

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

MICHIGAN DEPARTMENT OF
ENVIRONMENTAL QUALITY,

Plaintiff,

No. 12-1348-CE

v

HON. CLINTON CANADY III

JACK O. MORLEY,

Defendant.

Daniel P. Bock (P71246)
Assistant Attorney General
Attorney for Plaintiff
Environment, Natural Resources,
and Agriculture Division
P.O. Box 30755
Lansing, MI 48909
(517) 373-7540

Frederick C. Overdier (P40684)
Braun Kendrick Finkbeiner P.L.C.
Attorney for Defendant
4301 Fashion Square Boulevard
Saginaw, MI 48603
(989) 498-2256 x 105

FINAL JUDGMENT

At a session of said Court held in the Circuit Court in the
City of Lansing, County of Ingham, and State of
Michigan, on May 28, 2014:

Present: HONORABLE CLINTON CANADY III

This matter, having come before the Court on the Complaint filed by the Plaintiff, Michigan Department of Environmental Quality; and the Court, having held a bench trial on March 17, 18, and 20, 2014 and a remedy hearing on April 30, 2014; and the Court, being otherwise fully advised in the premises, finds that:

The Defendant, Jack O. Morley, violated Part 303, Wetlands Protection, of the Michigan Natural Resources and Environmental Protection Act, MCL 324.30301 *et seq.*, in the following ways:

- a. Placing fill material in a regulated wetland, both in the form of placing 4.1 acres of non-native fill material, as well as the sidecasting of spoils from the widening and deepening of drains, in violation of MCL 324.30304(a);
- b. Dredging or removing soil from a regulated wetland, in the form of mechanical land clearing, removal of 4.1 acres of native topsoil and sand, and the widening and deepening of drains, in violation of MCL 324.30304(b); and
- c. Draining surface water from a regulated wetland, both in the form of the placement of one or more drainage tiles and by widening and deepening drains, in violation of MCL 324.30304(d).

- d. Maintaining a use in a regulated wetland, both in the form of the placement of 4.1 acres of non-native fill material to use as the location of residential houses, and also in the form of a farm which Mr. Morley constructed subsequent to his violations of Part 303.

The Court finds that these violations were not exempt under the provisions of MCL 324.30305 because the violations were committed for the purpose of building a housing development on the property, and not for agriculture. Mr. Morley did not begin farming the property until after the violations had been committed and the Department of Environmental Quality had notified him that he had violated Part 303.

Based on these findings, IT IS HEREBY ORDERED that the Mr. Morley shall:

1. Be enjoined from all violations of Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, MCL 324.30301 *et seq.*, including agricultural operations.
2. Remove the approximately 4.1 acres of fill material delineated on the wetland determination map provided by the Department of Environmental Quality, which was admitted as Plaintiff's Exhibit 35 at the trial in this matter, and restore the wetland conditions on these approximately 4.1 acres to the state that existed prior to the unauthorized and unlawful placement of fill material.

3. Remove any and all drain tiles or pipes from the areas of the property which are designated as wetland in the wetland determination map which was admitted as Plaintiff's Exhibit 35 in the trial in this matter.

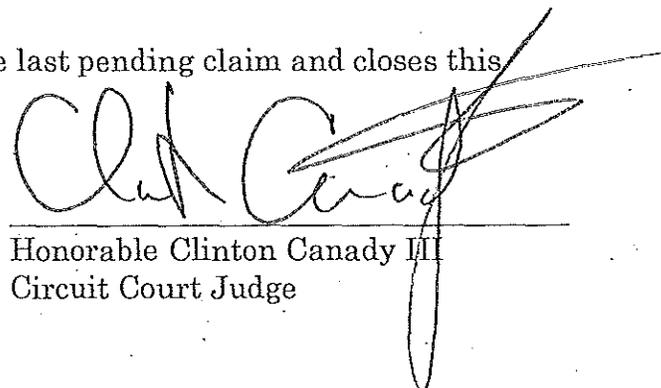
4. Retain the services of an environmental consultant, who shall prepare a plan of restoration and ensure that the restoration work is done properly. A plan shall be submitted to the DEQ for approval within 90 days of entry of this Judgment. The plan shall describe in detail the work that Mr. Morley proposes to perform to comply with the restoration set forth in this Final Judgment.

5. Pay to the DEQ a civil fine in the amount of \$30,000.00.

IT IS FURTHER ORDERED that this Judgment is binding on the Defendant and any successors in interest to the property. The DEQ, at its own expense, may record this Judgment with the Bay County Register of Deeds.

IT IS FURTHER ORDERED that this Court shall retain continuing jurisdiction to address any issues that might arise during the completion of the restoration activities and to ensure that the restoration activities are completed in a timely and satisfactory manner.

This is a final order which resolves the last pending claim and closes this case.



Honorable Clinton Canady III
Circuit Court Judge