

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND
ENERGY,

Plaintiff,

v

BRIAN POWELL,

Defendant.

No. 2026- 3298 -CE

HON. HON. MORGAN E. COLE,

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There is no other pending or resolved civil action arising out the transaction or
occurrence alleged in the complaint.

COMPLAINT

Plaintiff, the Michigan Department of Environment, Great Lakes, and
Energy (EGLE), by and through its attorney, Rebecca M. Smith, Assistant Attorney
General, in support of its Complaint, states:

NATURE OF THE CASE

1. This is a civil action to obtain injunctive relief, civil fines, and surveillance, litigation, and enforcement expenses against Defendant Brian Powell, for violations of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act (NREPA), MCL 324.3101 *et seq.*, and associated rules.

2. Powell's failures to comply with Part 31 by falsifying data and reports required to be submitted to EGLE, and by failing to submit certain required reports at all, threaten to impair the natural resources of the State of Michigan by concealing discharges of pollutants that pose or may pose threats to surface waters and groundwaters of the state, including state waters used by residents for drinking water.

3. EGLE seeks an injunction prohibiting Powell from acting as wastewater operators within the scope of Part 31.

4. In addition to injunctive relief, EGLE also seeks civil fines, attorney fees, and costs.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action under Section 3115(1) of NREPA, MCL 324.3115(1), and Section 605 of the Revised Judicature Act, MCL 600.605.

6. This Court has personal jurisdiction over Powell under Section 701 of the Revised Judicature Act (RJA).

7. Venue in this Court is proper under Section 3115(1) of NREPA and under Section 1631(a) of the Revised Judicature Act. MCL 324.3115(1); MCL 600.1631(a).

PARTIES

8. EGLE is the state agency mandated to protect the natural resources of the state from pollution, impairment, and destruction. MCL 324.301; MCL 324.501; and Executive Orders 1995-16 and 2019-6.

9. EGLE is also the state agency that oversees certification of wastewater operators throughout the state of Michigan. MCL 324.3110(3); Mich Admin Code, R 323.1251 *et seq.*; and Executive Orders 1973-2 and 2019-6.

10. Defendant Brian Powell, an individual, resides at 11082 Blaine Road, Brighton, MI 48114.

11. Powell acted as the certified industrial and municipal wastewater operator for several communities and homeowners associations throughout southern Michigan, including Hickory Hills Village in Battle Creek; Highland Greens Mobile Home Park in Highland; Kris Kay Mobile Home Park in Saginaw; Moonlake Estates in Laingsburg; Prestwick Village Neighborhood in Highland; Sashabaw Meadows LLC in Clarkston; Somerset Centre Estates in Somerset Center; Thornapple Lake Estates in Nashville; and Villas at Copperwood Association in Washington Township.

12. Powell is a “person” within the meaning of MCL 324.301(h).

13. The communities and homeowners associations detailed in Paragraph 12 each designated Powell or his company, Douglas Environmental Services, Inc. (Douglas) as the certified operator in charge of the day-to-day operation of their waste treatment facilities in accordance with MCL 323.1258(1).

STATUTORY AND REGULATORY BACKGROUND

Part 31's Industrial and Municipal Wastewater Operator and Reporting Provisions

14. Michigan enacted Part 31 of the NREPA to protect and conserve the water resources of the state and to prevent and control pollution of surface and underground waters of the state and the Great Lakes. MCL 324.3103.

15. Among other requirements, Part 31 requires industrial and commercial entities “that discharge[] liquid wastes into any surface water or groundwater or underground or on the ground other than through a public sanitary sewer” to have waste treatment and control facilities “under the supervision and control of individuals who are certified by the department as properly qualified to operate the facilities.” MCL 324.3110(1).

16. Section 3110(7) of NREPA and the administrative rules adopted under Part 31 require certified wastewater operators to file regular and accurate reports showing the effectiveness of the treatment or control facility operation and the quantity and quality of discharged liquid wastes. MCL 324.3110(7);¹ Mich Admin Code, R 323.1259.

¹ MCL 324.3110(7) further provides that EGLE can revoke the certificate as an approved treatment facility operator of any individual who knowingly makes a false

17. Section 3115(1) authorizes the Department of Attorney General to commence “a civil action for appropriate relief” against a person who violates Part 31, a promulgated rule under Part 31, or a permit or order issued under Part 31. The appropriate relief the civil action can pursue includes, among other things, “a permanent or temporary injunction” and civil fines of not less than \$2,500 and not more than \$25,000.00 per day of violation.

General Allegations

19. Brian Powell was certified as an industrial wastewater operator in 1991 and a municipal wastewater operator in 2015.

20. Since 2003, Powell owned and operated Douglas Environmental Services, Inc., which, among other things, provided certified wastewater operator services to a variety of clients.

21. Between 2018 and 2023², Powell provided industrial and municipal wastewater operator services to more than a dozen mobile home communities and homeowners associations, including but not limited to:

- a. Hickory Hills Village in Battle Creek, Michigan;
- b. Highland Greens Mobile Home Park in Highland, Michigan;
- c. Kris Kay Mobile Home Park in Saginaw, Michigan;

statement in such a report. Powell’s operator certificate was revoked February 4, 2025, in accordance with this provision.

² While some of the early incidents in 2018 and 2029 would typically be beyond the six-year statute of limitations applicable to claims under NREPA, the parties entered into a series of tolling agreements that tolled the statute of limitations. The most recent of these agreements expires June 30, 2026.

- d. Moonlake Estates in Laingsburg, Michigan;
- e. Prestwick Village Neighborhood in Highland, Michigan;
- f. Sashabaw Meadows LLC in Clarkston, Michigan;
- g. Somerset Centre Estates in Somerset Center, Michigan;
- h. Thornapple Lake Estates in Nashville, Michigan; and
- i. Villas at Copperwood Association in Washington Township, Michigan.

22. Each of the communities listed in Paragraph 21 designated Powell, Douglas, or both Powell and Douglas as its certified operator responsible for day-to-day operation of its waste treatment facilities in accordance with Mich Admin Code, R 323.1258.

23. As part of his duties as a certified wastewater operator, Powell submitted regular discharge monitoring reports to EGLE in accordance with MCL 324.3110(7), Mich Admin Code, R 323.1259, and the clients' wastewater discharge permits.

24. Each time Powell submitted a discharge monitoring report to EGLE, he had to certify that he had examined the data and was familiar with the information submitted; that he believed the submitted information was true, accurate, and complete; and that he was aware of significant penalties for submitting false information.

25. As part of its routine quality control efforts, EGLE staff compared the monitoring reports that submitted by Powell between 2018 and 2021 to laboratory

results for the same time period that had been reported by two laboratories that Powell regularly utilized, Brighton Analytical, LLC, and Water Tech, LLC. This comparison suggested Powell was falsifying monitoring reports, as his reports reported different data than those reported by the laboratories that analyzed the samples.

26. In August 2023, EGLE obtained warrants to obtain all original laboratory reports generated by Brighton Analytical, LLC, and Water Tech, LLC that had been prepared for Powell between January 2018 and August 2023.

27. EGLE then compared the original laboratory reports from Brighton Analytical, LLC, and Water Tech, LLC, to the reported data that Powell submitted to EGLE in his regular monitoring reports. In this process, EGLE identified *over 8,500* instances where Powell's reported data did not match the original laboratory results Powell received from Brighton Analytical, LLC and Water Tech, LLC.

28. In addition, EGLE audited the reports submitted by Powell and found more than 100 incidents where he either failed to submit timely monitoring reports or failed to submit reports at all.

29. The falsified data that Powell submitted to EGLE included and resulted in the following:

- a. Hickory Hills Village in Battle Creek, Michigan:
 - i. There were 1,359 incidents of falsely reported data in effluent monitoring and well monitoring between August 2018 and November 2020, specifically false reporting of

pollutants and water quality indicators, including phosphorus, chloride, ammonia, total inorganic nitrogen (TIN), sodium, nitrate, pH, biochemical oxygen demand (BOD), dissolved oxygen (DO), static water elevation, and specific conductance. (Ex A, VN-016112, Attachment, Tables 1-5.)

- ii. The falsely reported data concealed Hickory Hills Village's noncompliance with effluent limits in its wastewater discharge permit for total phosphorus, TIN, and sodium. (*Id.* at Tables 1-3.)
- iii. It is probable that there were wastewater discharge permit violations for additional pollutants, as EGLE's investigation showed Powell did not have *any* laboratory data to support many of his reported results, including many of his regular reports concerning ammonia, BOD, chloride, nitrate, nitrite, total phosphorus, sodium, TIN, pH, DO, specific conductance, and static water elevation. (*Id.* at Tables 4-5.)

- b. Highland Greens Mobile Home Park in Highland, Michigan:
 - i. There were 2,074 incidents of falsely reported data in effluent monitoring and well monitoring between February 2019 and April 2021, specifically false reporting

of pollutants and water quality indicators, including phosphorus, chloride, ammonia, TIN, sodium, nitrate, magnesium, iron, pH, BOD, DO, static water elevation, and specific conductance. (*Id.* at Tables 10-15.)

- ii. The falsely reported data concealed Highland Greens' noncompliance with effluent limits in its wastewater discharge permit for total phosphorus and TIN. (*Id.* at Tables 10, 12.)
- iii. It is probable that there were wastewater discharge permit violations for additional pollutants, as EGLE's investigation showed Powell did not have *any* laboratory data to support many of his reported results, including many of his regular reports concerning ammonia, BOD, chloride, nitrate, nitrite, total phosphorus, sodium, TIN, pH, DO, specific conductance, and static water elevation. (*Id.* at Tables 11, 13, 15.)
- iv. There were also 11 instances where Powell inaccurately used nonnumeric codes in his monitoring well reporting between January 2020 and February 2022, which obscured data about water quality. (*Id.* at Table 16.)
- v. There were a further 36 instances where Powell inaccurately reported no discharge in monitoring well

reports between August 2021 and August 2022, when in fact there had been a discharge. (*Id.* at Table 17.)³

- vi. Additionally, there were 55 instances where Powell failed to report required monitoring data about chloride, sodium, and total phosphorous levels between October 2019 and August 2023. (*Id.* at Table 18.)
 - vii. Monitoring data that went unreported by Powell also concealed additional noncompliance with Highland Greens' wastewater discharge permit effluent limits for phosphorus. (*Id.* at Table 18.)
 - viii. There were also six instances of late data submittals and 10 instances of failure to submit required samples between October 2019 and August 2023. (*Id.* at Tables 19-21.)
- c. Kris Kay Mobile Home Park in Saginaw, Michigan;
- i. There were 83 incidents of falsely reported data in effluent monitoring between May 2020 and December 2020, specifically false reporting of pollutants and water quality indicators, including phosphorus, fecal coliform, ammonia, pH, BOD, and DO. (*Id.* at Tables 22-23.)

³ Accurate reporting is required even in the absence of a discharge. MCL 324.3110(7); Mich Admin Code, R 323.1259; MCL 324.3115(2).

- ii. It is probable that there were wastewater discharge permit violations for additional pollutants, as EGLE's investigation showed Powell did not have *any* laboratory data to support many of his reported results, including many of his regular reports concerning total suspended solids, BOD, ammonia, total phosphorus, fecal coliform, pH, and DO. (*Id.* at Table 23.)
 - iii. There were also seven instances of late data submittals between October 2018 and December 2023. (*Id.* at Tables 24-26.)
- d. Moonlake Estates in Laingsburg, Michigan:
- i. There were 472 incidents of falsely reported data in effluent monitoring between February 2021 and June 2023, specifically false reporting of pollutants and water quality indicators, including phosphorus, chloride, ammonia, TIN, sodium, nitrate, nitrite, and pH. (*Id.* at Tables 27-28.)
 - ii. The falsely reported data concealed Moonlake Estates' noncompliance with effluent limits in its wastewater discharge permit for pollutants, including total phosphorus and TIN. (*Id.* at Table 27.)

- iii. It is probable that there were wastewater discharge permit violations for additional pollutants, as EGLE's investigation showed Powell did not have *any* laboratory data to support many of his reported results, including many of his regular reports concerning ammonia, chloride, nitrate, nitrite, pH, total phosphorus, sodium, and TIN. (*Id.* at Table 28.)
- iv. There were also seven instances of failure to submit required data reports between September 2018 and December 2023. (*Id.* at Table 29.)
- e. Prestwick Village Neighborhood in Highland, Michigan:
 - i. There were 544 incidents of falsely reported data in effluent monitoring between February 2021 and June 2023, specifically false reporting of pollutants and water quality indicators, including phosphorus, chloride, ammonia, TIN, sodium, nitrate, nitrite, total suspended solids, pH, and BOD. (*Id.* at Tables 30-32.)
 - ii. It is probable that there were wastewater discharge permit violations, as EGLE's investigation showed Powell did not have *any* laboratory data to support many of his reported results, including many of his regular reports concerning ammonia, BOD, chloride, nitrate, nitrite, pH,

phosphorus, sodium, total suspended solids, and TIN. (*Id.* at Tables 31-32.)

iii. There was also one instance of late data submittal and 11 instances of failure to submit required reports and submittals between May 2020 and November 2023. (*Id.* at Tables 33-36.)

f. Sashabaw Meadows LLC in Clarkston, Michigan:

i. There were 253 incidents of falsely reported data in effluent monitoring and well monitoring between February 2023 and June 2023, specifically false reporting of pollutants and water quality indicators, including phosphorus, chloride, ammonia, TIN, sodium, nitrate, nitrite, pH, BOD, DO, static water elevation, and specific conductance. (*Id.* at Tables 37-39.)

ii. The falsely reported data concealed Sashabaw Meadows' noncompliance with effluent limits in its wastewater discharge permit for pollutants, including TIN. (*Id.* at Table 37.)

iii. It is probable that there were wastewater discharge permit violations for additional pollutants, as EGLE's investigation showed Powell did not have *any* laboratory data to support many of his reported results, including

many of his regular reports concerning ammonia, BOD, chloride, nitrate, nitrite, pH, total phosphorous, sodium, DO, TIN, static water elevation, and specific conductance. (*Id.* at Tables 38-39.)

- g. Somerset Centre Estates in Somerset Center, Michigan;:
 - i. There were 1,398 incidents of falsely reported data in effluent monitoring and well monitoring between January 2020 and April 2022, specifically false reporting of pollutants and water quality indicators, including phosphorus, chloride, ammonia, TIN, sodium, nitrate, nitrite, pH, BOD, arsenic, iron, manganese, DO, bicarbonate, static water elevation, specific conductance, calcium, magnesium, and potassium. (*Id.* at Tables 40-43.)
 - ii. The falsely reported data concealed Somerset Centre Estates' noncompliance with effluent limits in its wastewater discharge permit for pollutants, including total phosphorus and ammonia. (*Id.* at Table 40.)
 - iii. It is probable that there were wastewater discharge permit violations for additional pollutants, as EGLE's investigation showed Powell did not have *any* laboratory data to support many of his reported results, including

many of his regular reports concerning ammonia, BOD, chloride, nitrate, nitrite, total phosphorus, sodium, TIN, pH, DO, specific conductance, static water elevation, bicarbonate, calcium, magnesium, potassium, iron, and, perhaps most concerning, arsenic, which is highly toxic to humans. (*Id.* at Tables 42-43.)

- iv. There were a further 14 instances where Powell inaccurately used non-numeric codes in his monitoring well reporting between January 2020 and February 2022, which obscured data about water quality. (*Id.* at Table 45.)
- v. There were also 29 instances of failure to submit required reports between May 2018 and November 2019. (*Id.* at Tables 44, 46-47.)

h. Thornapple Lake Estates in Nashville, Michigan:

- i. There were 1,752 incidents of falsely reported data in effluent monitoring and well monitoring between January 2020 and May 2023, specifically false reporting of pollutants and water quality indicators, including phosphorus, chloride, ammonia, TIN, sodium, nitrate, nitrite, specific conductance, pH, BOD, DO, static water

- elevation, calcium, iron, magnesium, manganese, potassium, bicarbonate, and sulfate. (*Id.* at Tables 48-51.)
- ii. The falsely reported data concealed Thornapple Lake Estates' noncompliance with effluent limits in its wastewater discharge permit for total phosphorus. (*Id.* at Table 48.)
 - iii. It is probable that there were wastewater discharge permit violations for additional pollutants, as EGLE's investigation showed Powell did not have *any* laboratory data to support many of his reported results, including many of his regular reports concerning ammonia, BOD, chloride, nitrate, nitrite, total phosphorus, sodium, TIN, pH, DO, specific conductance, and static water elevation. (*Id.* at Tables 50-51.)
 - iv. There were also 13 instances of late data submittals and 23 instances of failure to submit required reports between May 2018 and December 2023. (*Id.* at Table 52.)
 - i. Villas at Copperwood Association in Washington Township, Michigan:
 - i. There were 382 incidents of falsely reported data in effluent monitoring between May 2018 and January 2020, specifically false reporting of pollutants and water quality

indicators, including phosphorus, chloride, ammonia, TIN, sodium, total suspended solids, BOD, nitrate, nitrite, and pH. (*Id.* at Tables 53-55.)

- ii. It is probable that there were wastewater discharge permit violations for pollutants, as EGLE's investigation showed Powell did not have *any* laboratory data to support many of his reported results, including many of his regular reports concerning ammonia, BOD, chloride, nitrate, nitrite, total phosphorus, sodium, total suspended solids, TIN, and pH. (*Id.* at Tables 54-55.)
- iii. There were also six instances of late data submittals between June 2018 and November 2018. (*Id.* at Table 56.)

30. On June 20, 2024, EGLE issued a violation notice (VN) describing the violations of Part 31 detailed in Paragraph 29 of this Complaint. (*Id.*)

31. Powell was offered an opportunity to meet with EGLE staff in a written violation notice in accordance with MCL 324.1511 (Exhibit A, p 3). EGLE's undersigned attorney discussed possible settlement with Powell's attorney in 2025 and 2026, but no resolution was reached.

COUNT I

Part 31 Violations — Falsification of Data

32. The previous allegations are hereby incorporated by reference and realleged.

33. Part 31 requires certified wastewater operators to file regular reports with EGLE to accurately document the effectiveness of treatment or control facility operation and the quantity and quality of discharged liquid wastes. MCL 324.3110(7); Mich Admin Code, R 323.1259.

34. Comparisons of Powell's submitted monitoring reports with underlying laboratory data from Brighton Analytical, LLC, and Water Tech, LLC, reveals that Powell falsely reported pollutant levels and water quality indicators to EGLE in his required reports on *thousands* of occasions, as described above in this Complaint. (See also, Ex A, VN-016112, Attachment, Tables 1-5, 10-15, 17, 22-23, 27-28, 30-32, 37-39, 40-43, 48-51, 53-55.)

35. Powell's falsified data concealed the water quality and levels of pollutants in his clients' discharged wastewater, resulting in discharges that released pollutants into the environment and violated provisions of his clients' wastewater discharge permits. (*Id.* at Tables 1-3, 10, 12, 22, 27, 37, 40, 48.)

36. Powell's falsified data is likely to have concealed additional pollutant discharges, as many of his reports appear to be based on no sampling or laboratory data at all, meaning the actual pollutants in his clients' discharges remain unknown. (*Id.* at Tables 4-5, 11, 13, 15, 23, 28, 31-32, 38, 39, 42-43, 50-51, 54-55.)

37. Powell's falsified data also obscured measurable pollutants when he used non-numeric codes in lieu of numerical data. (*Id.* at Tables 16, 45.)

38. Powell's falsified data reporting further misrepresented discharges that had occurred by falsely reporting that they had not happened or stating that

they had not happened without the required sampling data to support such a conclusion. (*Id.* at Table 17.)

39. Under Part 31, Powell is subject to a civil fine of not less than \$2,500 and not more than \$25,000 per day of violation. MCL 324.3115(1).

40. Under Part 31, this Court may award injunctive relief, including a prohibition on Powell acting as a wastewater operator, and may award reasonable attorney fees and costs, including surveillance and enforcement expenses. *Id.*

COUNT II

Part 31 Violations — Failure to Timely Submit Required Reports

41. The previous allegations are hereby incorporated by reference and realleged.

42. Part 31 requires certified wastewater operators to file regular reports with EGLE to document the effectiveness of the treatment or control facility operation and the quantity and quality of discharged liquid wastes. MCL 324.3110(7); Mich Admin Code, R 323.1259.

43. Powell failed to timely file more than 100 such reports. (Ex A, VN-016112, Attachment, Tables 18-21, 24-26, 29, 33-36, 44, 46-47, 52, 56.)

44. Under Part 31, Powell is subject to a civil fine of not less than \$2,500 and not more than \$25,000 per day of violation. MCL 324.3115(1).

45. Under Part 31, this Court may award injunctive relief, including a prohibition on Powell acting as a wastewater operator, and may award reasonable attorney fees and costs, including surveillance and enforcement expenses. *Id.*

DEMAND FOR JUDGMENT

Plaintiff EGLE respectfully requests that this Honorable Court grant the following relief:

- A. Find that Defendant Brian Powell violated Part 31 of the NREPA;
 - B. Permanently enjoin Powell from violating the NREPA;
 - C. Permanently enjoin Powell from acting as a waste systems operator;
 - D. Order Powell to pay a civil fine of not less than \$2,500 and not more than \$25,000 per day of violation of Part 31 of the NREPA;
 - E. Order Powell to pay the costs of surveillance and enforcement incurred by EGLE because of his violations of Part 31 and its associated rules;
 - F. Order Powell to pay reasonable attorney fees and costs of litigation;
- and
- G. Grant such other relief as this Court deems just and proper.

Respectfully submitted,

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