

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX REL.
WAYNE T. DONER, ET AL.,

Relators,

v.

JAMES ZEHRINGER, DIRECTOR,
OHIO DEPARTMENT OF
NATURAL RESOURCES, ET AL.,

Respondents.

Case No.: 2009-1292

**RELATORS' OPPOSITION TO RESPONDENTS' CROSS-MOTION FOR LEAVE TO
FILE ITS OWN SUPPLEMENT TO EVIDENCE**

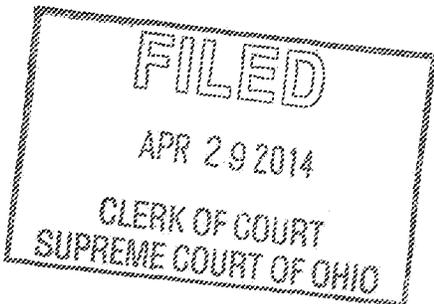
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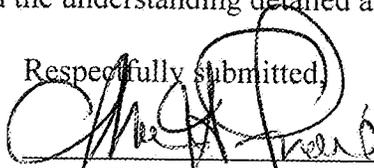
The Court should deny ODNR's cross-motion for leave to file its own supplement to evidence for two reasons. First, the Zumberge Motion to Amend attached to ODNR's motion is not proper evidence because it is not submitted by affidavit and is not a sworn or certified (or even court-stamped) copy. (*See* S.Ct.Prac.R. 12.06.) Second, the Zumberge Motion to Amend is duplicative of evidence already in the record demonstrating that ODNR is attempting to throw out the original petitions it filed to comply with the Court's Contempt Order. (*See, e.g.*, Exhs. C and H to December 10, 2013 Fusonie Aff.; Exh. A to April 24, 2014 Fusonie Aff.) And, this specific motion only became recently available because ODNR is continuing its attempts to throw out its original petitions in the trial court, one-by-one.

If the Court chooses to grant ODNR's cross-motion, however, it should be aware that ODNR is using its proposed evidence as a red herring. ODNR wishes to cover up its contempt by highlighting a unique property where, even under ODNR's "increased flooding" theory, multiple acres flood. In *Doner*, when ODNR argued that it should have to appropriate only the increased flooding caused by the new spillway, ODNR used hydrology evidence from Stantec to argue that ODNR had only "increased the area subject to flooding during the 15-year, 96-hour event, on only 16 Relator properties that total about 68 acres." (ODNR Merit Brief, p. 45 (excerpts attached as Exhibit A).) According to the cited Stantec report, the Zumberge property (the "Zumberge Charles et al" properties) made up nearly half of the "additional acres impacted" by the new spillway with 31.6 additional acres. (*Doner*, Respondents's Evid. Tab A, Stantec Memo, table 7 (excerpts attached hereto as Exh. B).) Not only did the Court's *Doner* decision reject ODNR's "increased flooding" theory, it found that all Relators had established a taking and were entitled to compensation, including the multiple properties that ODNR claimed were not impacted by the new spillway in flood duration or flood depth. (*See* Exh. B, Table 3.)

The unique nature of the Zumberge property does not change the fact that the Zumberge Motion to Amend suffers from the same contemptuous flaws as other evidence already in the record. First, it seeks to appropriate a flowage easement that is not based on the 2003 flood levels, which is contrary to the *Doner* decision, ODNR's representations to this Court during the first show cause hearing, the Contempt Order, and ODNR's certifications of compliance. Second, it seeks to appropriate an easement for only the "increase in depth and duration of flooding," which is in defiance of the Court's Writ and Opinion in *Doner*. In *Doner*, ODNR's Fourth Proposition of Law argued that "Respondents should only have to appropriate the new spillway's impacts because the State has a prescriptive easement" because "Beaver Creek was used to discharge excess water from GLSM since [[t]he old spillway was built in 1914]" and "[f]looding under the old spillway caused damage similar to that claimed by Relators under the new spillway." (Exh. A, at 45.) The Court rejected this evidence and proposition. *Doner*, ¶ 84.

For the above reasons, the Court should deny ODNR's cross-motion. If the Court grants ODNR's cross-motion, it should do so with the understanding detailed above.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was served upon the following, via U.S. Mail postage prepaid and e-mail, this 29th day of April, 2014:

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ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE ex rel. WAYNE T. DONER, et al.,	:	Case No. 2009-1292
	:	
Relators,	:	Original Action in Mandamus
	:	
v.	:	
	:	
SEAN D. LOGAN, Director,	:	
Ohio Department of Natural Resources, et al.,	:	
	:	
Respondents.	:	

MERIT BRIEF OF RESPONDENTS

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FILED

SEP 30 2010

CLERK OF COURT
SUPREME COURT OF OHIO

PENGAD 800-631-6888

EXHIBIT

 A

unfounded criticism of Respondents' expert evidence and modeling is not clear and convincing evidence of a taking.

Respondents' Proposition of Law No. 4:

Even if this Court finds a taking, Respondents should only have to appropriate the new spillway's impacts because the State has a prescriptive right to temporarily and intermittently overflow the banks of the Beaver Creek and Wabash River onto Relators' properties during periods of high precipitation.

Relators cannot show a taking over most of the subject properties because ODNR previously acquired a prescriptive right to temporarily and intermittently overflow the banks of the Beaver Creek and Wabash River onto Relators' properties during periods of high rainfall. That prescriptive right ripened prior to and was not extinguished by the new spillway's construction.

Governmental entities may acquire an interest in land by adverse possession. *State ex rel. AAA Investments v. Columbus* (1985), 17 Ohio St.3d 151, 152. Such acquisition is not a compensable taking. *Id.* at 152-53. "To establish a prescriptive easement by adverse use, a party bears the burden of proving the use of another's property 1) openly, 2) notoriously, 3) adversely to the owner's property rights, 4) continuously, and 5) for at least 21 years." *Simmons v. Trumbull Cty. Eng'r* (11th Dist. 2007), No. 2007-T-0049, 2007-Ohio- 6735, ¶ 21, citing *Penn. Rd. Co. v. Donovan* (1924), 111 Ohio St. 341, syllabus ¶ 1.

Ohio courts have held that one may obtain a prescriptive right to flood another's land if such flooding existed for the prescribed period to substantially the same degree. *Twinsberry Farm v. Consol. Rail Corp.* (9th Dist. 1983), 11 Ohio App. 3d 182, 184; *Shelton v. Mosier* (4th Dist. 1924), 19 Ohio App. 89, 91 ("If . . . the dam has been for that period causing a neighbor's land to overflow he has by that prescription obtained . . . the right to overflow the neighbor's land.").

The old spillway was built in 1914, well beyond the prescriptive period. See, also, *State ex rel. Post v. Speck* (3d Dist. 2006), No. 10-2006-001, 2006-Ohio-6339, ¶ 8 (noting the headwaters of the Wabash and St. Marys rivers were dammed between 1837 and 1841 to create GLSM). Beaver Creek was used to discharge excess water from GLSM since that time. The new spillway was not completed until 1997. During the period that the old spillway was in place, most Relators and their fact witnesses acknowledge that the properties at issue suffered persistent flooding. See, supra, page 4. As evidenced by Relators' anecdotal evidence of flooding and the Stantec reports and modeling, flooding existed to substantially the same degree during the prescriptive period. See, supra, page 4. Flooding under the old spillway caused damage similar to that claimed by Relators under the new spillway, including crop loss, siltation of drainage tiles, debris, and land erosion, as well as damage to roads, fills, bridges, culverts, and utilities. Corps Report, pp. 17-19, Tables 2 & 3.

ODNR acquired the prescriptive right to temporarily and intermittently overflow the banks of the Beaver Creek and Wabash River onto Relators' properties during periods of high precipitation. That prescriptive right ripened prior to, and was not extinguished by, the new spillway's construction. "[A] user's acknowledgment that the title holder has the paramount right will not extinguish a fully matured prescriptive easement After the prescriptive easement results from prior adverse use, the user does not forfeit the established easement by acting as if it did not exist." *J.F. Gioia, Inc. v. Cardinal Am. Corp.* (8th Dist. 1985), 23 Ohio App. 3d 33, 39-40.

Stantec's findings show that the new spillway has increased the area subject to flooding during the 15-year, 96-hour event, on only 16 Relator properties that total about 68 acres. Respondents' Evid. Tab A, Stantec Memo p. 15, table 7 (copy attached as Appendix A). On

seven of these properties, the additional acreage flooded is less than one acre. *Id.* On several parcels, the acreage impacted has remained the same, but the new spillway has increased the duration of out-of-bank flooding for some properties adjacent to Beaver Creek and the Wabash River. Stantec Discussion p. 2.2. The duration of out-of-bank flooding is increased by up to two days for the 15-year, 96-hour event. *Id.*; Stantec Memo pp. 9-10, table 2.²³ Although a change in use can extinguish an easement, that rule should not apply here because there has been no meaningful change in use; the easement is still used to temporarily and intermittently overflow the banks of the Beaver Creek and Wabash River onto Relators' properties during periods of high precipitation.

This Court has addressed a similar issue in *Munn v. Horvitz Co.* (1964), 175 Ohio St. 521. In holding that a governmental entity had a prescriptive right to divert surface water by means of a sewer system, this Court stated that such prescriptive right extends to a diversion of all water that might run off as a result of the land being developed and put to reasonable use:

[T]he prescriptive right acquired by defendants [a city and the State of Ohio] is one to drain a particular area rather than to drain a given quantity or volume of water. Area appears to be the best standard by which the right acquired may be defined. The quantity or volume of water drained at any time is variable, subject to many inconstant factors, such as rainfall intensity, soil saturation, perviousness of surface, and runoff characteristics. The only constant factor is the area drained. . . . In short, there being the right to divert the surface water from a watershed, such right extends to a diversion of all water that might run off as a result of the land being developed and put to reasonable use.

Id. at 528. See, also, *McGlashan v. Spade Rockledge Terrace Condo. Dev. Corp.* (1980), 62 Ohio St. 2d 55 (discussing *Munn* and laying out the reasonable-use rule for disputes involving surface-water controversies). Similarly, the new spillway continues to outlet or drain, through Beaver Creek, the same area (GLSM) during periods of high precipitation.

²³ An increase in duration, depth and/or velocity of flood waters is an "incidental consequence" of the construction of a public works, not a change in use. *Danforth*, 308 U.S. at 287.

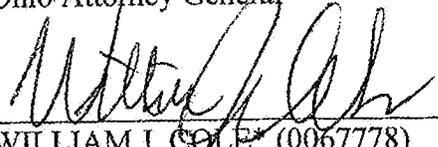
ODNR has acquired a prescriptive right to outlet or drain GLSM, as necessary in periods of high precipitation, through Beaver Creek. Accordingly, even if this Court finds that Relators have proved a taking (they have not), Respondents should only be required to appropriate a flowage easement for the extended areas flooded solely by the new spillway.

CONCLUSION

For the foregoing reasons, Relators' demand for a writ of mandamus to compel Respondents to initiate appropriation proceedings should be denied.

Respectfully submitted:

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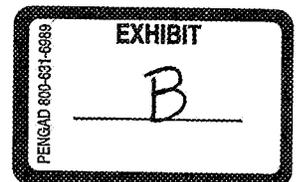
**Grand Lake Saint Marys and
Beaver Creek Hydrologic and
Hydraulic Analysis – Discussion of
Results and other Analysis**

Prepared for Ohio Department of
Natural Resources, Division of
Engineering



Stantec

March 1, 2010



**GRAND LAKE SAINT MARYS AND BEAVER CREEK HYDROLOGIC AND HYDRAULIC ANALYSIS –
DISCUSSION OF RESULTS AND OTHER ANALYSIS**

Discussion of Modeling Results

For both events, the inundation limits with the new spillway were overlain on the inundation limits of the old spillway. The maps, which show the parcels involved in the current lawsuit, are attached in the Appendix. The mapping demonstrates that many of the parcels allegedly impacted by spillway flow actually see no additional depth of flooding due to the spillway improvements.

As expected, for both the 15-year and 100-year events, the spillway improvements do cause additional depth of flooding near the spillway. However, as the distance downstream from the spillway increases, the impacts of the additional spillway flow decreases. For the 15-year event the new spillway does not cause additional depth of flooding below Fleetfoot Road (approximately 2 miles downstream of the spillway). As described above, this is because below Fleetfoot Road the maximum depth of flooding is controlled by runoff from the area below the dam and not by flow that came through the spillway. Likewise, for the 100 year, 96-hour event, the new spillway does not cause appreciable additional depth of flooding on any of the properties in the lawsuit below State Route 29 (approximately 4 miles below the spillway).

In addition to the maps of peak elevation, a time series map was created to show the impact that the new spillway has on the duration of flooding. For the 15-year, 96-hour event, the area inundated by the new and old spillways was plotted at 12 and 24 hour increments on a series of three maps that are included in the appendix. It can be seen from this map that with the old spillway in place, Beaver Creek/Wabash River is largely contained within its banks by Day 5 of the storm event. On Day 8 the, with the new spillway in place, flow would be largely contained within the banks.

For both the 15 and 100 year events, the tables below divide the parcels involved in the case into 3 categories: those that are likely to see increased maximum depth of flooding due to the spillway, those that are likely to see increased durations of flooding due to the new spillway, and those that are not likely to be impacted by flows from the new spillway.

Table 1 – Parcels impacted by increased maximum depth of flooding during 15-year event

Parcel	Owner
26-027300.0500	MCNEILAN DAVID J
26-027400.0000	MCNEILAN DAVID J
26-027500.0000	MCNEILAN DAVID J & LAURA B
26-027200.0000	MCNEILAN LOIS J
26-052600.0000	MEIER CHARLES J
26-052700.0000	MEIER CHARLES J
26-052700.0100	MEIER CHARLES J
26-049500.0000	Z FARMS INC
26-022600.0000	ZUMBERGE CHARLES ETAL
26-052900.0000	ZUMBERGE CHARLES ETAL

Table 2 – Parcels impacted by increased duration of flooding during 15-year event

Parcel	Owner
42-005800.0000	ADAMS RICHARD L & NANCY L
42-003700.0000	ADAMS RICHARD L & NANCY L

**GRAND LAKE SAINT MARYS AND BEAVER CREEK HYDROLOGIC AND HYDRAULIC ANALYSIS –
DISCUSSION OF RESULTS AND OTHER ANALYSIS**

Discussion of Modeling Results

Table 2 – Parcels impacted by increased duration of flooding during 15-year event

Parcel	Owner
26-043100.0000	BAUCHER FARMS INC
28-011300.0000	DONER WAYNE ET AL
28-012200.0000	DONER WAYNE ET AL
28-011700.0000	DONER WAYNE ET AL
28-010500.0000	DONER WAYNE T
28-012300.0000	DONER WAYNE T & JANET K
26-041200.0100	DWENGER LAWRENCE J & JOYCE A
26-047200.0100	EBBING STANLEY M & VICKI L
26-041000.0000	EBBING STANLEY M & VICKI I
26-041200.0000	GILBERT HAROLD EDWARD & MARY E
26-041400.0000	HIGHLEY ROBERT E & PATRICIA L
42-003500.0000	HIGHLEY ROBERT E & PATRICIA L
42-004500.0000	HIGHLEY ROBERT E & PATRICIA L
26-038300.0200	JOHNSMAN DANIEL W
26-038300.0000	JOHNSMAN LEROY J & RUTH TRUST
28-013500.0000	KARR JEAN A TRUSTEE & RANSBOTTOM WILLIAM J
28-013400.0000	KARR JEAN A TRUSTEE & RANSBOTTOM WILLIAM J
29-003500.0000	KNAPKE CHAD M & ANDREA M
29-003600.0000	KNAPKE CHAD M & ANDREA M
29-002400.0000	KNAPKE MARK L TRUSTEE
29-003700.0000	KNAPKE TIMOTHY ALAN
42-001200.0000	KUHN DARRELL DEAN
42-000200.0000	KUHN MARILYN
29-002200.0000	LINN LINDA B ETAL
26-038100.0000	MCDONOUGH DAVID J & DEBORAH A
42-001000.0000	MEYER JEROME L & AMY L
29-004400.0000	MUHLENKAMP WILLIAM
29-003300.0000	MUHLENKAMP WILLIAM
29-004200.0000	POST OPAL L
28-011400.0000	POST OPAL L
28-010400.0000	POWELL JERRY & BETTY
42-014000.0000	POWELL JERRY & BETTY TRUSTEES
42-003400.0000	POWELL MARY LEONE ETAL
42-003800.0000	POWELL MARY LEONE ETAL
28-010400.0100	POWELL THOMAS L & BRENDA S
42-014000.0100	POWELL THOMAS L & BRENDA S
42-001300.0000	RASAWEHR TIMOTHY ETAL (PIERSTORFF)
28-012900.0000	SHEETS DUANE R
28-010900.0000	SHEETS DUANE R
28-011100.0000	SHEETS RODNEY E
28-011000.0000	SHEETS RODNEY E & LINDA
42-001000.0100	SIEFRING MARK
26-040900.0000	SUHR DAVID J & RITA K
26-039200.0200	SUHR DAVID J & RITA K
26-004200.0101	SUHR RITA KAY
26-039100.0500	SUHR RITA KAY
28-015300.0000	SUTTER CARL A & JUDITH A
28-013800.0000	THOMAS GALE A & NELDA G
42-000300.0100	WEISMAN JERRY & VICKI

**GRAND LAKE SAINT MARYS AND BEAVER CREEK HYDROLOGIC AND HYDRAULIC ANALYSIS –
DISCUSSION OF RESULTS AND OTHER ANALYSIS**

Discussion of Modeling Results

Table 3 – Parcels not impacted by flows from the new spillway during 15-year event

Parcel	Owner
42-017300.0000	BAUCHER FARMS INC
26-049300.0100	ELLIS CARMAN R & JILL E
42-004100.0000	GRANGER DAVID L & ESTHER L TRUSTEES
26-049300.0200	HINES JASON E & EMILY A
26-024700.0000	JOHNSMAN DAVID & JOSEPH TRUSTEES
26-048600.0000	JOHNSMAN JOSEPH LEE & JOHNSMAN DAVID ANDREW
26-029500.0100	JOHNSMAN JOSEPH LEE & JOHNSMAN DAVID ANDREW
27-013500.0000	KRICK THOMAS L & CANDACE L
27-012600.0000	KRICK THOMAS L & CANDANCE
28-017400.0100	KUHN MARVIN EARL
42-019800.0000	MEYER JEROME L & AMY L
42-019700.0000	MEYER JEROME L & AMY L
42-024200.0000	POWELL JERRY & BETTY TRUSTEES
42-016900.0000	POWELL JERRY W & BERRY L TRUSTEES
42-018500.0000	ROSE CARL W & LUCILE M
42-005700.0000	SCHROYER DOROTHY K
26-030700.0000	SEARIGHT ROBERT E & BONITA S
26-011900.0000	SEARIGHT ROBERT E & BONNIE
26-030700.0300	SEARIGHT ROBERT E & BONNIE
26-030700.0200	SEARIGHT ROBERT E & BONNIE
26-044100.0200	SIEFRING JEFF
26-044100.0100	SIEFRING JEFF
26-044100.0000	SIEFRING JEFF
42-020000.0000	SIEFRING MARK & RONALD
26-051400.0000	Z FARMS INC
26-051000.0000	ZUMBERGE CHARLES ETAL
26-042800.0000	ZUMBERGE JENNIFER

Table 4 – Parcels impacted by increased maximum depth of flooding during 100-year event

Parcel	Owner
26-047200.0100	EBBING STANLEY M & VICKI L
26-049300.0100	ELLIS CARMAN R & JILL E
26-049300.0200	HINES JASON E & EMILY A
26-038300.0200	JOHNSMAN DANIEL W
26-029500.0100	JOHNSMAN JOSEPH LEE & JOHNSMAN DAVID ANDREW
26-038300.0000	JOHNSMAN LEROY J & RUTH TRUST
27-013500.0000	KRICK THOMAS L & CANDACE L
27-012600.0000	KRICK THOMAS L & CANDANCE
26-038100.0000	MCDONOUGH DAVID J & DEBORAH A
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26-027300.0500	MCNEILAN DAVID J
26-027500.0000	MCNEILAN DAVID J & LAURA B
26-027200.0000	MCNEILAN LOIS J
26-052600.0000	MEIER CHARLES J
26-052700.0000	MEIER CHARLES J
26-052700.0100	MEIER CHARLES J

**GRAND LAKE SAINT MARYS AND BEAVER CREEK HYDROLOGIC AND HYDRAULIC ANALYSIS –
DISCUSSION OF RESULTS AND OTHER ANALYSIS**

Discussion of Modeling Results

Table 4 – Parcels impacted by increased maximum depth of flooding during 100-year event

Parcel	Owner
26-049500.0000	Z FARMS INC
26-052900.0000	ZUMBERGE CHARLES ETAL
26-022600.0000	ZUMBERGE CHARLES ETAL
26-051000.0000	ZUMBERGE CHARLES ETAL

Table 5 – Parcels impacted by increased duration of flooding during 100-year event

Parcel	Owner
42-005800.0000	ADAMS RICHARD L & NANCY L
42-003700.0000	ADAMS RICHARD L & NANCY L
26-043100.0000	BAUCHER FARMS INC
28-011300.0000	DONER WAYNE ET AL
28-012200.0000	DONER WAYNE ET AL
28-011700.0000	DONER WAYNE ET AL
28-010500.0000	DONER WAYNE T
28-012300.0000	DONER WAYNE T & JANET K
26-041200.0100	DWENGER LAWRENCE J & JOYCE A
26-041000.0000	EBBING STANLEY M & VICKI I
26-041200.0000	GILBERT HAROLD EDWARD & MARY E
42-004100.0000	GRANGER DAVID L & ESTHER L TRUSTEES
26-041400.0000	HIGHLEY ROBERT E & PATRICIA L
42-003500.0000	HIGHLEY ROBERT E & PATRICIA L
42-004500.0000	HIGHLEY ROBERT E & PATRICIA L
28-013500.0000	KARR JEAN A TRUSTEE & RANSBOTTOM WILLIAM J
28-013400.0000	KARR JEAN A TRUSTEE & RANSBOTTOM WILLIAM J
29-003500.0000	KNAPKE CHAD M & ANDREA M
29-003600.0000	KNAPKE CHAD M & ANDREA M
29-002400.0000	KNAPKE MARK L TRUSTEE
29-003700.0000	KNAPKE TIMOTHY ALAN
42-001200.0000	KUHN DARRELL DEAN
42-000200.0000	KUHN MARILYN
29-002200.0000	LINN LINDA B ETAL
42-001000.0000	MEYER JEROME L & AMY L
29-004400.0000	MUHLENKAMP WILLIAM
29-003300.0000	MUHLENKAMP WILLIAM
29-004200.0000	POST OPAL L
28-011400.0000	POST OPAL L
28-010400.0000	POWELL JERRY & BETTY
42-014000.0000	POWELL JERRY & BETTY TRUSTEES
42-003400.0000	POWELL MARY LEONE ETAL
42-003800.0000	POWELL MARY LEONE ETAL
28-010400.0100	POWELL THOMAS L & BRENDA S
42-014000.0100	POWELL THOMAS L & BRENDA S
42-001300.0000	RASAWEHR TIMOTHY ETAL (PIERSTORFF)
42-018500.0000	ROSE CARL W & LUCILE M
42-005700.0000	SCHROYER DOROTHY K
28-012900.0000	SHEETS DUANE R
28-010900.0000	SHEETS DUANE R
28-011100.0000	SHEETS RODNEY E

**GRAND LAKE SAINT MARYS AND BEAVER CREEK HYDROLOGIC AND HYDRAULIC ANALYSIS –
DISCUSSION OF RESULTS AND OTHER ANALYSIS**

Discussion of Modeling Results

Table 5 – Parcels impacted by increased duration of flooding during 100-year event

Parcel	Owner
28-011000.0000	SHEETS RODNEY E & LINDA
42-001000.0100	SIEFRING MARK
26-040900.0000	SUHR DAVID J & RITA K
26-039200.0200	SUHR DAVID J & RITA K
26-004200.0101	SUHR RITA KAY
26-039100.0500	SUHR RITA KAY
28-015300.0000	SUTTER CARL A & JUDITH A
28-013800.0000	THOMAS GALE A & NELDA G
42-000300.0100	WEISMAN JERRY & VICKI
26-042800.0000	ZUMBERGE JENNIFER

Table 6 – Parcels not impacted by flows from the new spillway during 100-year event

Parcel	Owner
42-017300.0000	BAUCHER FARMS INC
26-024700.0000	JOHNSMAN DAVID & JOSEPH TRUSTEES
26-048600.0000	JOHNSMAN JOSEPH LEE & JOHNSMAN DAVID ANDREW
28-017400.0100	KUHN MARVIN EARL
42-019800.0000	MEYER JEROME L & AMY L
42-019700.0000	MEYER JEROME L & AMY L
42-024200.0000	POWELL JERRY & BETTY TRUSTEES
42-016900.0000	POWELL JERRY W & BERRY L TRUSTEES
26-030700.0000	SEARIGHT ROBERT E & BONITA S
26-011900.0000	SEARIGHT ROBERT E & BONNIE
26-030700.0300	SEARIGHT ROBERT E & BONNIE
26-030700.0200	SEARIGHT ROBERT E & BONNIE
26-044100.0200	SIEFRING JEFF
26-044100.0100	SIEFRING JEFF
26-044100.0000	SIEFRING JEFF
42-020000.0000	SIEFRING MARK & RONALD
26-051400.0000	Z FARMS INC

For the parcels that are impacted by additional maximum depth of flooding (Table 1 and Table 4), the area impacted by both the 15 and 100 year events is shown in Table 7.

GRAND LAKE SAINT MARYS AND BEAVER CREEK HYDROLOGIC AND HYDRAULIC ANALYSIS – DISCUSSION OF RESULTS AND OTHER ANALYSIS

Table 7 – Acres Impacted by Spillway

PARCEL	OWNER	Parcel Area acres	Peak Area Inundated (acres)									
			15-year event					100-year event				
			15-yr Old Spillway	15-yr New Spillway	Additional Acres Impacted	Percent of Property Impacted	100-yr Old Spillway	100-yr New Spillway	Additional Acres Impacted	Percent of Property Impacted		
26-047200.0100	EBBING STANLEY M & VICKI L	68.4	12.9	13.2	0.3	0.4%	16.3	17.8	1.5	2.2%		
26-049300.0100	ELLIS CARMAN R & JILLE	1.0	0.0	0.0	0.0	0.0%	0.0	0.8	0.8	80.0%		
26-049300.0200	HINES JASON E & EMILY A	1.3	0.0	0.0	0.0	0.0%	0.0	1.1	1.1	83.0%		
26-038300.0200	JOHNSMAN DANIEL W	25.7	5.0	5.1	0.1	0.4%	6.8	8.3	1.5	5.8%		
26-029500.0100	JOHNSMAN JOSEPH LEE & JOHNSMAN DAVID ANDREW	5.0	0.0	0.0	0.0	0.0%	0.2	0.8	0.6	12.0%		
26-038300.0000	JOHNSMAN LEROY J & RUTH TRUST	29.8	5.0	5.1	0.1	0.3%	6.8	7.5	0.7	2.4%		
27-013500.0000	KRICK THOMAS L & CANDACE L	0.4	0.0	0.0	0.0	0.0%	0.0	0.4	0.4	90.2%		
27-012600.0000	KRICK THOMAS L & CANDANCE	1.0	0.0	0.0	0.0	0.0%	0.0	0.5	0.5	52.3%		
26-038100.0000	MCDONOUGH DAVID J & DEBORAH A	38.6	18.2	18.3	0.1	0.3%	21.8	24.2	2.4	6.2%		
26-027300.0500	MCNEILAN DAVID J	54.0	37.0	42.5	5.5	10.2%	44.3	46.8	2.5	4.6%		
26-027400.0000	MCNEILAN DAVID J	28.2	11.9	14.8	2.9	10.3%	15.6	17.8	2.2	7.8%		
26-027500.0000	MCNEILAN DAVID J & LAURA B	49.2	11.3	14.9	3.6	7.3%	16.0	23.7	7.7	15.7%		
26-027200.0000	MCNEILAN LOIS J	79.4	29.5	33.3	3.8	4.8%	45.0	62.6	17.6	22.2%		
26-052600.0000	MEIER CHARLES J	18.8	8.7	15.3	6.6	35.2%	14.5	18.5	4.0	21.3%		
26-052700.0000	MEIER CHARLES J	60.2	13.8	40.1	26.3	43.7%	38.6	48.4	9.8	16.3%		
26-052700.0100	MEIER CHARLES J	1.1	0.0	0.0	0.0	0.0%	0.0	1.0	1.0	90.8%		
26-049500.0000	Z FARMS INC	80.4	24.6	38.7	14.1	17.5%	41.6	74.8	33.2	41.3%		
26-022600.0000	ZUMBERGE CHARLES ETAL	81.6	5.7	11.3	5.6	6.9%	11.7	32.3	20.6	25.3%		
26-051000.0000	ZUMBERGE CHARLES ETAL	40.9	0.3	0.4	0.1	0.2%	0.4	20.5	20.1	49.2%		
26-052900.0000	ZUMBERGE CHARLES ETAL	120.2	27.1	53.1	26.0	21.6%	54.5	111.4	56.9	47.3%		