

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

MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND
ENERGY, and the STATE OF MICHIGAN

Plaintiffs,

v

DANIEL COURTEMANCHE,

Defendant.

No. 2024- 348 -CE

HON. _____

JUDGE JAMES S. JAMO

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30TH CIRCUIT COURT

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

COMPLAINT

1. This is a civil action brought under Part 125, Campgrounds, Swimming Areas, and Swimmers' Itch, of the Public Health Code, MCL 333.12501 *et seq.*, and Part 31, Water Resources Protection, MCL 324.3101 *et seq.*, (Water Resources Protection Act) of the Natural Resources and Environmental Protection Act (NREPA), MCL 324.101, *et seq.*, and common law. Plaintiffs seek declaratory

relief and injunctive relief to enjoin the unlawful operation of an unlicensed campground and unpermitted discharge of wastewater. Plaintiffs also ask this Court to order Defendant to abate the common law public nuisance caused by the unlawful discharge of wastewater. Finally, Plaintiffs seek civil fines, attorney fees, and other relief.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action under Section 12516(2) of the Public Health Code, MCL 333.12516; Section 3115(1) of the NREPA, MCL 324.3115(1); and Section 605 of the Revised Judicature Act, MCL 600.605.

3. This Court has personal jurisdiction over Daniel Courtemanche under Section 605 of the Revised Judicature Act, MCL 600.605.

4. Venue is appropriate in this Court, and this Court has jurisdiction, because this action is “brought by the attorney general in the name of the state or of the people of the state, for the use and benefit thereof,” so it is “as though the cause of action arose in” Ingham County. MCL 14.102; see also MCL 600.1631.

5. This case involves Public Health Code and Water Resources Protection Act violations that occurred in Bay County and a common law claim to abate a public nuisance that is considered to have arisen in Ingham County under MCL 14.102.

6. Venue in this Court is proper under the Water Resources Protection Act, MCL 324.3115(1), and under Part 125 of the Public Health Code, MCL 333.12516.

PARTIES

7. Plaintiff Michigan Department of Environment, Great Lakes, and Energy (Department) is the state department mandated to protect the natural resources of the state from pollution, impairment, and destruction. MCL 324.301, MCL 324.501, and Executive Order 2019-02. By Executive Order 2019-06, the former Michigan Department of Environmental Quality (DEQ) was renamed as EGLE. *Id.*

8. Under the Water Resources Protection Act, the Department is authorized to “protect and conserve the water resources of the state[.]” MCL 324.3103.

9. The Department is also responsible for enforcing Part 125 of the Public Health Code and may seek an injunction through an action in the name of the state to prevent the operation of an unlicensed campground. MCL 333.12516(1).

10. Upon information and belief, Defendant Daniel Courtemanche owns and operates an unlicensed campground called “Ugly RV Park” located at 1623 Kitchen Road in Pinconning, Bay County, Michigan.

11. Upon information and belief, Defendant, with the assistance of his consultant, installed a wastewater lagoon at Ugly RV Park and uses that wastewater lagoon without a permit. The wastewater lagoon does not meet the

regulatory requirements, and its installation and use results in the unlawful discharge of wastewater to protected waters of the state.

12. Defendant is not licensed under Part 125 of the Public Health Code, MCL 333.12501 *et seq.* (See Affidavit of Drinking Water and Environmental Health Division Enforcement Analyst Bradley Laskosky, attached as Ex A.)

13. Defendant has no license under the Water Resources Protection Act to discharge any substance to waters of the state. (See Affidavit of Water Resources Division Environmental Quality Specialist Matthew Siler, attached as Ex B.)

14. Defendant Daniel Courtemanche is a “person” within the meaning of MCL 333.12501(1)(e) and MCL 333.1106(4).

15. Defendant Daniel Courtemanche is a “person” within the meaning of MCL 324.301(h).

PART 125 OF THE PUBLIC HEALTH CODE

16. Part 125 of the Public Health Code requires a license to construct a campground: “A person shall not begin to construct, alter, or engage in the development of a campground without first obtaining a construction permit from the department.” MCL 333.12505.

17. Part 125 of the Public Health Code further prohibits anyone from operating a campground without a license. MCL 33.12506(1).

18. “Campground” is defined to mean “a parcel or tract of land under the control of a person in which sites are offered for the use of the public or members of

an organization, either free of charge or for a fee, for the establishment of temporary living quarters for 5 or more recreational units.” MCL 333.12501(1)(a).

19. “Recreational unit” is defined as follows:

a tent or vehicular-type structure, primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors.

Recreational unit includes the following:

- (i) A travel trailer, which is a vehicular portable structure, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a vehicle, primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use.
- (ii) A camping trailer, which is a vehicular portable structure mounted on wheels and constructed with collapsible partial sidewalls of fabric, plastic, or other pliable material which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.
- (iii) A motor home, which is a vehicular structure built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreational, camping, or travel use.
- (iv) A truck camper, which is a portable structure designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters for recreational, camping, or travel use.
Truck campers are of 2 basic types:
 - (A) A slide-in camper, which is a portable structure designed to be loaded onto and unloaded from the bed of a pickup truck, constructed to provide temporary living quarters for recreational, camping, or travel use.
 - (B) A chassis-mount camper, which is a portable structure designed to be affixed to a truck chassis, and constructed to provide temporary living quarters for recreational, camping, or travel use.

- (v) A single sectional mobile home used only to provide temporary living quarters for recreational, camping, or travel use. Recreational unit does not include a mobile home used as a permanent dwelling, residence, or living quarters. [MCL 333.12501(1)(f).]

20. Under Part 125 of the Public Health Code, the Department may “maintain an action in the name of the state for an injunction against a person to restrain or prevent,” among other things, “the operation or conduction of a campground with a license.” MCL 333.12516.

WATER RESOURCES PROTECTION ACT AND PUBLIC NUISANCE

21. Michigan enacted the Water Resources Protection Act 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.

22. Under the Water Resources Protection Act, the “[D]epartment shall take all appropriate steps to prevent any pollution the department considers to be unreasonable and against public interest in view of the existing conditions in any lake, river, stream, or other waters of the state.” MCL 324.3106.

23. Section 3109(1) of the Water Resources Protection Act, MCL 324.3109(1), states:

(1) A person shall not directly or indirectly discharge into the waters of the state a substance that is or may become injurious to any of the following:

(a) To the public health, safety or welfare.

(b) To domestic, commercial, industrial, agricultural, recreational, or other uses that are being made or may be made of such waters.

- (c) To the value or utility of riparian lands.
- (d) To livestock, wild animals, birds, fish, aquatic life, or plants or to their growth or propagation.
- (e) To the value of fish and game.

24. Under the Water Resources Protection Act, a person shall not discharge any waste or waste effluent into the waters of the state unless the person is in possession of a valid permit from the Department. MCL 324.3112(1).

25. "Waters of the state" includes all "groundwaters, lakes, rivers, and streams and all other watercourses and waters, including the Great Lakes, within the jurisdiction of this state." MCL 324.3101(aa).

26. "Waste" is defined to mean "any waste, wastewater, waste effluent, or pollutant that is discharged into water" and includes, among other things, sewage, Mich Admin Code, R 323.2104(iv).

27. Mich Admin Code, R 323.2237, promulgated in accordance with MCL 324.3103(2), lays out the requirements for installing wastewater treatment or storage lagoons, specifically that they include two types of liners, one being either a natural soil barrier that meets the criteria of Mich Admin Code, R 323.2137(2)(a), a compacted soil barrier that meets the criteria of Mich Admin Code, R 323.2137(2)(b), or a geocomposite clay barrier that meets the criteria of Mich Admin Code, R 323.2137(2)(c), and the other being a composite liner that meets the criteria of Mich Admin Code, R 323.2137(3).

28. Mich Admin Code, R 323.2237(4) also allows the Department to approve liners that do not meet all the above requirements if the applicant provides data demonstrating that the liners are not likely to harm groundwater.

29. Under the Water Resources Protection Act, the Department “may request the attorney general to commence a civil action for appropriate relief, including a permanent or temporary injunction, for a violation of [the Water Resources Protection Act] . . . or a rule promulgated under [the Water Resources Protection Act].” MCL 324.3115(1).

30. Violations of MCL 324.3109 are “prima facie” public nuisances that the Michigan Attorney General may abate in a court of competent jurisdiction. MCL 324.3109(6).

31. A public nuisance is “an unreasonable interference with a common right enjoyed by the general public.” *Capitol Properties Group, LLC v 1247 Center Street, LLC*, 283 Mich App 411, 427 (2009) (internal citation omitted.)

“Unreasonable interference” is conduct that: “(1) significantly interferes with the public’s health, safety, peace, comfort, or convenience, (2) is proscribed by law, or (3) is known or should have been known by the actor to be of a continuing nature that produces permanent or long-lasting, significant effect on these rights.” *Id.* at 427–428.

**FACTUAL ALLEGATIONS SUPPORTING UNLICENSED CAMPGROUND
CONSTRUCTION AND OPERATION CLAIM**

32. In July 2022, the Department was informed by the Bay County Health Department that Defendant was operating a campground without a license, specifically Ugly RV Park. (Laskosky Aff, ¶ 5.)

33. On July 28, 2022, the Department ordered Defendant to cease and desist campground operations at Ugly RV Park. (Laskosky Aff, ¶ 5, at Ex 1.)

34. On August 2, 2022, Department Enforcement Analyst Bradley Laskosky spoke with Defendant on the phone and advised him that he needed to stop operating a campground without a license, and further informed him what would be necessary to obtain a license. (Laskosky Aff, ¶ 6.)

35. On August 24, 2022, Mr. Laskosky performed an unannounced site inspection of Ugly RV Park and determined that it was still operating, despite the lack of a license. (Laskosky Aff, ¶ 7.) That day, Mr. Laskosky spoke with Defendant, who promised that he would shut down his campground.

36. The following year, on March 27, 2023, Mr. Laskosky met with Defendant, along with other Department staff. During that meeting, Mr. Laskosky and other Department staff explained what Defendant would need to do to become licensed, and that he could not operate without a license. (Laskosky Aff, ¶ 8.)

37. Still, Defendant did not comply with the requirements and continued operating Ugly RV Park without a license during 2023. (Laskosky Aff, ¶ 9.)

38. On March 26, 2024, Mr. Laskosky performed an internet search for the website associated with Ugly RV Park. According to the website, it was open for the season. (Laskosky Aff, ¶ 11, at Ex 2.)

39. On April 1, 2024, Mr. Laskosky called the number listed on the website and reached Defendant. Mr. Laskosky explained that he could not operate a campground without a license. (Laskosky Aff, ¶ 12.)

40. As of April 4, 2024, Defendant has not submitted a complete and approvable permit application necessary to become a licensed campground. (Laskosky Aff, ¶ 13.)

FACTUAL ALLEGATIONS SUPPORTING WATER RESOURCES PROTECTION ACT CLAIMS AND PUBLIC NUISANCE CLAIMS

41. In the summer of 2020, Defendant's agent, Dennis Banaszak, contacted Department Environmental Quality Specialist Matthew Siler to discuss how to apply for a permit for a planned wastewater lagoon. Mr. Siler explained the permitting process and provided contact information for Davis Roeser, an engineer with the Department who could provide more specific guidance about engineering and constructing wastewater lagoons. (Siler Aff, ¶ 4.)

42. In turn, Mr. Roeser provided a copy of Mich Admin Code R, 323.2237, which includes the specific requirements for lagoon construction. (Ex C.)

43. Defendant did not install a lagoon in accordance with the requirements laid out in Mich Admin Code, R 323.2237.

44. Instead, in June 2022, Mr. Banaszak emailed Mr. Roeser to inform him that Defendant had already installed a wastewater system and dug lagoons, without following the requirements. (Siler Aff, ¶ 7, at Ex 3.)

45. Specifically, Mr. Banaszak indicated that Defendant had already installed 3,000-gallon and 5,000-gallon septic tanks in series upstream of a wet well to accept wastewater. He further indicated that Defendant had already dug two ponds to hold the wastewater and that he was planning to dispose of the solids through a third party, and that he was planning to dispose of the liquids by pumping them through roadside ditches into Meddaugh Drain. (*Id.*)

46. Meddaugh Drain is a water of the state that connects with Tebo-Erickson Drain, another water of the state. (Siler Aff, ¶ 12.)

47. Tebo-Erickson Drain eventually leads to Lake Huron's Saginaw Bay. (*Id.*)

48. On July 8, 2022, at Mr. Siler's direction, Department staff Jill Edelbrock performed an unannounced site inspection of Ugly RV Park. (Siler Aff, ¶ 6.) Ms. Edelbrock sent Mr. Siler an email containing her observations, including photos she took during the inspection. (Siler Aff, ¶ 6, at Ex 2.) Ms. Edelbrock reported to Mr. Siler that she observed that the campground was open and had at least five occupied campsites, many of which were connected to sanitary wastewater disposal system. (*Id.*) Ms. Edelbrock further reported that she observed a lagoon system that appeared to be improperly lined. (*Id.*) Based on Ms. Edelbrock's report, Mr. Siler concluded that Defendant appeared to have installed a wastewater

lagoon without permission, and that it was likely discharging to groundwater because it had not been properly designed and constructed. (*Id.*)

49. On August 18, 2022, the Department sent Defendant Violation Notice VN-013326, citing him for violating MCL 324.3112 and Mich Admin Code, R 323.2205(1), and directing him to “take immediate action to achieve and maintain compliance with the terms and conditions” of the Water Resources Protection Act. (Siler Aff, ¶ 13, at Ex 4.)

50. Defendant’s agent, Mr. Banaszak, responded to VN-013326 the following month and confirmed that the lagoons had been built without meeting the requirements of Mich Admin Code, R 323.2237. (Siler Aff ¶ 14, at Ex 5.)

51. Mr. Banaszak also indicated that Defendant intended to discharge water from the lagoons to Meddaugh Drain and stated that he would first get a permit to do so, but Defendant never applied for one. (Siler Aff ¶ 15.)

52. The following spring, Department staff, including Mr. Siler, met with Defendant at Ugly RV Park, and Mr. Siler explained what would be necessary to correct the lagoons and wastewater system before the Department could issue a permit allowing them to discharge. (Siler Aff, ¶ 16.)

53. That fall, in response to an email from Environmental Investigation Section (EIS) Detective Gowenlock indicating that Defendant had again begun operating the campground, Mr. Siler performed an unannounced site inspection and determined that Defendant had 13 recreational units on site, and 10 of them were

hooked up to his wastewater system, which was actively pumping wastewater at the time of the inspection. (Siler Aff, ¶¶ 17, 18, at Exs 7, 8.)

54. The following month, again in response to an email from EIS Detective Gowenlock that he had responded to a complaint about unlawful activities at Ugly RV Park, Mr. Siler performed an unannounced site inspection and determined that 10 recreational units were connected to the wastewater treatment system and further visually observed the wastewater discharging into the lagoon. (Siler Aff, ¶¶ 19, 20, at Exs 9, 10.)

55. The Department sent Defendant a Second Violation Notice, SVN-01471, citing him for violating MCL 324.3112(1), MCL 324.3109(1), and Mich Admin Code, R 323.2237(1), and directing him to “take immediate action to achieve and maintain compliance” with the Water Resources Protection Act and associated rules. (Siler Aff ¶ 21, at Ex 11.)

56. Neither Defendant nor any of his agents or employees responded to SVN-01471. (Siler Aff, ¶ 22.)

57. On March 26, 2024, Mr. Siler performed an unannounced site inspection of Ugly RV Park. (Siler Aff, ¶¶ 23–26, at Ex 12.) He observed one recreational unit on-site, which was not connected to the wastewater system. He further observed evidence of discharges to waters of the state and waste in the lagoons that are or may become injurious to waters of the state, including a wastewater hose discharging to the ground from the wet well and unlined lagoon sides discharging to groundwater.

COUNT I
UNLICENSED CAMPGROUND UNDER PART 125 OF
THE PUBLIC HEALTH CODE

58. Paragraphs 1 through 57 are restated and incorporated by reference.

59. Defendant constructed Ugly RV Park without a permit and operates it without a license.

60. Defendant's construction of a campground without a permit issued by the Department violates the statutory requirement for licensure pursuant to MCL 333.12505.

61. Defendant's operation of a campground without a license issued by the Department violates the statutory requirement for licensure pursuant to MCL 333.12506(1).

62. Part 125 of the Public Health Department authorizes Plaintiffs to "maintain an action . . . for an injunction against a person to restrain or prevent the construction, enlargement, or alteration of a campground without a permit, or the operation or conduct of a campground without a license."

COUNT II
UNPERMITTED, INJURIOUS DISCHARGES TO WATERS OF THE STATE
UNDER THE WATER RESOURCES PROTECTION ACT

63. Paragraphs 1 through 62 are restated and incorporated by reference.

64. Defendant's discharges of untreated wastewater to waters of the state violate the statutory requirement for a valid permit to discharge any substance to waters of the state under MCL 324.3112. (Siler Aff, ¶¶ 27–30.)

65. Further, Defendant's discharges of untreated wastewater to waters of the state violate the statutory prohibition against discharges of substances that are or may be injurious to, among other things, public health, recreational use, and aquatic life, under MCL 324.3109(1). (*Id.*)

66. Under the Water Resources Protection Act, Defendant is subject to a civil fine of not less than \$2,500 and no more than \$25,000 per day of violation of MCL 324.3112(1) and Mich Admin Code, R 323.2205. MCL 324.3115(1).

67. Under the Water Resources Act, this Court may order Defendant to comply with MCL 324.3112(1) and Mich Admin Code, R 323.2205 and award reasonable attorney fees and costs. MCL 324.3115(1).

COUNT III COMMON LAW PUBLIC NUISANCE

68. Paragraphs 1 through 67 are restated and incorporated by reference.

69. A condition or activity that unreasonably interferes with public rights or threatens public welfare constitutes a public nuisance.

70. Under MCL 324.3109(6), a discharge of an injurious substance to waters of the state is prima facie evidence of a public nuisance.

71. As set forth above, Defendant has created a public nuisance by discharging injurious substances, or those that may become injurious, to waters of the state.

72. This Court has authority and jurisdiction to compel abatement of such a nuisance.

RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully request that this Honorable Court grant the following relief:

1. Declare and adjudge that Defendant's conduct was and is unlawful and in violation of Part 125 of the Public Health Code and the Water Resources Protection Act;
2. Declare that Ugly RV Park is a "campground" subject to the requirements of Part 125 of the Public Health Code;
3. Permanently enjoin Defendant, and any of his employees, agents, and assigns from operating an unlicensed campground at 1623 Kitchen Road, Pinconning, Bay County, Michigan, or anywhere else in the State of Michigan;
4. Permanently enjoin Defendant from violating the Water Resources Protection Act and its associated rules, including enjoining Defendant from unlawful discharges to waters of the state;
5. Grant injunctive relief requiring Defendant to undertake the appropriate corrective actions under the Water Resources Protection Act, including at least the following requirements:
 - a. Stop using the septic system (identified on Ex 13 to Siler Aff), including stormwater conveyances thereto;
 - b. Stop using any wastewater lagoons and conveyances used to hold or transport wastewater that do not meet the requirements of Mich Admin Code, R 323.2237, and empty them in accordance with the Water Resources Protection Act and associated rules;

- c. Identify all locations of wastewater infrastructure, from initial collection location to final discharge location, to determine whether additional injunctive relief is necessary; and
 - d. Identify all locations where wastewater (including grey water, which is a wastewater) has been discharged to, including frequency and approximate volume, to determine whether additional injunctive relief is necessary.
6. Order Defendant to timely and properly close wastewater lagoons A and B, as depicted on Ex 13 to Siler Aff at 1623 East Kitchen Road, Pinconning, Bay County, Michigan, in conformance with the Part 22 Rules and Part 91;
7. Order Defendant to abate the public nuisance;
8. Order Defendant to pay civil fines and attorney fees; and
9. Grant Plaintiff further relief as the Court finds just and appropriate.

Respectfully submitted,

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Dated: May 7, 2024

LF: Ugly RV Park (EGLE) CC/AG# 2024-0397596-C/Complaint 2024-05-07