

STATE OF MICHIGAN
COURT OF CLAIMS

RICHARD D. CARNE,

Plaintiff,

v

MICHIGAN DNR,

Defendant.

No. 18-000238-MZ

HON. COLLEEN A. O'BRIEN

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Assistant Attorney General
Attorney for Defendant
Environment, Natural Resources, and
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Lansing, MI 48909
(517) 335-7664

2019 JUN 18 PM 4:28

ORDER OF DISMISSAL

The parties having filed a stipulation and this Court having reviewed the parties' stipulation,

IT IS HEREBY ORDERED:

- a. Within 60 days of entry of this order, DNR shall execute and deliver to Mr. Carne a quitclaim deed conveying to Mr. Carne all of DNR's

interest in the south 30 feet of Lots 1 and 2, Block 10, in the Village of Clark, currently known as Dollar Bay, Houghton County (the Property). DNR shall solely bear the costs of preparing and executing the quitclaim deed required in this subparagraph.

b. Within 60 days of entry of this order, Mr. Carne shall execute and deliver to DNR a quitclaim deed conveying to DNR all of Mr. Carne's interest in the platted 14-foot alley adjacent to Lots 1 and 2, Block 10, in the Village of Clark. Mr. Carne shall solely bear the costs of preparing and executing the quitclaim deed required in this subparagraph.

c. Each party shall be responsible for recording the quitclaim deed that conveys an interest to it. Each party shall bear its own costs for recording the quitclaim deed.

d. Mr. Carne acknowledges that DNR intends to use the alley adjacent to the Property for recreational trail purposes. No later than November 30, 2019, Mr. Carne (or his heirs, successors or assigns) shall construct and maintain a retaining wall on the Property of sufficient material, design and location, with a minimum height of 1 foot above the earth embankment, to prevent fill material from the Property from falling onto the alley other than in incidental amounts. The retaining wall shall be constructed solely on the Property and shall not be constructed on any portion of the alley adjacent to the Property. Mr. Carne, his heirs, successors and assigns shall be solely responsible for the design, construction and

maintenance of the retaining wall and for any liability for injuries or property damage caused by the retaining wall. DNR shall have no responsibility for the design, construction or maintenance of the retaining wall and shall bear no liability for injuries or property damage caused by the retaining wall.

IT IS FURTHER ORDERED that all remaining claims in this case are dismissed with prejudice, without costs to any party. This Court shall retain continuing jurisdiction over this matter for enforcement of this order.

This order resolves the last pending claim and closes the case.

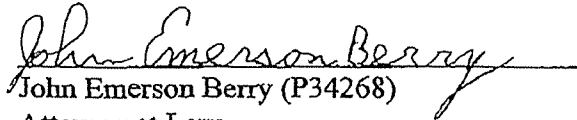
June 20, 2019
Date

Colleen A. O'Brien
Honorable Colleen A. O'Brien

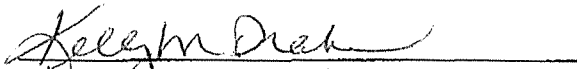
LF: Carne, Richard D. v Michigan DNR/AG#2018-0234116-B/Order – to Dismiss 2019-06-04

Approved as to form:

June 07, 2019


John Emerson Berry (P34268)
Attorney at Law
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June 07, 2019


Kelly M. Drake (P59071)
Assistant Attorney General
for DNR