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

JOHN DARISH, JOAN DARISH, GAIL NICKLOWITZ, MICHAEL NICKLOWITZ, GRACE KIM, and EUGENE KIM,

Plaintiffs,

vs.

WSG PROPERTIES, LLC, AMC-WSG, LLC, and AMC-MID MICHIGAN MATERIALS LLC,

Defendants.

Case No. 25-002153-CE

Hon. Tracy Van den Bergh

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DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFFS' AMENDED COMPLAINT

Defendants WSG Properties LLC, AMC-WSG, LLC, and AMC-Mid Michigan Materials, LLC ("Defendants") answer the Amended Complaint of Plaintiffs John Darish, Joan Darish, Gail Nicklowitz, Michael Nicklowitz, Grace Kim, and Eugene Kim (collectively, "Plaintiffs") as follows:

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PARTIES[1]

1. Plaintiffs John and Joan Darish are resident property owners at 4715 Ridge Creek Lane, Ann Arbor Charter Township.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

2. Plaintiffs John and Joan Darish's residential property is adjacent to the east side of Defendants' mine. (Exhibit 1 illustrates the locations of the Plaintiffs' properties relative to Defendants' mine.)

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

3. Plaintiffs John and Joan Darish have a residential drinking water well on their property, Well ID 81000024062.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

4. Plaintiffs John and Joan Darish use their residential drinking water well to supply all their household natural uses.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

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[1] Defendants' use of Plaintiffs' headings, images, tables, footnotes, and terms is for convenience and clarity only. To the extent that such headings, images, tables, footnotes, and terms are deemed to constitute express or implied allegations, Defendants deny those allegations as untrue.

5. Plaintiffs John and Joan Darish's residential property includes wetlands, an unnamed stream, and a portion of Massey Lake shoreline and bottomlands.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

6. Plaintiff John Darish uses his residential property, including the stream and Massey Lake shoreline and bottomlands, for recreation, fishing, and canoeing.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

7. Plaintiffs Gail and Michael Nicklowitz are residents at Nicklowitz Family Trust-owned property at 4460 Earhart Road, Ann Arbor Charter Township.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

8. Plaintiffs Gail and Michael Nicklowitz's residential property is adjacent to the south side of Defendants' mine.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

9. Plaintiffs Gail and Michael Nicklowitz have a residential drinking water well on their property, Well ID 81000004744.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

10. Plaintiffs Gail and Michael Nicklowitz use their residential drinking water well to supply all their household natural uses.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

11. Plaintiffs Gail and Michael Nicklowitz use their residential property for a horse stable and trotting grounds, deer hunting, and other outdoor recreation.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

12. Plaintiffs Grace and Eugene Kim are resident property owners at 4823 Ridge Creek Lane, Ann Arbor Charter Township.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

13. Plaintiffs Grace and Eugene Kim's residential property is east of Defendants' mine, adjacent to and east of Plaintiffs John and Joan Darish.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

14. Plaintiffs Grace and Eugene Kim have a residential drinking water well on their property, Well ID 81000023187.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

15. Plaintiffs Grace and Eugene Kim use their residential drinking water well to supply all their household natural uses.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

16. Plaintiffs Grace and Eugene Kim's residential property includes a portion of Massey Lake shoreline and bottomlands.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

17. Plaintiff Eugene Kim uses his residential property, including the Massey Lake shoreline and bottomlands, for recreation, fishing, and canoeing.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

18. Defendant WSG Properties, LLC ("WSG Properties") is the real property owner of the Defendants' mine at 4984 Earhart Road, Ann Arbor Charter Township, Parcel ID I09-01-200-002.

ANSWER: Defendants admit only that WSG Properties LLC owns the real property commonly known as 4984 Earhart Road, Parcel ID I-09-01-200-002. Defendants deny the remaining allegations.

19. Defendant WSG Properties, LLC's recorded tax address for the Ann Arbor Charter Township property is 6966 Fisher Road, Jeddo, Michigan.

ANSWER: Admitted.

20. Defendant WSG Properties, LLC has owned the mine property since 2020.

ANSWER: Admitted.

21. Defendant AMC-WSG, LLC is the lessee of Defendant WSG Properties, LLC's mine property.

ANSWER: Admitted.

22. On September 1, 2020, AMC-WSG, LLC and WSG Properties, LLC entered into a lease agreement for "operation of a mining [sic], marketing and selling sand, stone, gravel and other aggregates, and related activities."

ANSWER: Defendants admit only that AMC-WSG, LLC and WSG Properties LLC entered into a lease agreement dated September 1, 2020, which speaks for itself. To the extent that this paragraph misquotes or mischaracterizes that document, Defendants deny the allegations.

23. The September 1, 2020, lease agreement provides the same address and contacts for both lessee Defendant WSG Properties, LLC and lessor Defendant AMC-WSG, LLC as "1957 Crooks, Suite 100, P.O. Box 7058, Troy, Michigan 48084, Attn: Jim Friel; James Jacob."

ANSWER: Defendants admit only that this paragraph references the September 1, 2020, lease agreement, which speaks for itself. To the extent that this paragraph misquotes or mischaracterizes that document, Defendants deny the allegations.

24. Defendant AMC-WSG, LLC has held itself out as a permit applicant and property owner of the mine to EGLE for permitting and compliance since at least 2023.

ANSWER: Admitted.

25. Defendant AMC-WSG, LLC has provided a contact address of 4984 Earhart Road, Ann Arbor Charter Township, in its EGLE filings.

ANSWER: Denied as untrue. In AMC-WSG, LLC's EGLE filings, 4984 Earhart Road identifies the facility location, not AMC-WSG, LLC's contact address.

26. Defendant AMC-Mid-Michigan Materials LLC has held itself out as the mine operator to EGLE for permitting and compliance since at least 2023.

ANSWER: Defendants admit only that AMC-Mid Michigan Materials, LLC does business as "Mid Michigan Materials" and that EGLE submissions since at least 2023 have identified Mid Michigan Materials as the mine operator. Defendants deny the remaining allegations.

27. Defendant AMC-Mid-Michigan Materials LLC has provided a contact address of 4984 Earhart Road, Ann Arbor Charter Township, in its EGLE filings.

ANSWER: Denied as untrue. Defendants incorporate their answers to Paragraphs 25 and 26.

JURISDICTION AND VENUE

28. This Court has jurisdiction to hear the claims in this Complaint and grant the relief requested under authorities including, but not limited to MCL 324.1701, et seq. (Actions for declaratory and equitable relief for environmental protection;); MCL 600.601 (Circuit court jurisdiction and power); MCL 600.605 (Circuit court original jurisdiction); MCR 2.605 (Declaratory judgments); and MCR 3.310 (Injunctions).

ANSWER: This paragraph states legal conclusions to which no response is required. To the extent that a response is required, Defendants do not contest that this Court has subject matter jurisdiction over this action but deny that Plaintiffs are entitled to the relief requested.

29. Venue is proper in this Court under MCL 600.1621(a) and 600.1627 because Washtenaw County is the county in which Defendants' conduct their mining operation and all related business relevant to this dispute and Plaintiffs' causes of action.

ANSWER: This paragraph states legal conclusions to which no response is required. To the extent that a response is required, Defendants do not contest venue in this Court and deny the remaining allegations in this paragraph.

GENERAL ALLEGATIONS

30. Defendants have owned and/or operated a gravel mine located at 4984 Earhart Road, Ann Arbor Charter Township since 2020.

ANSWER: Defendants admit only that WSG Properties LLC has owned the property at 4984 Earhart Road since 2020, that AMC-WSG, LLC has leased the property since September 1, 2020, and that AMC-Mid Michigan Materials, LLC has operated a sand and gravel mine on the property since 2020. Defendants deny the remaining allegations.

31. Defendants began pumping groundwater and discharging the water offsite in April 2022.

ANSWER: Defendants admit only that beginning in April 2022, groundwater was pumped from the mine and discharged offsite as authorized by the Certificate of Coverage issued by EGLE on April 5, 2022, under NPDES Mining Wastewater General Permit No. MIG490000. Defendants deny the remaining allegations.

32. Defendants' pump capacity was over 2 million gallons per day when pumping began in April 2022.

ANSWER: Admitted except that Defendants deny any implication that actual pumping met or exceeded capacity every day and state further that mining at the site generally does not occur during the winter months. Defendants state further that EGLE's Groundwater Basis

for Decision Memo dated December 16, 2021, provided a maximum pumping limit of 8,352,000 gallons per day.

33. On September 14, 2023, the Michigan Department of Environment, Great Lakes, and Energy ("EGLE") issued Violation Notice No. VN-014898 to Defendants for violations of the following provisions of the Michigan Natural Resources and Environmental Protection Act: Part 31, Water Resources Protection; Part 91, Soil Erosion and Sedimentation Control; Part 301, Inland Lakes and Streams; Part 303, Wetlands Protection; and Part 327, Great Lakes Preservation.

ANSWER: Defendants admit only that EGLE issued Violation Notice No. VN-014898 on September 14, 2023, which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

34. The EGLE Violation Notice stated: "Mining of the Southern Lake: A review of aerial imagery has identified that a waterbody with an approximate area of 2.66 acres was present in the southwest of the site in 2020 when the site was purchased by MMM. This waterbody was expanded through mining operations by MMM in 2021 and 2022 and resulted in creation of approximately five (5) acres of surface water, which is considered a lake under Part 301, Inland Lakes and Streams, of the NREPA [MCL 324.30101 et. seq.]. Aerial imagery from 2021 and 2022 shows the presence of this approximate five (5) acre lake until pumping operations began in 2022. The subsequent pumping operation has now drawn down the surface water and drained the lake. The creation, enlargement or diminishment of a lake requires a permit under Part 301. No permits have been applied for nor issued for this activity and is therefore in violation of Part 301."

ANSWER: Defendants admit only that Violation Notice No. VN-014898 contains the quoted language, which speaks for itself. Defendants deny Plaintiffs' characterization of that language and the remaining allegations. Defendants further state that the area of surface

water referred to was not a regulated inland lake while its surface area was less than 5 acres. MCL 324.30101(i).

35. The EGLE Violation Notice also required Defendants to reduce their pump capacity or obtain a permit for their capacity pump pursuant to MCL 324.32701 et. seq. (Great Lakes Preservation).

ANSWER: Defendants admit only that this paragraph references Violation Notice No. VN-014898, which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

36. The EGLE Violation Notice further stated that EGLE staff observed that Defendants' discharge polluted Massey Lake, Flemming Creek, wetlands, and an unnamed tributary stream.

ANSWER: Defendants admit only that this paragraph references Violation Notice No. VN-014898, which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

37. The EGLE Violation Notice stated that the violations were "continuing."

ANSWER: Defendants admit only that Violation Notice No. VN-014898 contains the quoted language, which speaks for itself. Defendants deny Plaintiffs' characterization of that language and the remaining allegations.

38. On September 28, 2023, Ann Arbor Charter Township filed a lawsuit in this Court against the Defendants. See Washtenaw County Circuit Court Case No. 23-001234-CE, Ann Arbor Charter Township Verified Complaint.

ANSWER: Admitted.

39. Ann Arbor Charter Township's complaint alleged that Defendants' pumping of groundwater was harming residential wells.

ANSWER: Defendants admit only that this paragraph references Ann Arbor Charter Township's complaint in Case No. 23-001234-CE, which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

40. Ann Arbor Charter Township's complaint alleged that "the wells at the following properties have been adversely impacted by Defendants' operations…" with a listing that included the residences of Plaintiffs John and Joan Darish and Gail and Michael Nicklowitz.

ANSWER: Defendants admit only that Ann Arbor Charter Township's complaint in Case No. 23-001234-CE contains the quoted language, which speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation that the properties listed include the residences of Plaintiffs John and Joan Darish and Gail and Michael Nicklowitz. Defendants deny the remaining allegations.

41. Ann Arbor Charter Township's complaint alleged that Defendants' mining operations were in violation of the Ann Arbor Charter Township's Conditional Use Permit.

ANSWER: Defendants admit only that this paragraph references Ann Arbor Charter Township's complaint in Case No. 23-001234-CE, which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

42. On September 29, 2023, Ann Arbor Charter Township moved this Court for a preliminary injunction. See Case No. 23-001234-CE, Ann Arbor Charter Township's Ex Parte Motion for Temporary Restraining Order and Preliminary Injunction.

ANSWER: Defendants admit only that this paragraph references Ann Arbor Charter Township's Ex Parte Motion for Temporary Restraining Order and Preliminary Injunction in Case No. 23-001234-CE, which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

43. On October 10, 2023, this Court issued a preliminary injunction order against Defendants halting their mining operation. See Case No. 23-001234-CE, Order Granting Preliminary Injunction.

ANSWER: Defendants admit only that this paragraph references the court's October 10, 2023, Order Granting Preliminary Injunction in Case No. 23-001234-CE, which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

44. This Court's October 20, 2023, Stipulated Clarification to Order Granting Preliminary Injunction included an "Exhibit A" with Defendants' own illustration of their "Vella

Pit Operations" in 2023. This illustration of the Defendants' mining site and operation in 2023 is reproduced below and attached as Exhibit 2.



ANSWER: Defendants admit only that this paragraph references the court's October 20, 2023, Stipulated Clarification to Order Granting Preliminary Injunction and its Exhibit A in Case No. 23-001234-CE, which speak for themselves. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of those documents.

45. On October 20, 2023, this Court issued a stipulated clarification to its preliminary injunction to order that: "Defendants are prohibited from discharging process waste water or groundwater from the NPDES discharge pipe, as indicated on Exhibit A hereto, or otherwise causing a net loss of groundwater from the site." See Case No. 23-001234-CE, Stipulated Clarification to Order Granting Preliminary Injunction.

ANSWER: Defendants admit only that the court's October 20, 2023, Stipulated Clarification to Order Granting Preliminary Injunction in Case No. 23-001234-CE contains the quoted

language, which speaks for itself. Defendants deny Plaintiffs' characterization of that language and the remaining allegations.

46. On July 3, 2024, this Court issued a Stipulated Order allowing a limited "Dredging Trial Period." See Case No. 23-001234-CE, Stipulated Order Regarding Temporary Dredging Operations.

ANSWER: Defendants admit only that this paragraph references the July 3, 2024, Stipulated Order Regarding Temporary Dredging Operations in Case No. 23-001234-CE, which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

47. On September 30, 2024, this Court issued a Stipulated Order extending the limited "Dredging Trial Period" to October 15, 2024. See Case No. 23-001234-CE, Stipulated Order Extending Dates of Temporary Dredging Operations.

ANSWER: Defendants admit only that this paragraph references the September 30, 2024, Stipulated Order Extending Dates of Temporary Dredging Operations in Case No. 23-001234-CE, which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

48. This Court has not issued any orders allowing any other extension or permission of a limited "Dredging Trial Period" beyond October 15, 2024.

ANSWER: Defendants admit only that the court has not entered an order in Case No. 23-001234-CE extending the Dredging Trial Period beyond October 15, 2024. Defendants deny any implication that their operations since then have lacked authorization, and state that the Order Extending Administrative Stay dated August 13, 2026, permits Defendants to engage in mining activities in accordance with the Conditional Use Permit and the Injunction Order.

49. The Ann Arbor Charter Township's case before this Court is still ongoing. See Case No. 23-001234-CE, Stipulated Order Extending Administrative Stay.

ANSWER: Admitted.

50. After the EGLE Violation Notice and this Court's prior preliminary injunction orders issued in 2023, Defendants changed their operation to create and enlarge a lake and mine its bottomlands instead of mining dry land.

ANSWER: Defendants admit only that they complied with the court's orders in Case No. 23-001234-CE. Defendants deny the remaining allegations.

51. Defendants created and enlarged the lake from nothing to approximately 2 acres in 2023.

ANSWER: Defendants admit only that the surface water in Pond 3 increased after Defendants ceased groundwater pumping in October 2023 to comply with the court's orders in Case No. 23-001234-CE. Defendants deny the remaining allegations. Defendants further state that a pond with a surface area of less than 5 acres is not a regulated inland lake under Part 301. MCL 324.30101(i).

52. Defendants further enlarged the lake to approximately 15 acres in 2025.

ANSWER: Defendants admit only that the surface area of Pond 3 increased after pumping ceased in October 2023. Defendants deny the remaining allegations, including that they "enlarged" Pond 3 through any affirmative act, and incorporate their answer to Paragraph 51.

53. Defendants have stated that they are continuing to enlarge the lake.

ANSWER: Defendants admit only that their permit application sought, and EGLE Permit No. WRP047682 v.1 authorizes, the creation of a lake for the purpose of sand and gravel

mining, and that Defendants intend to operate in accordance with that Permit. Defendants deny the remaining allegations.

54. Defendants' estimate that they will enlarge the lake to an eventual 59 acres.

ANSWER: Defendants admit only that their May 5, 2025, permit application materials project that Pond 3 will eventually reach approximately 59 acres. Defendants state that EGLE Permit No. WRP047682 v.1 authorizes the creation of a lake of approximately 60 acres for the purpose of sand and gravel mining, and that Defendants intend to operate in accordance with that Permit. Defendants deny the remaining allegations.

55. Creating and enlarging a lake without a permit is expressly and clearly prohibited by Michigan's Inland Lakes and Stream Act, MCL 324.30102(1)(d), which states "a person without a permit from the department shall not … [c]reate, enlarge, or diminish an inland lake or stream."

ANSWER: This paragraph states legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations.

56. Defendants did not have an EGLE permit to create or enlarge the lake from 2023 through 2025.

ANSWER: Defendants admit only that, before EGLE issued Permit No. WRP047682 v.1, they did not hold a Part 301 permit for Pond 3. Defendants deny the remaining allegations.

57. Defendants did not have a permit to create or enlarge the lake from 2023 through 2025, despite filing at least two "after-the-fact" permit requests since the EGLE violation notice in 2023.

ANSWER: Defendants admit only that, before EGLE issued Permit No. WRP047682 v.1, they did not hold a Part 301 permit for Pond 3, and that AMC-WSG, LLC submitted permit

applications to EGLE on December 21, 2023, and May 5, 2025. Defendants deny the remaining allegations.

58. Starting in October 2023, Defendants began mining the newly created and enlarged lake bottomland.

ANSWER: Defendants admit only that after pumping of Pond 3 ceased on October 10, 2023, AMC-Mid Michigan Materials, LLC continued to mine sand and gravel from below the water surface of Pond 3. Defendants deny the remaining allegations and any implication that mining "began" in 2023. Mining has been occurring at the site since 1956.

59. Dredging and mining the lake bottomland is expressly and clearly prohibited by Michigan's Inland Lakes and Stream Act, MCL 324.30102(1)(a)-(b), which states "a person without a permit from the department shall not … [d]redge or fill bottomland; [c]onstruct, enlarge, extend, remove, or place a structure on bottomland."

ANSWER: This paragraph states legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations.

60. Defendants did not have an EGLE permit to dredge the lake bottomlands or conduct any mining activity on the illegally created and enlarged lake's bottomlands from 2023 through 2025.

ANSWER: Defendants admit only that, before EGLE issued Permit No. WRP047682 v.1, they did not hold a Part 301 permit to dredge the bottomlands of Pond 3. Defendants deny the remaining allegations.

61. On December 21, 2023, Defendants submitted an application to EGLE for a permit pursuant to the Inland Lakes and Streams Act to enlarge a lake. (Defendants used the EGLE and U.S. Army Corps of Engineers' "Joint Permit Application" that covers numerous water protection

and regulatory statutes.) See EGLE file no. HPB-72AQ-79WYR, Joint Permit Application, version 1.

ANSWER: Defendants admit only that AMC-WSG, LLC submitted a Joint Permit Application to EGLE on December 21, 2023 (the "December 2023 Application"), which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

62. Defendants' December 21, 2023 permit application was made after Defendants were already enlarging the lake without a permit.

ANSWER: Defendants admit only that the surface area of Pond 3 had increased before December 21, 2023, and state that the increase resulted passively from the court-ordered cessation of groundwater pumping, as disclosed in the December 2023 Application. Defendants deny the remaining allegations.

63. In Defendants' December 21, 2023 permit application, Defendants affirm that they were submitting an "after-the-fact" application.

ANSWER: Defendants admit only that the December 2023 Application, which speaks for itself, answers yes to the form question "Is this an after-the-fact application?" Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

64. In Defendants' December 21, 2023 permit application, Defendants affirm that they were "aware of [] unresolved violations of environmental law."

ANSWER: Defendants admit only that the December 2023 Application, which speaks for itself, answers yes to the form question "Are you aware of any unresolved violations of environmental law or litigation involving the property?" Defendants deny the remaining

allegations to the extent that they are an incomplete and selective characterization of that document.

65. In Defendants' December 21, 2023 permit application, Defendants state: "Pond 3 [Defendants' label for the enlarged lake] surface water acreage has grown since pumping ceased in October 2023. While [Defendants have] an EGLE [] permit to discharge mining wastewater to a tributary of Fleming Creek north of Pond 1, on October 10, 2023 Ann Arbor Township claimed the discharge was in violation of the Conditional Use Permit and required that pumping be discontinued immediately. As a result, Pond 3 has grown larger than five acres very quickly after pumping ceased."

ANSWER: Defendants admit only that the December 2023 Application contains the quoted language, apart from Plaintiffs' bracketed insertions, which speaks for itself. Defendants deny Plaintiffs' bracketed insertions, Plaintiffs' characterization of that language, and the remaining allegations.

66. Defendants' December 21, 2023 permit application did not disclose Defendants' plan to mine and dredge the enlarged lake bottomlands.

ANSWER: Denied as untrue.

67. On May 5, 2025, Defendants submitted a revised application to EGLE for a permit pursuant to the Inland Lakes and Streams Act to create and enlarge the lake to 59 acres. See EGLE file no. HPB-72AQ-79WYR, Joint Permit Application, version 2.

ANSWER: Defendants admit only that AMC-WSG, LLC submitted a revised Joint Permit Application to EGLE on May 5, 2025 ("May 2025 Revised Application," and together with the December 2023 Application, the "Permit Application"), which speaks for itself.

Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

68. Defendants' 2025 permit application includes an illustration of their mining operation in 2025, depicting the enlarged lake at about 15 acres. (Exhibit 3.)

ANSWER: Defendants admit only that Exhibit 3 to the Amended Complaint is the Detailed Site Map included as Figure 3 in the Revised Hydrogeological Investigation Report dated September 27, 2024 (the "Hydrogeology Report"), prepared by Haley & Aldrich of Michigan, Inc. ("Haley & Aldrich"), which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

69. Defendants' 2025 permit application includes an illustration of their future site plan depicting the enlarged lake at 59 acres. (Exhibit 4.)

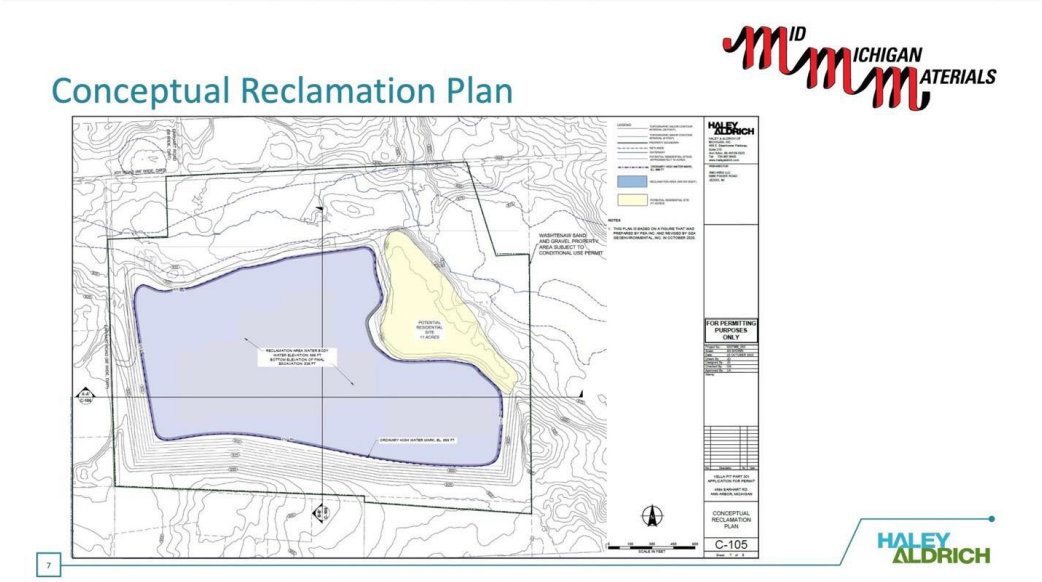
ANSWER: Defendants admit only that Exhibit 4 to the Amended Complaint is a Conceptual Reclamation Plan prepared by Haley & Aldrich and submitted to EGLE with Defendants' Permit Application, which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

70. Illustrations of the Defendants' mining site in 2025 (exhibit 3) and as planned in the future (exhibit 4) are reproduced below:



Above – Defendants' site in 2025 with approximately 15 acres of enlarged lake. (Exhibit 3.)

Below – Defendants' planned site with the lake enlarged to 59 acres. (Exhibit 4.)



ANSWER: Defendants admit only that this paragraph reproduces Exhibits 3 and 4 to the Amended Complaint, which speak for themselves. Defendants deny the remaining

allegations to the extent that they are an incomplete and selective characterization of those documents.

71. In Defendants' May 5, 2025 permit application, Defendants revised their project description to include mining the created and enlarged lake.

ANSWER: Defendants admit only that the project description in the May 2025 Revised Application states: "Planned operation will be a combination of dragline dredging and long arm excavating from the newly created Pond 3." Defendants deny that the May 2025 Revised Application was the first to disclose mining below the water surface, because the December 2023 Application already disclosed it. Defendants deny the remaining allegations.

72. In Defendants' May 5, 2025 permit application, Defendants state: "Post mining/restoration activity includes creating a lake and future residential use. Planned operation will be a combination of dragline dredging and long arm excavating from the newly created Pond 3."

ANSWER: Defendants admit only that the May 2025 Revised Application contains the quoted language, which speaks for itself. Defendants deny Plaintiffs' characterization of that language and the remaining allegations.

73. In Defendants' May 5, 2025, permit application, Defendants admit that their ongoing and planned operation is to mine the lake itself.

ANSWER: Defendants admit only that this paragraph references the May 2025 Revised Application, which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

74. In Defendants' May 5, 2025, permit application, Defendants state: "MMM intends to continue mine activities for up to another 20 years. Mining will be conducted 'in the wet' using long arm excavators and dragline dredging."

ANSWER: Defendants admit only that the May 2025 Revised Application contains the quoted language, which speaks for itself. Defendants deny Plaintiffs' characterization of that language and the remaining allegations.

75. In Defendants' May 5, 2025, permit application, Defendants submitted a required hydrological study prepared by Haley & Aldrich of Michigan, Inc. for Defendants (dated September 27, 2024).

ANSWER: Defendants admit only that the Hydrogeology Report, which speaks for itself, was submitted to EGLE in connection with the Permit Application. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

76. Defendants' hydrological study estimated that the created and enlarged lake will eventually enlarge to 59 acres.

ANSWER: Defendants admit only that the Hydrogeology Report, which speaks for itself, states that the final area of the pond under the Conceptual Reclamation Plan is anticipated to be approximately 59 acres. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

77. Defendants' hydrological study further described Defendants' lake mining operation as "pilot testing."

ANSWER: Defendants admit only that the Hydrogeology Report, which speaks for itself, states that "MMM is currently pilot testing removal via mechanical dredging beneath the

surface of Pond 3." Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

78. Defendants' hydrological study states: "While dewatering was previously performed to facilitate excavation in the dry, MMM is currently pilot testing removal via mechanical dredging beneath the surface of Pond 3."

ANSWER: Defendants admit only that the Hydrogeology Report contains the quoted language, which speaks for itself. Defendants deny Plaintiffs' characterization of that language and the remaining allegations.

79. Defendants' hydrological study observed that the enlarging lake is connected to groundwater.

ANSWER: Defendants admit only that the Hydrogeology Report, which speaks for itself, states that Pond 3 is at a location and elevation where it maintains a continuous hydraulic connection to groundwater in the surrounding sand and gravel aquifer materials. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

80. Defendants' hydrological study concluded that the enlarging lake is being fed by groundwater.

ANSWER: Defendants admit only that the Hydrogeology Report, which speaks for itself, states that Pond 3 receives water from precipitation, surface runoff, and recirculation of water from Pond 4, and that groundwater flowed toward Pond 3 during the initial post-dewatering period, with that inward gradient decreasing as Pond 3 continues toward equilibrium with the surrounding aquifer. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

81. Defendants' hydrological study concluded that the enlarging lake will be a source of pollution back into the aquifer from precipitation and surface water runoff.

ANSWER: Denied as untrue.

82. Defendants' hydrological study states "Pond 3 is expected to reach equilibrium with the surrounding Upper Aquifer materials, with decreasing groundwater flow towards Pond 3 and potentially increased flow from Pond 3 into the Upper Aquifer as Pond 3 captures precipitation and surface water runoff. The Site is anticipated to continue to be a primary recharge area to the Upper Aquifer where the Upper Aquifer materials are exposed at the ground surface."

ANSWER: Defendants admit only that the Hydrogeology Report contains the quoted language, which speaks for itself. Defendants deny Plaintiffs' characterization of that language and the remaining allegations.

83. Defendants' hydrological study submitted with their May 5, 2025, permit application does not discuss the impacts to connected groundwater resulting from Defendants mining the lake bottomlands.

ANSWER: Denied as untrue.

84. Defendants continued to dredge and mine the lake bottomlands throughout 2025.

ANSWER: Defendants admit only that AMC-Mid Michigan Materials, LLC mined sand and gravel from Pond 3 during 2025. Defendants deny the remaining allegations.

85. EGLE completed a "Groundwater – Comprehensive Inspection" report of Defendants mine on May 20, 2025.

ANSWER: Defendants admit only that EGLE prepared a "Groundwater – Comprehensive Inspection" report for the facility with a completed date of May 20, 2025 (the "Inspection

Report"), which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

86. The May 20, 2025, EGLE Groundwater Comprehensive Inspection report described the Defendants' groundwater use, pollution, treatment, and discharge:

> "The aggregate materials are extracted from land that encompasses an area about 40 acres that is east of the front office. The extraction process uses a front end loader to transport buckets of aggregate out of the ground to the wash plant. Wash water for the aggregate is obtained from ground water onsite that is held at a pond designated as pond 2. Based on a map dated September 2024 from Haley Aldrich and from information provided by the site manager, as well as from the Technical Services Coordinator the process for the washing of the mined materials and waste water production involves the following steps: a. Clean water is pumped from Pond 2 to the wash plant. See picture img_3935. The wash plant is approximately 100 feet from where the sand and gravel are extracted. b. At the wash plant, the clean water is used to wash the excavated material. c. A belt drive is started and transports the material to a slurifier. The slurifier is designed to ensure the material is converted to a slurry. d. From the slurifier, the aggregate is transferred to a classification tank where the material is separated into different grades of sand and gravel based on particle size. See videos img_ 3940 and img_3942. From the classifying tank, the finished product is stockpiled on the ground in accordance to the grade. The wash water from the wash plant is transferred to a trench that leads to pond 4 which is a settling basin. See videos img_3949. Some settling of solids takes place at the trench. A culvert pipe leading from the $$ north east $$ side of the trench transfers the wash water to the settling pond, which is pond 4. See videos img_3949 and img_3950. The settling pond is designed to treat the wash water by allowing solids to settle out of the water and to the bottom of the pond. See video img_3950. When asked, what steps are taken to ensure the discharge is not or not likely to become injurious, the manager reported that the settling pond is used to remove solids from the wash water discharge. There is no set amount of time that the wash water must spend at the settling pond, as the determination of whether enough sediment has been removed from the wash water is not based on the time the water spends at the pond.
>
> After pond 4, the water is discharged to pond 3. Based on the map dated September 2024, a pump is present at pond 3 to transfer the water to pond 2. On the map, pond two is listed as a settling pond. Pond 2 has an overflow connection to pond 1. Once at pond 1 or 2, the wash water is considered treated with respect to the removal of sediment or solids and it is pumped back from pond 2 to the wash plant to restart the process."

ANSWER: Defendants admit only that the Inspection Report contains the quoted language, which speaks for itself. Defendants deny Plaintiffs' characterization of that language, including that it describes "pollution," and the remaining allegations.

87. The May 20, 2025, EGLE Groundwater Comprehensive Inspection report states the Defendants' mine is authorized to discharge up to 3,048,480,000 gallons per day to groundwater via the "settling ponds" and overflows described above.

ANSWER: Defendants admit only that the Inspection Report, which speaks for itself, lists "3,048,480,000 gallons per day" in the field for authorized discharge flow/volume. Defendants deny the remaining allegations, including that the facility was authorized to discharge that amount per day.

88. On May 20, 2025, EGLE issued a "Basis for Decision Memo – Facility Classification" to Defendants' mine.

ANSWER: Defendants admit only that EGLE prepared a "Basis for Decision Memo – Facility Classification" for the facility dated May 20, 2025 (the "Basis for Decision Memo"), which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

89. The May 20, 2025, EGLE "Basis for Decision Memo – Facility Classification" determined Defendants' groundwater discharge is from:

> "Groundwater, which was reported on the most recent reissuance application and the previous application as being from a source that meets state or federal criteria as potable water, is extracted from the ground and sent to a wash plant to wash gravel and sand of different particle sizes. The wash water is sent to a trench that leads to the discharge location which is a pond referred to as pond 4. The trench is several feet long and provides an opportunity for some of the solids and sediments to settle out of the wash water before reaching pond 4. Once at pond 4, the wash water is allowed to sit to allow sediment to settle to the bottom of the pond. Afterwards, the water is discharged to pond 3 with a pump. From pond 3 the water flows to pond 2 which was listed as a settling pond per schematics on file. After pond 2, the water is transferred via a pump back to the wash plant to restart the cycle as per schematics on file."

ANSWER: Defendants admit only that the Basis for Decision Memo contains the quoted language, which speaks for itself. Defendants deny Plaintiffs' characterization of that language and the remaining allegations.

90. The May 20, 2025, EGLE "Basis for Decision Memo – Facility Classification" states: "The nature of the groundwater at this facility is likely for the use as additional water for gravel washing or for dewatering if required for further mining. If connected to the same aquifer, the neighboring residents may also use the groundwater for drinking water."

ANSWER: Defendants admit only that the Basis for Decision Memo contains the quoted language, which speaks for itself. Defendants deny Plaintiffs' characterization of that language and the remaining allegations.

91. The May 20, 2025, EGLE "Basis for Decision Memo – Facility Classification" changed the Defendants wastewater classification to "A-1d Impoundment - A tank, basin, or reservoir intended to hold wastewater to allow for a controlled discharge; may or may not provide settling of solids."

ANSWER: Defendants admit only that the Basis for Decision Memo, which speaks for itself, states a classification determination of "A-1d Impoundment." Defendants deny the remaining allegations, including that the Basis for Decision Memo "changed" any classification.

92. On July 21, 2025, Defendants presented a powerpoint slide at the public hearing regarding their permit application with an illustration of their mining operation in 2025 depicting the enlarged lake at about 15 acres. (Exhibit 3.)

ANSWER: Defendants admit only that Mid Michigan Materials presented the Detailed Site Map attached as Exhibit 3 to the Amended Complaint on a PowerPoint slide at a public hearing on July 21, 2025. Defendants deny the remaining allegations.

93. On July 21, 2025, Defendants presented a powerpoint slide at the public hearing regarding their permit application with an illustration of their future site plan depicting the enlarged lake at 59 acres. (Exhibit 4.)

ANSWER: Defendants admit only that Mid Michigan Materials presented the Conceptual Reclamation Plan attached as Exhibit 4 to the Amended Complaint on a PowerPoint slide at a public hearing on July 21, 2025. Defendants deny the remaining allegations.

94. On July 21, 2025, Defendants stated at the public hearing regarding their permit application that they were "already" doing what they were seeking permission to do in their permit application.

ANSWER: Defendants admit only that the July 21, 2025, presentation, which speaks for itself, stated that the after-the-fact permit was "for creation of a lake larger than 5 acres, which is already in existence on site." Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that presentation.

95. EGLE's review of Defendants' hydrological study submitted with their May 5, 2025, permit application states that Defendants have not even been able to accurately model or predict the impacts of enlarging and mining a lake of this size on the groundwater that supplies local drinking water.

ANSWER: Defendants admit only that, in September 2025, EGLE raised questions about aspects of the groundwater model submitted with the permit application. Defendants state that those questions were answered and the model was supplemented through additional modeling, and that EGLE then issued Permit No. WRP047682 v.1. Defendants deny the remaining allegations.

96. The enlarging lake sits on top of the area's groundwater that supplies Plaintiffs' residential drinking wells and many other residents in Ann Arbor Charter Township.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

97. Defendants [sic] illegal and unpermitted mining of the lake bottomlands from 2023 through 2025 creates additional harm and significant risk to the residential groundwater users and groundwater dependent natural resources.

ANSWER: Denied as untrue.

98. On November 24, 2025, EGLE issued Certificate of Coverage GW1540096 to the Defendants [sic] mine.

ANSWER: Defendants admit only that on November 24, 2025, EGLE issued Certificate of Coverage No. GW1540096 under General Permit No. GW1540000 (the "Certificate of Coverage"), which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

99. The Certificate of Coverage was issued in lieu of an individual permit under General Permit GW1540000, Groundwater Discharge General Permit for Process Wastewater without Additives from Mining of Gravel, Sand, Limestone, or Dolomite (July 31, 2025).

ANSWER: Defendants admit only that the Certificate of Coverage, which speaks for itself, was issued under General Permit No. GW1540000, which the Certificate of Coverage states was issued August 1, 2025. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

100. On December 8, 2025, LimnoTech issued a public report prepared for Ann Arbor Charter Township titled "Impacts of Sediment Discharge on Massey Lake." The report and supporting appendices are incorporated by reference.

ANSWER: Defendants admit only that LimnoTech prepared a report for Ann Arbor Charter Township titled "Impacts of Sediment Discharge on Massey Lake: Results from 2025 Investigation," dated December 8, 2025, which speaks for itself. The allegation that the report and its appendices are incorporated by reference states a legal conclusion to which no response is required. To the extent that a response is required, Defendants deny the remaining allegations.

101. On December 15, 2025, Plaintiffs filed their original complaint with this court.

ANSWER: Admitted.

102. On January 16, 2026, EGLE issued an undated "Draft Permit for Countersignature," WRP047682 v1 in correspondence with Defendant.

ANSWER: Defendants admit only that on January 16, 2026, EGLE emailed a draft of Permit No. WRP047682 v.1 for countersignature (the "Draft Permit"), which speaks for itself, and that the Draft Permit lists its issued date as "DRAFT." Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

103. The January 16, 2026, EGLE draft permit would authorize the creation of a lake approximately 60 acres in size "for the purpose of sand and gravel mining" and allow "wet" mining under Part 301 of NREPA (Inland Lakes and Streams).

ANSWER: Defendants admit only that the Draft Permit, which speaks for itself, would have authorized the creation of a lake approximately 60 acres in size "for the purpose of sand and

gravel mining," with all excavation done "in the 'wet.'" Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

104. The January 16, 2026, draft permit and correspondence with Defendants was not posted publicly until April 3, 2026.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

105. On January 23, 2026, Plaintiffs and other neighboring property owners filed a contested case petition regarding Groundwater Certificate of Coverage GW1540096 with EGLE stating the facility is in violation of NREPA Part 31 (MCL 327.3101 et seq.), Part 22 rules (R 323.2201 et seq.), and General Permit GW1540000, Groundwater Discharge General Permit for Process Wastewater without Additives from Mining of Gravel, Sand, Limestone, or Dolomite (July 31, 2025) because:

> The discharge is injurious to waters of the state.
> The discharge is injurious to private property.
> The discharge causes runoff and flooding of adjacent property.
> The discharge causes erosion.
> The discharge causes nuisance conditions.
> The source of wash water is not from a water supply meeting state or federal criteria for use as potable water or another acceptable source.
> Treatment and control facilities and systems are not maintained in good working order.
> The facility is discharging wastewater to surface waters of the state.

ANSWER: Defendants admit only that on January 23, 2026, Plaintiffs and other petitioners filed a Petition for Contested Case Hearing challenging Certificate of Coverage No. GW1540096, which speaks for itself, and that the petition contains the quoted assertions. Defendants deny that those assertions are true and deny the remaining allegations.

106. On January 28, 2026, EGLE issued a notice of opening contested case docket number 26-002076 on Defendants' Groundwater Certificate of Coverage. The case is pending.

ANSWER: Defendants admit only that on January 28, 2026, the Michigan Office of Administrative Hearings and Rules, not EGLE, issued a Notice of Opening New File in Docket No. 26-002076 concerning Certificate of Coverage No. GW1540096, and that no final decision has been issued in that docket. Defendants deny the remaining allegations.

107. On February 27, 2026, Defendants submitted a Resource Monitoring Plan prepared by Haley & Aldrich of Michigan, Inc. for Draft Permit No. WRP047682 v.1; Permit Application HPB-72AQ-79WYR.

ANSWER: Defendants admit only that Haley & Aldrich submitted to EGLE a Part 301 Resource Monitoring Plan with a transmittal letter dated February 27, 2026 (the "Monitoring Plan"), which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

108. The February 27, 2026, Resource Monitoring Plan does not include any monitoring for groundwater discharged pollution or groundwater water quality.

ANSWER: Defendants admit only that the Monitoring Plan, which speaks for itself, provides for monitoring of groundwater and surface water levels and wetland ecological conditions. Defendants deny the remaining allegations.

109. The February 27, 2026, Resource Monitoring Plan, a requirement for the permit, was not posted publicly until April 3, 2026.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

110. On March 19, 2026, EGLE issued a "Second Draft Permit for Countersignature," WRP047682 v1 in correspondence to Defendants.

ANSWER: Defendants admit only that on March 19, 2026, EGLE emailed a second draft of Permit No. WRP047682 v.1 for countersignature (the "Second Draft Permit"), which speaks for itself. Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

111. The March 19, 2026, second draft permit would authorize the creation of a lake approximately 60 acres in size "for the purpose of sand and gravel mining" and allow "wet" mining under Part 301 of NREPA (Inland Lakes and Streams).

ANSWER: Defendants admit only that the Second Draft Permit, which speaks for itself, would have authorized the creation of a lake approximately 60 acres in size "for the purpose of sand and gravel mining," with all excavation done "in the 'wet.'" Defendants deny the remaining allegations to the extent that they are an incomplete and selective characterization of that document.

112. The March 19, 2026, second draft permit and correspondence with Defendants was not posted publicly until April 3, 2026.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

113. On April 6, 2026, EGLE issued the "Permit with Countersignature (Corrected)," WRP047682 v1 and posted it publicly.

ANSWER: Defendants admit only that on April 6, 2026, EGLE emailed a corrected countersigned Permit No. WRP047682 v.1 (the "Permit"), which speaks for itself.

Defendants lack knowledge or information sufficient to form a belief as to whether or when EGLE posted the Permit publicly and deny the remaining allegations.

114. The April 6, 2026, Permit document and all related permit documents (including the Defendants February 27, 2026, Resource Monitoring Plan) are backdated by EGLE with a stamp: "Issued On: 01/16/2026."

ANSWER: Defendants admit only that the Permit and related documents bear a stamp reading:

EGLE
WRP047682 v1.0
Approved
Issued On: 01/16/2026
Expires On: 01/16/2031

Defendants deny the remaining allegations, including Plaintiffs' characterization that the documents were "backdated."

115. In a written notice dated May 20, 2026, the Michigan Department of Health and Human Services (MDHHS) informed Plaintiffs John and Joan Darish that MDHHS recently performed drinking water sampling at their home and provided the water test lab results.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

116. The May 20, 2026, MDHHS test result for turbidity in Plaintiffs John and Joan Darish's home water was 46 FTU (the U.S. Environmental Protection Agency's Maximum Contaminant Level for turbidity in drinking water is 1 FTU[2]).

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

117. The May 20, 2026, MDHHS test result for iron in Plaintiffs John and Joan Darish's home water was 4.71 mg/L (the EPA's MCL for iron in drinking water is .3 mg/L[3]).

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

118. The May 20, 2026, MDHHS test result for manganese in Plaintiffs John and Joan Darish's home water was .098 mg/L (the EPA's MCL for manganese in drinking water is .05 mg/L[4]).

(A summary table of the MDHHS test results of Plaintiffs' drinking water for turbidity, iron, and manganese, as communicated on May 20, 2026, is provided below.)

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[2] See 40 CFR 141.13[.]

[3] See 40 CFR 143.3[.]

[4] See 40 CFR 143.3[.]

MDHHS Drinking Water Test Results (communicated May 20, 2026)			
	Turbidity (FTU)	Iron (mg/L)	Manganese (mg/L)
Plaintiff John and Joan Darish	46	4.71	0.098
Plaintiff Gail and Michael Nicklowitz	27	3.35	0.085
Plaintiff Grace and Eugene Kim	15	1.66	0.041
US EPA maximum contaminant level	1	0.30	0.050

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

119. In a written notice dated May 20, 2026, the Michigan Department of Health and Human Services (MDHHS) informed Plaintiffs Gail and Michael Nicklowitz that MDHHS recently performed drinking water sampling at their home and provided the water test lab results.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

120. The May 20, 2026, MDHHS test result for turbidity in Plaintiffs Gail and Michael Nicklowitz's home water was 27 FTU (the EPA's MCL for turbidity in drinking water is 1 FTU).

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

121. The May 20, 2026, MDHHS test result for iron in Plaintiffs Gail and Michael Nicklowitz's home water was 3.35 mg/L (the EPA's MCL for iron in drinking water is .3 mg/L).

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

122. The May 20, 2026, MDHHS test result for manganese in Plaintiffs Gail and Michael Nicklowitz's home water was .085 mg/L (the EPA's MCL for manganese in drinking water is .05 mg/L).

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

123. In a written notice dated May 20, 2026, the Michigan Department of Health and Human Services (MDHHS) informed Plaintiffs Grace and Eugene Kim that MDHHS recently performed drinking water sampling at their home and provided the water test lab results.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

124. The May 20, 2026, MDHHS test result for turbidity in Plaintiffs Grace and Eugene Kim's home water was 15 FTU (the EPA's MCL for turbidity in drinking water is 1 FTU).

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

125. The May 20, 2026, MDHHS test result for iron in Plaintiffs Grace and Eugene Kim's home water was 1.66 mg/L (the EPA's MCL for iron in drinking water is .3 mg/L).

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

126. The May 20, 2026, MDHHS test result for manganese in Plaintiffs Grace and Eugene Kim's home water was .041 mg/L (the EPA's MCL for manganese in drinking water is .05 mg/L).

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

127. On June 4, 2026, Plaintiffs and other neighboring property owners filed a contested case petition regarding Permit WRP047682 with EGLE stating permit issuance is unlawful and in violation of the Inland Lakes and Streams Act, MCL 327.30101 et seq., and the Inland Lakes and Streams Administrative Rules, R 281.811-281.846, because:

> The department did not provide timely and adequate notice of the permit application and supporting materials.
> The department did not provide timely and adequate notice of its permit decision.
> The permitted activities will adversely and significantly affect the public trust.
> The permitted activities will adversely and significantly affect riparian rights.
> The permitted activities will adversely affect waters from which or into which its waters flow and the uses of all such waters, including uses for recreation, fish and wildlife, and aesthetics.
> The permitted activities will unlawfully impair or destroy waters and other natural resources of the state.
> The permitted activities will cause unlawful pollution as defined by part 31 of NREPA. will be minimal.
> Neither the department nor the applicant have shown that a feasible and prudent alternative is not available.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

128. Defendants are discharging mine waste and wash water waste with sediment, iron, and manganese to groundwater and connected surface waters, including Massey Lake.

ANSWER: Denied as untrue.

129. Defendants' groundwater discharge of mine waste and wash water waste is polluting and impairing groundwater and connected surface waters, including pollution and impairment from turbidity, iron, and manganese.

ANSWER: Denied as untrue.

130. Defendants' groundwater discharge of mine waste and wash water waste is harming, polluting, and impairing Plaintiffs' groundwater supply of household drinking water for domestic purposes.

ANSWER: Denied as untrue.

131. Defendants' groundwater discharge of mine waste and wash water waste harms Plaintiffs' protected public interests.

ANSWER: Denied as untrue.

132. Defendants' enlargement of the lake pollutes, impairs, and destroys Michigan's water and related natural resources.

ANSWER: Denied as untrue.

133. Defendants' dredging and mining of the lake bottomland pollutes, impairs, and destroys Michigan's water and related natural resources.

ANSWER: Denied as untrue.

134. Defendants' enlargement of the lake harms Plaintiffs' protected property interests including groundwater use.

ANSWER: Denied as untrue.

135. Defendants' dredging and mining of the lake bottomland harms Plaintiffs' protected property interests including groundwater use.

ANSWER: Denied as untrue.

136. Defendants' enlargement of the lake harms Plaintiffs' protected public interests.

ANSWER: Denied as untrue.

137. Defendants' dredging and mining of the lake bottomland harms Plaintiffs' protected public interests.

ANSWER: Denied as untrue.

138. Defendants' groundwater discharge of mine waste and wash water waste, enlargement of the lake, and dredging and mining of the lake bottomland after significant aquifer dewatering is creating a "turbidity plume" that pollutes, impairs, and destroys Michigan's water and related natural resources.

ANSWER: Denied as untrue.

139. Defendants' groundwater discharge of mine waste and wash water waste, enlargement of the lake, and dredging and mining of the lake bottomland after significant aquifer dewatering is harming, polluting, and impairing Plaintiffs' groundwater supply of household drinking water for domestic purposes with unsafe levels of turbidity, iron, and manganese.

ANSWER: Denied as untrue.

140. Defendants' groundwater discharge of mine waste and wash water waste warrants immediate injunctive relief by this Court.

ANSWER: Denied as untrue.

141. Defendants' enlargement of the lake warrants immediate injunctive relief by this Court.

ANSWER: Denied as untrue.

142. Defendants' dredging and mining of the lake bottomland warrants immediate injunctive relief by this Court.

ANSWER: Denied as untrue.

143. Defendants' mining operation is likely to materially diminish, reduce, and adversely impact the quantity and quality of groundwater and connected surface waters and other natural resources of the Plaintiff properties.

ANSWER: Denied as untrue.

144. Municipal water is not available to residents in this area.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

145. Defendants' unlawful mining activities since 2023 cause excessive noise, vibrations, and dust.

ANSWER: Denied as untrue.

146. Defendants' truck traffic deteriorates local dirt roads causing dust and other pollution.

ANSWER: Denied as untrue.

147. Defendants' truck traffic creates excessive noise, vibrations, and risk of public injury operating prior to the township's allowed 7:00 a.m. start time.

ANSWER: Denied as untrue.

148. Defendants' truck traffic harms water and other natural resources when trucks drive off the local dirt roads, tipping over and dumping the mined materials into wetlands, such as occurred on November 19, 2025.

ANSWER: Denied as untrue.

COUNT I
MICHIGAN ENVIRONMENTAL PROTECTION ACT

149. Plaintiffs reallege and incorporate by reference the allegations contained in the previous and subsequent paragraphs.

ANSWER: Defendants incorporate by reference their responses to the allegations set forth above with the same force and effect as if fully repeated herein.

150. The Michigan Constitution establishes the protection of public health, welfare, and the environment as a paramount concern for state government. Article IV, Section 52 of the Michigan Constitution provides:

> "The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction."

ANSWER: This paragraph states legal conclusions to which no response is required. To the extent that a response is required, Defendants state that the Michigan Constitution speaks for itself and deny the allegations to the extent they are inconsistent with it.

151. The Legislature fulfilled its duty to protect the environment by passing the Michigan Environmental Protection Act (MEPA), MCL 324.1701 et seq.

ANSWER: This paragraph states legal conclusions to which no response is required. To the extent that a response is required, Defendants state that the referenced statutes speak for themselves and deny the allegations to the extent they are inconsistent with them.

152. MEPA provides that "any person" may bring an action in circuit court for the "protection of the air, water or other natural resources and the public trust in these resources from pollution, impairment or destruction." MCL 324.1701(1).

ANSWER: This paragraph states legal conclusions to which no response is required. To the extent that a response is required, Defendants state that the referenced statute speaks for itself and deny the allegations to the extent they are inconsistent with it.

153. MEPA provides that a circuit court "may grant temporary and permanent equitable relief or may impose conditions on the defendant that are required to protect" the State's natural resources. MCL 324.1704(1).

ANSWER: This paragraph states legal conclusions to which no response is required. To the extent that a response is required, Defendants state that the referenced statute speaks for itself and deny that any relief is appropriate.

154. Defendants' mining operations are polluting, impairing, and destroying groundwater, surface water, and other natural resources.

ANSWER: Denied as untrue.

COUNT II
VIOLATION OF RIPARIAN RIGHTS BY A NONRIPARIAN

155. Plaintiffs reallege and incorporate by reference the allegations contained in the previous and subsequent paragraphs.

ANSWER: Defendants incorporate by reference their responses to the allegations set forth above with the same force and effect as if fully repeated herein.

156. Massey Lake in Washtenaw County is a natural body of surface water in Michigan that is subject to the common law of riparian rights.

ANSWER: This paragraph states legal conclusions to which no response is required. To the extent that a response is required, Defendants admit only that Massey Lake is a body of surface water located in Washtenaw County, Michigan, and deny the remaining allegations.

157. Plaintiffs John and Joan Darish and Grace and Eugene Kim possess riparian rights to Massey Lake because they own parcels of land that are adjacent to the lake.

ANSWER: This paragraph states legal conclusions to which no response is required. To the extent that a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding Plaintiffs' ownership of property adjacent to Massey Lake and deny the remaining allegations.

158. Defendants do not possess riparian rights to Massey Lake because their property located at 4984 Earhart Road is not adjacent to Massey Lake.

ANSWER: This paragraph states legal conclusions to which no response is required. To the extent that a response is required, Defendants admit only that the property at 4984 Earhart Road does not abut Massey Lake and deny the remaining allegations.

159. Plaintiff John Darish uses Massey Lake for reasonable recreational purposes, such as canoeing, fishing, and hiking along the banks.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

160. Plaintiffs Eugene Kim uses Massey Lake for reasonable recreational purposes, such as canoeing, fishing, and hiking along the banks.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

161. Defendants' mining operations are unreasonably interfering with and violating Plaintiffs' riparian rights.

ANSWER: Denied as untrue.

COUNT III
PRIVATE NUISANCE

162. Plaintiffs hereby reallege and incorporate by reference the allegations contained in the previous and subsequent paragraphs.

ANSWER: Defendants incorporate by reference their responses to the allegations set forth above with the same force and effect as if fully repeated herein.

163. Defendants' unlawful mining activities have caused, and will continue to cause, vibrations, noise and dust.

ANSWER: Denied as untrue.

164. Defendants' mining activities are creating and maintaining a nuisance that interferes with the quiet use and enjoyment of Plaintiffs' properties.

ANSWER: Denied as untrue.

COUNT IV
PUBLIC NUISANCE

165. Plaintiffs hereby reallege and incorporate by reference the allegations contained in the previous and subsequent paragraphs.

ANSWER: Defendants incorporate by reference their responses to the allegations set forth above with the same force and effect as if fully repeated herein.

166. Defendants' unlawful mining activities have caused, and will continue to cause, harm to the public's general interest in air, water, and other natural resources.

ANSWER: Denied as untrue.

COUNT V
DECLARATORY AND INJUNCTIVE RELIEF

167. Plaintiffs hereby reallege and incorporate by reference the allegations contained in the previous and subsequent paragraphs.

ANSWER: Defendants incorporate by reference their responses to the allegations set forth above with the same force and effect as if fully repeated herein.

168. There is an actual, justiciable controversy between the parties and a declaratory judgment under MCL 324.1701 and MCR 2.605 is appropriate.

ANSWER: This paragraph states legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations.

169. Defendants' conduct has caused immediate and irreparable harm.

ANSWER: This paragraph states legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations.

170. Defendants continue to pollute, impair, and destroy water and other natural resources.

ANSWER: Denied as untrue.

171. Defendants have stated an intent to continue enlarging the lake.

ANSWER: Defendants admit only that they intend to operate in accordance with the Permit. Defendants deny the remaining allegations.

172. Defendants have stated an intent to continue mining the enlarged lake.

ANSWER: Defendants admit only that they intend to continue mining in accordance with the Permit, the Township's Conditional Use Permit, and the orders entered in Case No. 23-001234-CE. Defendants deny the remaining allegations.

173. Defendants have stated an intent to continue groundwater discharge of mine waste and wash water.

ANSWER: Denied as untrue.

174. Plaintiffs will continue to suffer far more harm if an injunction is not granted than Defendants will suffer if an injunction is granted.

ANSWER: Denied as untrue.

175. Plaintiffs have demonstrated a likelihood of success on the merits of their claims such that a preliminary injunction is proper. See MCL 324.1701 and MCR 3.310 (Injunctions).

ANSWER: Denied as untrue.

176. MEPA provides that a court "may grant temporary and permanent equitable relief or may impose conditions on the defendant that are required to protect" the State's natural resources. MCL 324.1704(1).

ANSWER: This paragraph states legal conclusions to which no response is required. To the extent that a response is required, Defendants state that the referenced statute speaks for itself and deny that any relief is appropriate.

177. Defendants' illegal mining operations must cease immediately and permanently to protect Michigan's natural resources.

ANSWER: Denied as untrue.

178. Defendants must further be required to fully reclaim, remediate, and restore the site from all harm they have caused to protect Michigan's natural resources and Plaintiffs' rights and interests.

ANSWER: Denied as untrue.

REQUESTED RELIEF

WHEREFORE, Defendants deny that Plaintiffs are entitled to any relief and request that this Court:

A. Dismiss Plaintiffs' Amended Complaint with prejudice in its entirety;

B. Enter judgment in Defendants' favor;

C. Award Defendants their attorneys' fees, costs, and interest; and

D. Award Defendants all other relief that the Court deems just and equitable.

AFFIRMATIVE DEFENSES

Defendants assert the following affirmative defenses in response to Plaintiffs' Amended Complaint. Defendants do not undertake the burden of proof as to any such affirmative defense to the extent that the law does not impose any such burden of proof on Defendants. Defendants reserve the right to add to, supplement, or amend these affirmative defenses to the fullest extent allowed by law.

1. Plaintiffs' Amended Complaint, and each count thereof, fails to state a claim upon which relief can be granted as explained in Defendants' motions for summary disposition.

2. Plaintiffs lack standing because they have not alleged a concrete and particularized injury, distinct from that of the public generally, that is fairly traceable to Defendants' conduct.

3. Plaintiffs lack standing because they have not alleged facts establishing that any condition of their wells, property, or Massey Lake was caused by Defendants' conduct, as opposed to other sources, including off-site groundwater pumping by third parties.

4. Plaintiffs Gail Nicklowitz and Michael Nicklowitz lack standing and are not the real parties in interest to assert claims based on injury to the property located at 4460 Earhart Road, including any well, riparian, or nuisance claims, because that property is owned by the Nicklowitz Family Trust, and Gail Nicklowitz and Michael Nicklowitz have sued only in their individual capacities and not as trustees of the trust. Plaintiffs have also failed to join the Nicklowitz Family Trust, through its trustee(s), as a necessary party under MCR 2.205.

5. Plaintiffs' claims are barred, in whole or in part, by the doctrines of unclean hands, estoppel, waiver, and/or laches.

6. Plaintiffs' claims are barred because the conduct at issue was undertaken pursuant to the Court's orders entered in Case No. 23-001234-CE.

7. Plaintiffs' claims are barred because they are an impermissible collateral attack on the Court's orders entered in Case No. 23-001234-CE.

8. Plaintiffs' claims that rely on Defendants' alleged absence of a permit are barred as moot, including because EGLE issued Permit No. WRP047682 v.1 authorizing the creation of the lake and associated sand and gravel mining.

9. Plaintiffs' MEPA claims fail because there is no feasible and prudent alternative to Defendants' conduct, and Defendants' conduct is consistent with the promotion of the public health, safety, and welfare in light of the state's paramount concern for the protection of its natural resources from pollution, impairment, or destruction. MCL 324.1703(1).

10. Plaintiffs' nuisance claims are barred because Plaintiffs came to the alleged nuisance, as sand and gravel have been mined at the site since 1956.

11. Plaintiffs' claims are barred, in whole or in part, because Defendants' conduct is authorized by and conducted in compliance with Permit No. WRP047682 v.1 and Certificate of

Coverage No. GW1540096, and Plaintiffs' challenges to those authorizations are subject to the pending contested case proceeding in Docket No. 26-002076 and the administrative process under MCL 324.1704(2).

12. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs' claimed injuries, if any, were caused, in whole or in part, by independent intervening or superseding causes for which Defendants are not responsible, including Plaintiffs' own acts or omissions.

13. Plaintiffs' claims are barred, in whole or in part, because they attempt to circumvent the legislative determination in MCL 125.3205.

14. Plaintiffs' claims are barred, in whole or in part, by operation of Michigan law.

Respectfully submitted,

HONIGMAN LLP
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Dated: November 20, 2026

CERTIFICATE OF SERVICE

I hereby certify that on November 20, 2026, the foregoing document was electronically filed with the Clerk of the Court using the e-filing system which will send notification of such filing to all attorneys of record.

/s/ Andrew Clark /
Andrew W. Clark (P79165)