 to 5 feet. A submersible pump is dropped into the casing to a depth of 30 to 32 feet. This pump removes water that enters the casing. The depth of the pump does not equate to the water table being lowered to that depth. As stated above, a contractor is only seeking to remove water to a depth of approximately 2 feet below the elevation of the sewer pipe installation.

15. On occasion, dewatering can create issues with local wells. These issues, however, are almost always temporary. This is, however, a fact-intensive inquiry and depends on the particular well, whether the well is up to code, and groundwater hydrology.

16. Generally, the dewatering process is very expensive, and contractors only remove the amount of water absolutely necessary.

17. Anticipating that dewatering would have to occur during Phase 2 of this Project, VK Civil, on behalf of the Township, obtained Part 327 approvals from the Michigan Department of Environment, Great Lakes, and Energy (“EGLE”) to remove the applicable groundwater. See Exhibit 5 to the Township’s TRO Response Brief, Part 327 Approval.

18. Removal of groundwater for the Project necessitated a permit from EGLE because the Township was required to dewater approximately 1,000 gallons per minute or 1.44 million gallons per day.

19. As stated in the Part 327 approval, the Township was permitted to remove 1,000 gallons of water per minute, 24 hours per day, 7 days a week as needed.

20. The Part 327 approval permitted a total annual withdrawal of 263,934,720 gallons.

21. Here, we estimate groundwater was temporarily removed to a depth of 27 feet and discharged into Knights Drain.

22. Donna Brandenburg (“Brandenburg”) alleges the Township removed groundwater and lowered the water table to a depth of 40 feet. This is untrue. The depth of the well and pump do not equate to the level the water table will be lowered.

23. To the best of our knowledge, the Contractor has fully complied with the requirements of Part 327 and with the Part 327 approval letter.

CONSTRUCTION ACTIVITIES IN WETLANDS

24. Part 303 requires a permit to perform certain activities in a protected wetland area. See MCL 324.30304.

25. The Project requires extending the sewer into areas considered wetlands. As such, VK Civil, on behalf of the Township, obtained Part 301 and Part 303 (Part 303 is also referred to the Wetlands Protection Act (“WPA”)) approvals prior to commencing Phase 2 of the Project. Those approvals are attached to the Township’s Response Brief as Exhibit 3.

26. At all relevant times, the Contractor, to the knowledge of VK Civil, acting on behalf of the Township, complied with the restrictions listed on the permits.

27. The WPA, in certain instances, also requires a mitigation plan to be submitted to EGLE. See MCL 324.30311d.

28. A mitigation plan, however, was not created here because (i) the impact to the wetland areas is temporary and (ii) the impacted areas are to be restored once construction of the sewer is complete.

29. EGLE did not require a mitigation plan.

DONNA BRANDENBURG ALLEGATIONS

30. As the Township's engineer, I was asked to review allegations raised by Donna Brandenburg ("Brandenburg") in Case No. 20557-CK.

31. Brandenburg owns property located on the proposed line of Phase 3 of the Project.

32. Brandenburg accuses the Township of draining 264 million gallons of surface water to a depth of 40 feet at a rate of 24 million gallons per day.

33. Brandenburg does not explain, nor does VK Civil understand, the basis for the above numbers. The dewatering activities have a maximum annual withdrawal limit of 264 million gallons per year.

34. The Contractor is restricted in the amount of water it can remove by the Part 327 approval letter. The Part 303 approvals do not set such limitations.

35. Dewatering activities can pump water at a maximum rate of 1.44 million gallons per day in ideal conditions. The dewatering pumps are not continuously operated at maximum output as this is inefficient and is not cost effective. Rather, the dewatering pumps are operated as efficiently as possible to only dewater the groundwater to sufficient depths to allow for the sewer pipe to be constructed in dry conditions to meet the design requirements of the sewer pipe. The dewatering pumps are then deactivated and moved in a linear manner to allow for the sewer construction to advance along the planned route of the sewer project.

36. To the best of our knowledge, acting on behalf of the Township, the Contractor has complied with the EGLE permits and approvals at all relevant times.

37. Brandenburg informed VK Civil and the Township that the Project rendered her well inoperable.

38. In response, VK Civil attempted to evaluate her well and provide temporary water to her property until the issue could be resolved. She rejected this offer.

39. We also requested access to her property and her well so we could further ascertain the issues relating to her well. Again, Brandenburg initially required her presence or her sons presence and then refused our attempt to help stating that she was taking care of the well.

40. In an attempt to assist Brandenburg, we attempted to pull the property's well records from Kent County and from EGLE. However, at the time we looked, Kent County and EGLE did not have any record of a well on this property on file.

41. In support of her allegations, Brandenburg attaches an invoice from a well drilling company which states that a well located at 2930 64th St SW, Byron Center, Michigan "was working properly" but is no longer capable of producing efficient water due to the water table decreasing.

42. VK Civil could not find the records for this particular well in the County records or with EGLE. However, VK did discover that Brandenburg drilled an additional well on the property and that the old well is "still in use for non-drinking water purposes." See Exhibit 6 to the Township's TRO Response Brief.

43. VK Civil has received complaints from property owners in the area regarding Brandenburg, particularly relating to her trespassing on private property where the sewer extension is being installed.

COST OF AN INJUNCTION

44. If an injunction is entered in this case halting the Project, the monetary damages would be significant.

45. An injunction will likely force the project to be delayed, potentially forcing the Township to remediate the site during the period of the injunction. This may also cause permits to expire.

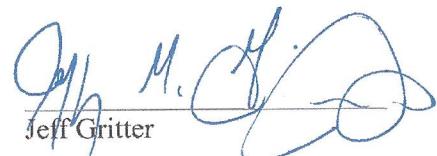
46. As a result, the Township would have to reapply for various approvals from state and local entities and push back the project timeline.

47. This becomes increasingly problematic as time passes, as the purpose of the project is to provide capacity relief to an adjacent sewer system, which is rapidly nearing its capacity.

Further Deponent sayeth not.

Dated: August 19, 2025.

STATE OF MICHIGAN)
)
COUNTY OF KENT)
) ss.



Jeff Gritter

Subscribed and sworn to before me this 19 day of August, 2025, by Jeff Gritter.

Colin Finch
Colin Finch, Notary Public
Kent County, Michigan
My Commission Expires: 4/23/2027
Acting in the County of Kent

EXHIBIT 2

