

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF EATON

MICHIGAN DEPARTMENT OF ENVIRONMENTAL
QUALITY,

Plaintiff,

v

BROOKSIDE CROSSING, LLC, a Michigan
limited liability company,

Defendant.

FINAL ORDER

File No. 16-624-CE

Hon. Janice K. Cunningham

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Background

This case was filed June 8, 2016, by the Michigan Department of Environmental Quality (MDEQ) against Brookside Crossing, L.L.C., alleging numerous violations of Part 31, Water Resources Protection; Part 91, Soil Erosion and Sedimentation

Control; Part 301, Inland Lakes and Streams; and Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.3101 *et seq.*; MCL 324.9101 *et seq.*; MCL 324.30101 *et seq.*; MCL 324.30301 *et seq.*; and the administrative rules promulgated there under.

On July 13, 2017, the Court granted summary disposition in favor of Brookside as to Count V.

On December 1, 5, 8 and 12, 2017, the Court heard the testimony of the following witnesses: (1) Thomas Kolhoff; (2) Justin Smith; (3) Don Cuthbert; and (4) Edwin Martel. During the first part of the trial, 88 total exhibits were admitted consisting of at least 178 pages.

In addition, the Court went on a site visit and walked the property (115 acres) on December 1, 2017.

On January 2, 2018, the Court entered a Judgment Regarding Regulated Wetlands at the Brookside Site following the December 2017 portion of the trial.

The Court also heard and decided four (4) motions for summary disposition. (See order dated February 5, 2018).

On April 2, 2018, the parties stipulated to dismiss Count V.

On May 7, 2018, the second phase of the trial began on the remaining counts: Counts I, II, and III. The Court heard testimony for six days (May 7, 8, 9, 10, 11, and 15, 2018) from three witnesses called by the Plaintiff (Susan Doty, Justin Smith, and Jessica Stiles) and four witnesses called by the Defendant (Don Cuthbert, Jeffrey Stump, Richard Wagner, and Maynard Beery). The Court reviewed 56 total exhibits consisting of at least 186 pages and numerous photographs that were admitted into evidence. The Court also reviewed and considered, where appropriate, the Exhibits previously admitted in December and the testimony of the witness(es) who testified in December.

Order

At a session of said Court held in the Circuit Court
in the City of Charlotte, County of Eaton, and State
of Michigan, on the 7th day of JUNE, 2018.

Present: Janice K. Cunningham, Circuit Judge

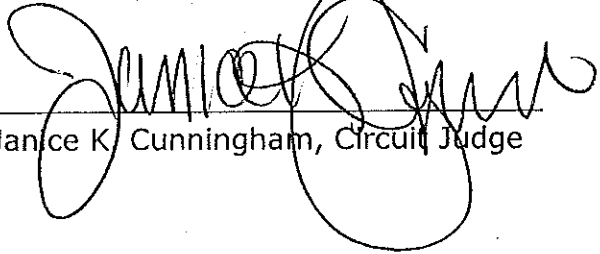
For the reasons stated on the record on June 7, 2018, IT IS HEREBY ORDERED
that a judgment is awarded in favor the Plaintiff, MDEQ, against the Defendant,
Brookside Crossing, LLC, as follows:

| | |
|------------|-----------|
| COUNT I | \$137,500 |
| COUNT II | \$ 12,500 |
| COUNT IIIA | \$ 20,000 |
| COUNT IIIB | \$ 73,500 |

For a total award of **\$243,500.**

IT IS FURTHER ORDERED that the Plaintiff's request for attorney fees is
denied.

IT IS FURTHER ORDERED that this Order is a final order and closes this case.



Janice K. Cunningham, Circuit Judge

COUNTERSIGNED:



Deputy Clerk