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

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

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

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

26. Plaintiff incorporates by reference all preceding paragraphs.

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.

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

COUNT IV: NEGLIGENCE IN OVERSIGHT OF AUTHORIZED ACTIVITIES

29. Plaintiff incorporates by reference all preceding paragraphs.

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.

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.

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

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

A. Issue a preliminary and permanent emergency injunction enjoining Defendant, Byron Township, its agents, employees, contractors, and assigns, from further unauthorized draining or alteration of the regulated wetlands and aquifer at issue.

B. Order Defendant to restore the affected wetlands and aquifer to their original condition, as nearly as possible, pursuant to MCL 324.30316(4), including the removal of any unauthorized drainage structures or pumps, as depicted in Exhibit F (1 of 8 through 8 of 8).

C. Order Defendant to submit a wetland and aquifer mitigation plan to EGLE, if applicable, to address unavoidable impacts, pursuant to MCL 324.30312.

D. Order Defendant to comply with MCL 324.32723 by ceasing unpermitted large quantity water withdrawals and obtaining necessary permits from EGLE.

E. Impose civil fines of up to $10,000 per day for each day of violation of MCL 324.30304 (at least 11 days from July 28, 2025, to August 8, 2025, totaling up to $110,000, with additional fines accruing for ongoing violations), as authorized by MCL 324.30316(2).

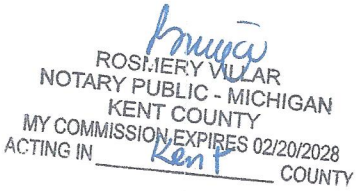
F. Award Plaintiff reasonable costs, including expert witness fees, as authorized by MCL 324.30316(5), if Plaintiff prevails.

G. Grant such other and further relief as the Court deems just and equitable.

Respectfully submitted, this 8th day of August, 2025.

I declare under penalty of perjury that this Complaint has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

/s/ Donna Brandenburg
Donna Brandenburg, Plaintiff, Pro Se
6842 Byron Shores CT
Byron Center, MI 49315
(616) 430-4410
contact@donna4mi.com



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

DONNA BRANDENBURG,
Plaintiff, Pro Se

v.

Case No. 20557 - CK

HON. CHRISTINA MIMS (P-68216)

BYRON TOWNSHIP, an unincorporated municipality in Kent County,

Defendant.
_____/

Rec'd & Filed
AUG 13 2025
KENT COUNTY
CIRCUIT COURT

TEMPORARY RESTRAINING ORDER

8/13/2025

Upon consideration of Plaintiff Donna Brandenburg's Motion for Ex Parte Emergency Injunctive Relief, filed on August 8, 2025, pursuant to MCR 3.310 and MCL 324.30316, the accompanying Verified Statement, and the Complaint for Emergency Injunctive Relief, including Exhibits A through I, the Court finds that:

1. Plaintiff has demonstrated a likelihood of success on the merits, as the Complaint and Exhibits A–I establish that Defendant, Byron Township, is engaging in unauthorized draining of approximately 264 million gallons of surface water and groundwater, down to a depth of 40 feet, at a rate of 1 million gallons per hour (24 million gallons per day), from regulated wetlands near the

Knight's Intercounty Drain, in violation of MCL 324.30304 (unpermitted wetland draining) and MCL 324.32723 (unpermitted large quantity withdrawal). Specifically:

a. Exhibit A: 1260 WETLAND IMPACT SKETCH_20250414 shows no authorization for pumping below 25 feet.

b. Exhibit B: BYRON TWP AGENT AUTHORIZATION demonstrates Defendant's failure to oversee permitted activities.

c. Exhibit C: PERMIT PLANS.PDF, Page 14, and Exhibit D: HQ8-KPWF-SDHQ4_V3.PDF, Page 8, limit pumping to damming and rerouting the Knight's Intercounty Drain.

d. Exhibit F: IMAGES TAKEN OF 40' & 18' PUMPED WELLS (1 of 8 through 8 of 8) visually documents unauthorized pumping equipment.

e. Exhibit G: NATIONAL WETLANDS INVENTORY and Exhibit H: PART 3 FINAL WETLANDS INVENTORY PER MICHIGAN EGLE WETLANDS MAP VIEWER confirm the affected area's regulated wetland status.

2. Plaintiff has shown irreparable harm, as the ongoing draining, continuing as of August 8, 2025, depletes the aquifer and wetlands (Exhibits G, H), rendering Plaintiff's well inoperable (Exhibit E: WELL SURVEY WATER TABLE DROPPED) and causing harm to Plaintiff's upstream property (Exhibit I: PROPERTY OUTLINE), which cannot be adequately remedied by monetary damages.

3. The balance of harms favors Plaintiff, as enjoining the unauthorized draining prevents further environmental and personal harm, while Defendant faces no significant harm from halting unpermitted activities.

4. The public interest is served by protecting regulated wetlands and aquifers, aligning with Michigan's environmental goals under MCL 324.30301.

5. Ex parte relief is warranted, as Plaintiff's Verified Statement demonstrates immediate and irreparable harm before a hearing can be held, supported by efforts to notify Defendant, including presenting concerns before the township board on July 28, 2025, notifying the Kent County Drain Commission on August 4, 2025, attempting to contact the Kent County Road Commission, and contacting the U.S. Army Corps of Engineers and Michigan EGLE on August 8, 2025, without resolution, and further delay risks additional harm. Alternatively, notice is impractical due to the urgent need to stop ongoing groundwater depletion.

IT IS HEREBY ORDERED THAT:

1. Defendant, Byron Township, its agents, employees, contractors, and assigns, is enjoined from further unauthorized draining of surface water and groundwater from regulated wetlands near the Knight's Intercounty Drain, including the operation of any pumping equipment depicted in Exhibit F (1 of 8 through 8 of 8), effective immediately upon issuance of this Order.

2. This Temporary Restraining Order shall remain in effect for 14 days from the date of issuance, unless extended by the Court for good cause, per MCR 3.310(B)(3), or until a hearing on a preliminary injunction is held.

3. A hearing on Plaintiff's request for a preliminary injunction is scheduled for _____[date to be set by the Court, within 14 days], at _____[time], in the 17th Circuit Court, Domingo, 180 Ottawa Ave NW, Grand Rapids, MI 49503, or as otherwise directed by the Court.

4. Plaintiff shall post a bond in an amount to be determined by the Court, if deemed necessary, to cover potential damages to Defendant should this Order be found wrongful, per MCR 3.310(D).

5. Plaintiff shall serve a copy of this Order, the Motion for Ex Parte Emergency Injunctive Relief, the Verified Statement, the Complaint, and Exhibits A–I on Defendant, Byron Township, at 8085 Byron Center Ave SW, Byron Center, MI 49315, via certified mail or personal service, immediately upon issuance, and file a Proof of Service with the Court, per MCR 3.310(B)(3).

This Order is issued on August 13, 2025, at _____[time], in Grand Rapids, Michigan.

SO ORDERED.

_____

Circuit Court Judge

17th Circuit Court, Kent County

August 13, 2025

Appendix B

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
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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 324.30312[1] to create a wetland mitigation plan in certain circumstances, and (iii) an alleged duty under MCL 324.32723[2] 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 that 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 Townships 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. Clolinger (P84705)
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Appendix C

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

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dclolinger@mikameyers.com

/

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

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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.