

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

ANN ARBOR CHARTER TOWNSHIP,
a Michigan municipal corporation,

Case No. 23-001234-CE
Hon. Timothy P. Connors

Plaintiff,

vs.

WSG PROPERTIES LLC, a Michigan limited liability
company, AMC-WSG LLC, a Michigan limited
liability company, AMC-MID MICHIGAN
MATERIALS LLC, a Michigan limited liability
company,

Defendants. /

Nathan D. Dupes (P75454)
Sarah J. Gabis (P67722)
Sinéad G. Redmond (P85718)
BODMAN PLC
6th Floor at Ford Field
1901 St. Antoine St.
Detroit, MI 48226
(313) 259-7777
ndupes@bodmanlaw.com
sgabis@bodmanlaw.com
sredmond@bodmanlaw.com
Attorneys for Plaintiff

Michael P. Hindelang (P62900)
Andrew W. Clark (P79165)
Jalen R. Farmer (P86859)
Honigman LLP
2290 First National Building
660 Woodward Avenue
Detroit, MI 48226-3506
313.465.7282
mhindelang@honigman.com
aclark@hoingman.com
jfarmer@honigman.com
Attorneys for Defendants

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**STIPULATED CLARIFICATION TO ORDER GRANTING PRELIMINARY
INJUNCTION**

At a session of said Court, held in the City of Ann
Arbor, County of Washtenaw, State of Michigan
On October20, 2023

PRESENT: Timothy P. Connors
CIRCUIT COURT JUDGE

This matter comes before the Court upon the stipulation of the parties (as to form only) after they have conferred about the scope of the Court's October 10, 2023 Order Granting Preliminary Injunction in response to Plaintiff Ann Arbor Charter Township's (the "Township") Motion for Temporary Restraining Order and Preliminary Injunction (the "Motion") and the Court having previously found that:

- A. Injunctive relief is appropriate to abate a nuisance per se.
- B. The Township will be irreparably injured unless an order is granted enjoining Defendants' mining operation from violating the CUP, Township Zoning Ordinances, and the Development Agreement;
- C. The Township is likely to prevail on the merits of its claims;
- D. An order enjoining Defendants' mining operation from violating the CUP, Township Zoning Ordinances, and the Development Agreement will not unjustly injure Defendants.
- E. The public interest will be served by enjoining Defendants' mining operation from violating the CUP, Township Zoning Ordinances, and the Development Agreement.

NOW, THEREFORE, IT IS HEREBY ORDERED that the Township's Motion is granted.

IT IS FURTHER ORDERED that:

1. The Court's October 10, 2023 Order Granting Preliminary Injunction is vacated effective immediately and replaced with this clarified Order, except that the findings supporting the Court's October 10, 2023 Order, which are restated above, remain undisturbed.

2. Defendants, and those acting as agents or in concert with Defendants, are immediately enjoined from operating their mining operation, except in full compliance with (a) the Conditional Use Permit authorized by the Township's Board of Trustees on July 20, 2020 ("CUP"), (b) the Township Zoning Ordinances, and (c) the Development Agreement between the Township and Defendant AMC-WSG, LLC ("Development Agreement"). Without modifying or limiting the generality of the foregoing, (a) 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; (b) Defendants shall not use a dewatering process in order to access sand or gravel; (c) if Defendants mine, they shall do so without operating their wash plant, until such time as they are unable to mine further without operating the wash plant, currently estimated to be 2-3 weeks from the date of this Order ("Stage 1"); (d) After Stage 1, Defendants may resume operation of the wash plant by withdrawing water solely from Pond 2, as indicated on Exhibit A, until such time as they are unable to further operate the wash plant by withdrawing water solely from Pond 2, currently estimated to be 1 week from the end of Stage 1 ("Stage 2"); (e) After Stage 2, only as necessary for operation of the wash plant,

Defendants may operate the wash plant using Pond 1 to replenish Pond 2, but may only withdraw the minimum amount from Pond 1 necessary to operate the wash plant (“Stage 3”), subject to Paragraph 4, below; (f) Defendants shall notify the Township’s counsel prior to changing from one Stage to another, as described in this paragraph.

3. Defendants shall provide the Township daily measurements of the surface elevation of Pond 1, as indicated on Exhibit A, for the purpose of demonstrating recovery of the aquifer and water table. For the same purpose, subject to obtaining access, Defendants also shall regularly test (or pay for the cost of testing) the surface elevation of a reasonable number of off-site water features (e.g., residential wells) suggested by the Township.
4. Defendants shall cease operating under Stage 3, as described in Paragraph 2, above, if doing so adversely impacts the recovery of the aquifer and water table.
5. Once Defendants have demonstrated to the Township that the aquifer and water table have recovered to the natural levels existing prior to Defendants’ dewatering operations, Defendants may notify the Township that they wish to operate a “closed loop” system without following the staging process under Paragraph 2, above. The Township shall review Defendants’ proposed “closed loop” system to ensure it complies with the CUP, Township Zoning Ordinances, the Development Agreement, and this Order. If the Township approves, Defendants may operate such “closed loop” system, provided they

continue to fully comply with the remaining provisions of this Order. If there is a dispute between the parties under this paragraph, either party may submit the dispute to the Court for resolution.

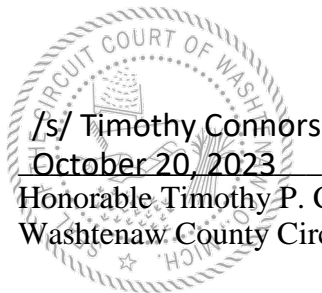
6. The Township may immediately enter the Vella Pit to ensure operations are being performed in compliance with this Order. If operations are not being performed as set forth herein, the Township may tag and padlock the Vella Pit against entry by any person or entity.

7. This Court has considered the requirements of MCR 3.310(D) and has determined that security is not required for entry of this Order.

This is not a final order and does not resolve the last pending claim or otherwise close the case.

IT IS SO ORDERED.

Dated: October ____, 2023.



/s/ Timothy Connors
October 20, 2023

Honorable Timothy P. Connors
Washtenaw County Circuit Court Judge

Stipulated as to form only by:

/s/ Nathan D. Dupes (P75454) (with consent)
BODMAN PLC
Attorneys for Plaintiff

/s/ Andrew W. Clark (P79165)
HONIGMAN LLP
Attorneys for Defendants

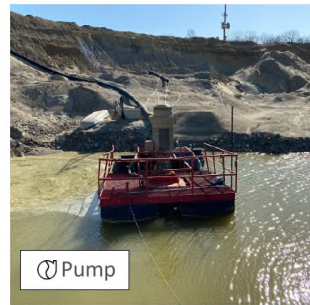
EXHIBIT A

Vella Pit - Operations



- ① Active mining area
- ② Reservoir of water for wash plant
- ③ Settling pond
- ⓧ NPDES outfall to wetlands (further discharge prohibited)
- ⑤ Settling pond for wash plant return water

→ Water flow direction



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ALDRICH

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