

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

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