

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

MICHIGAN DEPARTMENT
OF ENVIRONMENTAL QUALITY
Plaintiff,

CASE NO: 06-1298-CE

v

Honorable Joyce Draganchuk

JOHN S. MERCER, MICHELLE R. MERCER,
and DERALD E. MARSH d/b/a MARSH
TRUCKING AND EXCAVATING
Defendants,

Dept. of Attorney General
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JAN 26 2010

NATURAL RESOURCES
DIVISION

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PROPOSED ORDER FOR ENTRY OF JUDGMENT

At a session of said Court held in the Ingham County Circuit
Court, State of Michigan, on the 20th day of Jan., 2010.

PRESENT: HONORABLE JOYCE DRAGANCHUK
Circuit Court Judge

Bench trial was held in this matter January 27, 29, and 30, and June 1 and 2, 2009. The
Court took the matter under advisement to issue written findings of fact and conclusions of law,
which findings and conclusions were issued at a session of the Court on December 29, 2009.

Those written Findings of Fact and Conclusions of Law are the basis of this judgment, and are incorporated herein as though set forth in full.

Pursuant to the Court's December 29, 2009 Findings of Fact and Conclusions of Law, IT IS HEREBY ORDERED AND ADJUDGED:

1. Defendant Michelle R. Mercer's motion for directed verdict is granted, and this action is DISMISSED as to Michelle R. Mercer.

2. Defendant John S. Mercer is ordered to pay to the Michigan Department of Environmental Quality a civil fine in the amount of one hundred fifty-seven thousand, five hundred (\$157,500.00) dollars.

3. Defendant Derald E. Marsh, d/b/a Marsh Trucking and Excavating, is ordered to pay to the Michigan Department of Environmental Quality a civil fine in the amount of thirty-one thousand, five hundred (\$31,500.00) dollars.

4. Defendant John S. Mercer is ordered to apply to the Michigan Department of Environmental Quality for an after-the-fact permit in accord with Part 303 of the Natural Resources and Environmental Protection Act, MCL 324.30301, *et seq* and the administrative rules applying to that Part, for reconstruction of Noah's Place according to Billings Township road standards and allowing for wetlands preservation according to Michigan Department of Environmental Quality standards. Said application is to include engineered plans for such reconstruction.

5. Defendant John S. Mercer is ordered to submit within 120 days of entry of this Judgment plans to the Michigan Department of Environmental Quality for review and approval for the creation of forested wetland to mitigate for impact to 3.52 acres of forested wetland in Section A, and for the restoration of 0.14 acres of forested wetlands in Section B.

6. Defendant John S. Mercer is ordered to comply with all conditions contained in the after-the-fact permit, and the Michigan Department of Environmental Quality shall have such other relief as is necessary to enforce the permit and the mitigation and restoration ordered herein.

JOYCE DRAGANCHUK

Honorable Joyce Draganchuk

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