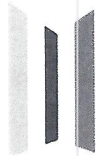


Mika



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August 27, 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 Byron Township's Answer to Complaint, Defenses and Affirmative Defenses and Reservation of Same, 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,

Plaintiff,

v

BYRON TOWNSHIP,

Defendant.

Case No. 2025-20557-CK

Honorable Christina Mims

PROOF OF SERVICE

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

Ross A. Leisman (P41923)
Dominic T. Clolinger (P84705)
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rleisman@mikameyers.com
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I, Marcy Link, hereby state that I am an employee in the law firm of Mika Meyers PLC, and that on August 27, 2025, I served copies of the following document(s):

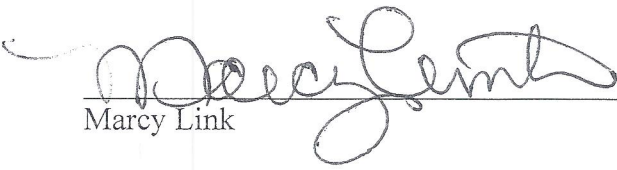
**Byron Township's Answer to Complaint, Defenses and Affirmative Defenses
and Reservation of Same**

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 27, 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

**BYRON TOWNSHIP'S ANSWER TO
COMPLAINT, DEFENSES AND
AFFIRMATIVE DEFENSES AND
RESERVATION OF SAME**

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

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Defendant Byron Township, by and through its attorneys, Mika Meyers PLC, submits its Answer to Plaintiff's Complaint as follows:

INTRODUCTION

ALLEGATION 1. This is an action for emergency injunctive relief to address Defendant's illegal and ongoing draining of 264 million gallons or more of surface water and groundwater, down to a depth of 40 feet, from regulated wetlands in Byron Township, Kent County, Michigan, at a rate of conservatively 1 million gallons per hour (24 million gallons per day), beginning on or about July 28, 2025, and persisting as of August 8, 2025, without a permit or proper mitigation, in violation of MCL 324.30304 and MCL 324.32723.

Answer: **Denied as untrue. By way of further answer, Byron Township has been engaged in a sewer extension project for approximately 20 years. Construction relating to Phase 2 of the Project began in July of 2025. The project is not illegal, is properly permitted, and is in compliance with the Natural Resources Protection Act.**

ALLEGATION 2. Defendant's actions exceed the scope of its permit application, as evidenced by Exhibit A: 1260 WETLAND IMPACT SKETCH_20250414, which shows no authorization for water pumping or construction below 25 feet; Exhibit B: BYRON TWP AGENT AUTHORIZATION, which demonstrates Defendant's failure to conduct oversight or review permit limitations; Exhibit C: PERMIT PLANS.PDF, Page 14, and Exhibit D: HQ8-KPWF-SDHQ4_V3.PDF, Page 8, which authorize pumping only for damming and rerouting the Knight's Intercounty Drain; Exhibit E: WELL SURVEY WATER TABLE DROPPED, which confirms the water table dropped below Plaintiff's well depth at time of Defendant's actions; Exhibit F: IMAGES TAKEN OF 40' & 18' PUMPED WELLS (1 of 8 through 8 of 8), which visually document the unauthorized pumping equipment capable of extracting groundwater to 40 feet at a rate of 2000 gallons per minute each; Exhibit G: NATIONAL WETLANDS INVENTORY, which confirms the affected area's regulated wetland status; Exhibit H: PART 3 FINAL WETLANDS INVENTORY PER MICHIGAN EGLE WETLANDS MAP VIEWER, which further confirms regulated status; and Exhibit I: PROPERTY OUTLINE, which establishes Plaintiff's standing as an adjacent property owner in the upstream wetlands.

Answer: **With respect to the referenced exhibits, they are documents that, taken as a whole and properly construed, speak for themselves. As to any remaining allegations beyond the text of the exhibit, the Township denies those allegations as untrue.**

ALLEGATION 3. Plaintiff seeks a court order to enjoin further unauthorized draining, compel restoration of the impacted wetlands and aquifer, impose civil penalties, and ensure compliance with large quantity water withdrawal regulations.

Answer: Denied as untrue that the Township has engaged in unauthorized draining. At all times relevant to its sewer extension project, the Township has complied with the proper regulations and approvals. The Township admits that Plaintiff improperly seeks a court order.

PARTIES

ALLEGATION 4. Plaintiff, Donna Brandenburg, is a resident of Byron Township, Kent County, Michigan, with standing as an adjacent property owner in the upstream wetlands, as shown in Exhibit I, whose well has been rendered inoperable due to the lowered water table caused by Defendant's unauthorized and ongoing draining of surface water and groundwater, as documented in Exhibit E.

Answer: The allegations in this paragraph constitute legal conclusions that do not require a response. To the extent a response is required, denied that Plaintiff has standing or that Plaintiff's residency provides her with standing. With respect to the referenced exhibits, they are documents that, taken as a whole and properly construed, speak for themselves. With respect to allegations relating to Plaintiff's well, the Township neither admits nor denies those allegations, as it lacks knowledge or information sufficient to form a belief as to the truth of the allegations. The Township admits that Plaintiff owns land in Byron Township.

ALLEGATION 5. Defendant, Byron Township, is an unincorporated civil township organized under the laws of the State of Michigan, with its principal office at 8085 Byron Center Ave SW, Byron Center, MI 49315.

Answer: **Denied that the Township is “unincorporated.” The Township is a general law township. Admitted that the Township’s offices are located at that address and that Defendant is a Township within the State of Michigan.**

JURISDICTION AND VENUE

ALLEGATION 6. This Court has jurisdiction pursuant to MCL 600.601 and MCL 324.30316, as this is a civil action seeking equitable relief for violations of state law.

Answer: **The allegations in this paragraph constitute legal conclusions that do not require a response. To the extent a response is required, Defendant Township denies that there are any violations of law by it.**

ALLEGATION 7. Venue is proper in the 17th Circuit Court for Kent County pursuant to MCL 600.1629 and MCL 324.30316(1), as Defendant is located in Kent County, and the actions giving rise to this complaint occurred in Byron Township, Kent County, Michigan.

Answer: **The allegations in this paragraph constitute legal conclusions that do not require a response. Defendant admits it is located in Kent County. Defendant Township denies as untrue that any actions have given rise to a valid complaint.**

FACTUAL ALLEGATIONS

ALLEGATION 8. On or about July 28, 2025, Defendant, Byron Township, and/or its contractors initiated the draining of surface water and groundwater, down to a depth of 40 feet, from regulated wetlands located near the Knight’s Intercounty Drain in Byron Township, at a rate of approximately 1 million gallons per hour (24 million gallons per day), totaling approximately 264 million gallons or more over at least 11 days (July 28-August 8, 2025) and continuing as of the date of this filing, as visually evidenced by Exhibit F: IMAGES TAKEN OF 40’ & 18’ PUMPED WELLS (1 of 8 through 8 of 8), showing the pumping equipment capable of extracting groundwater to 40 feet.

Answer: Denied in part and admitted in part. The Township admits that it commenced construction relating to phase 2 of its sewer extension project in July 2025 and that dewatering was required to commence construction. The Township further admits that construction activities and dewatering occurred in wetland areas near Knights Drain in Byron Township. As to the remaining allegations in this paragraph, they are denied as untrue. With respect to the referenced exhibits, they are documents that, taken as a whole and properly construed, speak for themselves.

ALLEGATION 9. The affected wetlands are regulated under Part 303 of NREPA, as confirmed by Exhibit G: NATIONAL WETLANDS INVENTORY and Exhibit H: PART 3 FINAL WETLANDS INVENTORY PER MICHIGAN EGLE WETLANDS MAP VIEWER, because they are connected to the Knight's Intercounty Drain, within 500 feet of an inland water body, or deemed essential by EGLE.

Answer: The allegations in this paragraph constitute legal conclusions that do not require a response. To the extent a response is required, Defendant Township admits that part of phase 2 of the sewer extension project runs through a wetland. Defendant Township neither admits nor denies the allegations in this paragraph, as it lacks knowledge or information sufficient to form a belief as to the truth of the allegations and leaves Plaintiff to her proofs. With respect to the referenced exhibits, they are documents that, taken as a whole and properly construed, speak for themselves.

ALLEGATION 10. Defendant submitted a permit application to EGLE, documented in **Exhibit A: 1260 WETLAND IMPACT SKETCH_20250414**, which explicitly states that **no water pumping or construction activities were proposed below 25 feet** in the affected wetland area.

Answer: The Township admits that it submitted the proper applications and documentation with the Michigan Department of Environment, Great Lakes, and Energy. With respect to the referenced exhibits, they are documents that, taken as a whole and properly construed, speak for themselves. As to any remaining allegations beyond the text of the exhibit, the Township denies those allegations as untrue.

ALLEGATION 11. Defendant authorized an agent or contractor to perform activities in the wetlands, as evidenced by Exhibit B: BYRON TWP AGENT AUTHORIZATION, but failed to conduct oversight to ensure compliance with permit limitations and failed to properly review the restrictions set by EGLE, resulting in unauthorized draining activities.

Answer: With respect to the referenced exhibits, they are documents that, taken as a whole and properly construed, speak for themselves. As to any remaining allegations beyond the text of the exhibit, the Township denies those allegations as untrue. Defendant Township denies that it “failed to conduct oversight to ensure compliance with permit limitations and failed to properly review the restrictions set by EGLE, resulting in unauthorized draining activities.” The Township admits that it hired engineers and contractors to perform the sewer extension project.

ALLEGATION 12. The permit plans, documented in Exhibit C: PERMIT PLANS.PDF, Page 14, and Exhibit D: HQ8-KPWF-SDHQ4_V3.PDF, Page 8, authorize pumping only for the specific purpose of damming and rerouting the Knight’s Intercounty Drain, and do not permit the large-scale draining of 264 million gallons or more of surface water and groundwater from regulated wetlands.

Answer: With respect to the referenced exhibits, they are documents that, taken as a whole and properly construed, speak for themselves. As to any remaining allegations

beyond the text of the exhibit, the Township denies those allegations as untrue. Furthermore, it appears that Plaintiff is incorrectly construing an engineering sketch as a “permit plan.”

ALLEGATION 13. The draining of 264 million gallons or more of surface water and groundwater, at a rate of 1 million gallons per hour down to a depth of 40 feet, was not authorized by the permit application in Exhibits A, C, and D and constitutes an unpermitted activity in violation of MCL 324.30304, which prohibits draining water from a regulated wetland without a permit, as evidenced by the pumping equipment shown in Exhibit F (1 of 8 through 8 of 8).

Answer: With respect to the referenced exhibits and statutes, they are documents that, taken as a whole and properly construed, speak for themselves. With respect to the remaining allegations, denied as untrue. By way of further answer, a permit application does not set the limitations for the project and Plaintiffs exhibits A, C, and D only reference engineering sketches and one page in a permit application. The Township received all necessary permits and has complied with all laws and regulations referenced by Plaintiff.

ALLEGATION 14. Defendant’s failure to oversee the authorized activity and review permit limitations, as shown in Exhibit B, despite visual evidence of the violation (Exhibit F), demonstrates negligence or willful disregard of its obligations under NREPA, exacerbating the violation.

Answer: Denied as untrue. With respect to the referenced exhibits, they are documents that, taken as a whole and properly construed, speak for themselves. As to any remaining allegations beyond the text of the exhibit, the Township denies those allegations as untrue.

ALLEGATION 15. Defendant failed to submit or implement a mitigation plan for the impacted wetlands and aquifer, as required by MCL 324.30312, further violating NREPA.

Answer: **Denied as untrue. Further denied that a mitigation plan was needed or required by MCL 324.30312.**

ALLEGATION 16. The draining activity constitutes a large quantity water withdrawal under MCL 324.32701 et seq., as it exceeds 2 million gallons per day (1 million gallons per hour= 24 million gallons per day), including groundwater extracted to a depth of 40 feet, requiring a permit from EGLE, which Defendant did not obtain, violating MCL 324.32723.

Answer: **Denied as untrue. Defendant Township received the required Part 327 permits from EGLE and has complied with those permits.**

ALLEGATION 17. Defendant's actions have caused irreparable harm to Plaintiff, including the lowering of the water table below the depth of Plaintiff's well, rendering it inoperable, as documented in Exhibit E: WELL SURVEY WATER TABLE DROPPED, conducted by Downing Well Drilling, and further harms including loss of wetland habitat, depletion of the aquifer, and increased flooding risk downstream, affecting Plaintiff's property in the upstream wetlands (Exhibit I), as visually supported by Exhibit F (1 of 8 through 8 of 8) and confirmed by Exhibits G and H.

Answer: **Denied as untrue. With respect to the referenced exhibits, they are documents that, taken as a whole and properly construed, speak for themselves. As to any remaining allegations beyond the text of the exhibit, the Township denies those allegations as untrue.**

LEGAL CLAIMS

COUNT I: VIOLATION OF MCL 324.30304 (UNAUTHORIZED WETLAND DRAINING)

ALLEGATION 18. Plaintiff incorporates by reference all preceding paragraphs.

Answer: Defendant Township incorporates by reference its answers to the above allegations as if fully set forth herein.

ALLEGATION 19. MCL 324.30304 prohibits draining surface water or groundwater from a regulated wetland without a permit from EGLE.

Answer: The allegations in this paragraph constitute legal conclusions that do not require a response. To the extent a response is required, Defendant Township denies the above allegation as untrue because it complied with the above-cited statute and received all necessary permits.

ALLEGATION 20. Defendant's draining of approximately 264 million gallons or more of surface water and groundwater to a depth of 40 feet, exceeding the scope of its permit application (Exhibits A, C, and D), which authorized no pumping below 25 feet and only pumping for damming and rerouting the Knight's Intercounty Drain, and its failure to oversee the activity (Exhibit B) despite visual evidence (Exhibit F), constitutes a direct violation of MCL 324.30304.

Answer: The allegations in this paragraph constitute legal conclusions that do not require a response. To the extent a response is required, denied as untrue.

ALLEGATION 21. Plaintiff is entitled to injunctive relief under MCL 324.30316 to enjoin further violations and compel restoration of the affected wetlands and aquifer.

Answer: Denied as untrue.

**COUNT II: FAILURE TO COMPLY WITH WETLAND MITIGATION
REQUIREMENTS (MCL 324.30312)**

ALLEGATION 22. Plaintiff incorporates by reference all preceding paragraphs.

Answer: Defendant Township incorporates by reference its answers to the above allegations as if fully set forth herein.

ALLEGATION 23. MCL 324.30312 requires that any permitted wetland impact include a mitigation plan to replace lost wetland functions, subject to EGLE approval.

Answer: **The allegations in this paragraph constitute legal conclusions that do not require a response. To the extent a response is required, Defendant Township complied with all applicable statutes and regulations and denies an insinuation that they did not.**

ALLEGATION 24. Defendant failed to submit or implement a mitigation plan for the impacted wetlands and aquifer, further violating NREPA.

Answer: **Denied as untrue. A mitigation plan was neither required by the statute cited by Plaintiff, nor required by EGLE in this instance.**

ALLEGATION 25. Plaintiff is entitled to injunctive relief to compel Defendant to restore the wetlands and aquifer or implement an EGLE-approved mitigation plan.

Answer: **Denied as untrue.**

**COUNT III: VIOLATION OF LARGE QUANTITY WATER WITHDRAWAL
REGULATIONS (MCL 324.32723)**

ALLEGATION 26. Plaintiff incorporates by reference all preceding paragraphs.

Answer: **Defendant Township incorporates by reference its answers to the above allegations as if fully set forth herein.**

ALLEGATION 27. MCL 324.32723 requires a permit for water withdrawals exceeding 2 million gallons per day. Defendant's draining of 24 million gallons per day of surface water and groundwater without a permit violates this provision.

Answer: **The allegations in this paragraph constitute legal conclusions that do not require a response. To the extent a response is required, the Township denies the allegations in this paragraph as untrue. By way of further answer, the Township is not draining 24 million gallons per day and obtained all required permits.**

ALLEGATION 28. Plaintiff is entitled to injunctive relief to halt further unauthorized withdrawals and ensure compliance with EGLE regulations.

Answer: Denied as untrue.

COUNT IV: NEGLIGENCE IN OVERSIGHT OF AUTHORIZED ACTIVITIES

ALLEGATION 29. Plaintiff incorporates by reference all preceding paragraphs.

Answer: Defendant Township incorporates by reference its answers to the above allegations as if fully set forth herein.

ALLEGATION 30. Defendant had a duty to oversee activities authorized under Exhibit B: BYRON TWP AGENT AUTHORIZATION and to ensure compliance with permit limitations set by EGLE, as documented in Exhibits A, C, and D.

Answer: With respect to the referenced exhibits, they are documents that, taken as a whole and properly construed, speak for themselves. As to any remaining allegations beyond the text of the exhibit, the Township denies those allegations as untrue.

ALLEGATION 31. Defendant breached this duty by failing to monitor its agent's activities and review permit restrictions, as evidenced by the unauthorized draining of 264 million gallons or more of surface water and groundwater to a depth of 40 feet, visually shown in Exhibit F (1 of 8 through 8 of 8), causing irreparable harm to Plaintiff, including the loss of well water access (Exhibit E) on Plaintiff's property (Exhibit I), and to the public.

Answer: Denied as untrue.

ALLEGATION 32. Plaintiff is entitled to injunctive relief to compel Defendant to implement proper oversight and prevent further unauthorized activities.

Answer: Denied as untrue.

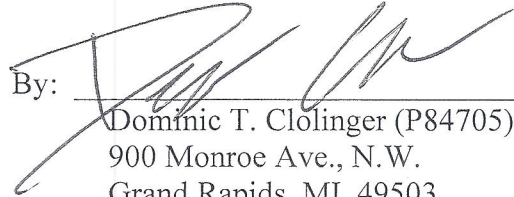
WHEREFORE, Defendant Township requests that this Court enter judgment in its favor and against Plaintiff; that the Complaint be dismissed in its entirety, with prejudice; that Plaintiff

be ordered to reimburse Defendant for its costs and attorney fees necessitated by defending this action; and for other relief that this Court deems appropriate.

Respectfully submitted,

MIKA MEYERS PLC
Attorneys for Defendant

Dated: August 27, 2025

By: 

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

DEFENSES AND AFFIRMATIVE DEFENSES

Defendant Byron Township, by and through its attorneys, Mika Meyers PLC, asserts the following defenses and affirmative defenses:

1. Plaintiff has failed to state a claim upon which relief can be granted.
2. All or part of Plaintiff's claims are barred by immunity, including but not limited to, absolute and/or qualified immunity.
3. Plaintiff lacks standing to bring the claims asserted in the Complaint.
4. Plaintiff is not the real party in interest.
5. MCL 324.30316 does not provide Defendant Brandenburg with a private right of action.
6. Plaintiff fails to state a claim because Defendant Byron Township received permits under MCL 324.30304 and otherwise fully complied with the statute.
7. Plaintiff fails to state a claim because MCL 324.30312 does not require Defendant Byron Township to obtain a mitigation plan.
8. Plaintiff fails to state a claim because Defendant Byron Township received permits and approvals pursuant to MCL 324.32723 and otherwise fully complied with the statute.
9. No act or omission on the part of the Defendant Byron Township caused or contributed to the injuries or damages claimed by Plaintiff.
10. Plaintiff has failed to properly mitigate, prevent, and/or reduce the alleged injuries and/or damages.
11. Plaintiff's claims may be barred, in whole or in part, because Plaintiff has suffered no damages.

12. Plaintiff's claims for injunctive relief may be, in substance, prohibited requests for the Court to order Byron Township to perform a discretionary act in a particular manner. See *Canton Twp v. Wayne County Rd Comm'n*. 141 Mich App 322; 367 NW2d 385 (1985).

13. All or parts of Plaintiff's claims are or may be barred by the doctrine of impossibility in fact.

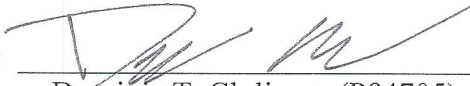
14. Defendant Byron Township reserves the right to add any other special or affirmative defenses which may become known or warranted during the course of subsequent investigation and discovery, including all defenses available under the Michigan Court Rules, upon the completion of discovery and as the Court permits.

Respectfully submitted,

MIKA MEYERS PLC
Attorneys for Defendant

Dated: August 27, 2025

By: _____


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