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Alpena Register of Deeds

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\$30.00

Catherine Murphy, Register Alpena Co., Mi



STIPULATED ORDER TO SET ASIDE THE DEFAULTS OF ROBERT LEMKE AND  
JEREMY LEMKE ONLY, AND WAIVING NECESSITY, CONFIRMING TITLE,  
TRANSFERRING POSSESSION, ORDERING PAYMENT OF JUST COMPENSATION  
AND FOR OTHER RELIEF

RETURN TO:

Stephen R. Estey, Esq.  
Dykema Gossett PLLC  
39577 Woodward Avenue, Suite 300  
Bloomfield Hills, MI 48304



STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF ALPENA

MICHIGAN ELECTRIC TRANSMISSION  
COMPANY, LLC, a Michigan limited  
liability company,

Civil Action 21-1040-CC

Plaintiff,

Honorable K. Edward Black

vs.

Parcel No. APM- 007

DALE LEMKE, JEREMY LEMKE, JASON  
LEMKE, ROBERT LEMKE, ALPENA  
COUNTY ROAD COMMISSION, UNITED  
STATES DEPARTMENT OF INTERIOR  
U.S. FISH AND WILDLIFE SERVICE,  
AND UNKNOWN TENANT(S),

Defendants.

Stephen R. Estey (P53262)  
Douglas J. Fryer (P51765)  
Todd Schebor (P66358)  
DYKEMA GOSSETT PLLC  
Attorneys for Michigan Electric Transmission  
Company, LLC  
39577 Woodward Avenue, Suite 300  
Bloomfield Hills, MI 48304  
(248) 203-0700

Brant A. Losinski (P84238)  
The Wallace Firm, P.C.  
Attorney for Defendants Dale Lemke, Jeremy  
Lemke, Jason Lemke, and Robert Lemke  
312 W. Chisholm St.  
Alpena, MI 49707

**STIPULATED ORDER TO SET ASIDE THE DEFAULTS OF ROBERT LEMKE AND  
JEREMY LEMKE ONLY, AND WAIVING NECESSITY, CONFIRMING TITLE,  
TRANSFERRING POSSESSION, ORDERING PAYMENT OF JUST COMPENSATION  
AND FOR OTHER RELIEF**

At a session of the Court held in the  
Courthouse in the County of Alpena,  
State of Michigan on 8/2/21.

Present: Hon. K. Edward Black  
Circuit Court Judge



This matter is before the Court pursuant to the filing of a Complaint for Condemnation by Plaintiff Michigan Electric Transmission Company, L.L.C, a Michigan limited liability company (“METC”), for the acquisition of a Permanent Electric Transmission Line Easement Agreement (the “Easement”) on property located in County of Alpena, State of Michigan with Tax ID 084-031-000-251-00 (the “Property”); and the Court being fully advised in the premises:

WHEREAS, on April 21, 2021, METC filed a Complaint For Condemnation (“Complaint”) against Defendants Dale Lemke, Jeremy Lemke, Jason Lemke, and Robert Lemke (collectively, the “Property Owners”) and other defendants, seeking the Easement;

WHEREAS, pursuant to MCL 213.55(5), METC deposited \$8,448.00 in escrow with eTitle Agency, Inc. (“Escrow Agent”), representing what METC has alleged in the Complaint as the Estimated Just Compensation (“Escrow Funds” and/or “Estimated Just Compensation” or “EJC”) payable herein;

WHEREAS, none of the other Defendants in this matter filed a motion challenging necessity pursuant to MCL 213.56(1) and applicable case law, the right of all other Defendants in this action to file such a challenge was waived;

WHEREAS, Defendant Robert Lemke was defaulted on June 4, 2021;

WHEREAS, Defendant Jeremy Lemke was defaulted on June 18, 2021;

WHEREAS, Defendant Alpena County Road Commission was dismissed on July 19, 2021; and

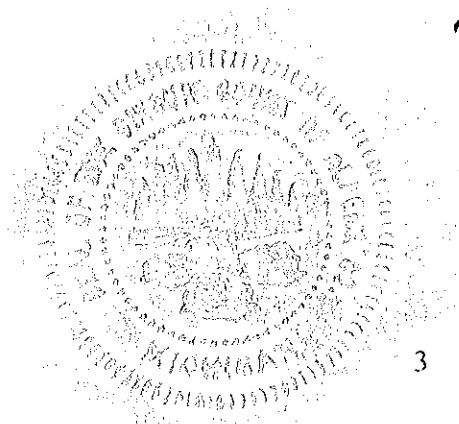
WHEREAS, Defendant United States Department of Interior U.S. Fish and Wildlife Service was dismissed on July 8, 2021.



IT IS ORDERED AND ADJUDGED:

1. The defaults in this matter entered against Robert Lemke and Jeremy Lemke on June 4, 2021 and June 18, 2021, respectively, are hereby set aside.
2. Title to those rights in the Property described in the Easement attached as Exhibit 1, is hereby confirmed to have vested with METC on April 21, 2021, the date the Complaint was filed.
3. Within 28 business days from the date of entry of this Order, and upon the receipt by METC and the Escrow Agent of a properly executed Form W-9 from the Property Owners, the Escrow Agent shall release the Escrow Funds and issue a single check made payable jointly to the Property Owners in the total amount of \$8,448.00, representing what METC has alleged in the Complaint as the Estimated Just Compensation.
4. Physical possession of the property rights as set forth in the Easement is surrendered to METC upon the date of entry of this Order.
5. Upon entry of this Order, METC may record this Order with the Alpena County Register of Deeds.

**THIS ORDER DOES NOT RESOLVE THE LAST PENDING CLAIM NOR CLOSE THE CASE.**

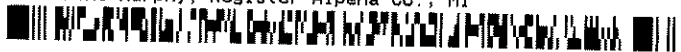


*[Signature]*  
Circuit Court Judge

REPRODUCED COPY  
OF THE RECORD ON FILE AT  
ALPENA, MICHIGAN  
VALID ONLY WITH ENDORSEMENT SEAL

AUG -6 2021

REGISTERED BY  
*[Signature]*  
ALPENA COUNTY DEEDS



APPROVED AS TO FORM AND SUBSTANCE

DYKEMA GOSSETT PLLC

THE WALLACE FIRM, P.C.

Douglas J. Fryer (P51765)  
Stephen R. Estey (P53262)  
Todd Schebor (P66358)  
Attorneys for Michigan Electric Transmission  
Company, LLC

Brant Losinski (P84238) *consent*  
Attorney for Defendants Dale Lemke,  
Jeremy Lemke, Jason Lemke, and Robert  
Lemke



**STIPULATED ORDER TO SET ASIDE THE DEFAULTS OF ROBERT LEMKE AND  
JEREMY LEMKE ONLY, AND WAIVING NECESSITY, CONFIRMING TITLE,  
TRANSFERRING POSSESSION, ORDERING PAYMENT OF JUST COMPENSATION  
AND FOR OTHER RELIEF**

**EXHIBIT 1**

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Catherine Murphy, Register Alpena Co., MI

\$30.00

PERMANENT ELECTRIC TRANSMISSION LINE EASEMENT AGREEMENT

This Permanent Electric Transmission Line Easement Agreement (the "Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ ("Effective Date"), by and between [\_\_\_\_\_] a [\_\_\_\_\_] with an address of [\_\_\_\_\_] ("Grantor") and MICHIGAN ELECTRIC TRANSMISSION COMPANY, LLC, a Michigan limited liability company, with an address of 27175 Energy Way, Novi, Michigan 48377, and its successors and assigns ("Grantee").

WHEREAS, Grantor is the owner of certain real property more particularly described on the attached Exhibit "A" as the "Property".

WHEREAS, Grantor desires to convey to Grantee a perpetual easement upon, under, across and through an Easement Area located on the Property as more particularly described and depicted on Exhibit "A" (the "Easement Area"), upon the terms and conditions stated below.

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor and Grantee hereby agree as follows:

1. **Grant of the Easement.** Grantor hereby conveys and grants to Grantee, its successors and assigns, a perpetual easement (the "Easement") over, under, across and through the Easement Area on the Property with the right, privilege and authority for Grantee, its agents, employees, and contractors, to:

(a) construct, reconstruct, modify, upgrade, improve, maintain, operate, inspect, replace, repair, patrol and remove an electric transmission line or lines and affiliated Telecommunications Line or Lines (as defined below), consisting of poles, towers, crossarms, insulators, wires, guy wires, anchors and other necessary fixtures, structures, cables (including fiber optic cable related to the Telecommunications Line or Lines), and equipment for transmitting electricity and communications relating to same ("Grantee's Facilities");

(b) temporarily improve the surface of the Easement Area as reasonably necessary to place and operate Grantee's construction vehicles and equipment;

(c) prohibit and/or remove, at Grantee's sole discretion, any existing buildings or other above ground structures (collectively referred to as "Structures"), excluding currently existing



fences ("Permitted Fence") as provided for herein. In the event a Permitted Fence currently exists within the Easement Area as of the date of this Easement, Grantee may: (i) install and maintain a gating system in the Permitted Fence, of Grantee's choice, in order to obtain access to the Easement Area for the purposes of construction and maintenance of Grantee's Facilities as provided for herein; and (ii) cause such Permitted Fence to be removed as Grantee deems necessary provided that Grantee restores such Permitted Fence to substantially the same condition as it existed prior to removal. Grantee may also prohibit and/or remove at Grantee's sole discretion any future construction of above-ground Structures located or proposed to be located within the Easement Area which are not approved as set forth herein. Grantee may remove prohibited Structures from the Easement Area without prior notice and without responsibility for any damage that occurs as a result of such removal. If Grantor proposes to construct any Structures within the Easement Area, a proposed construction plan may be submitted to Grantee for its review and a determination as to whether the proposed Structure would interfere with the safe and reliable operation or maintenance of Grantee's Facilities within the Easement Area. Grantee's approval of a proposed Structure under these circumstances will not be unreasonably withheld;

(d) locate Grantee's poles and towers within the Easement Area as near as possible to the transmission line depicted on Exhibit A;

(e) at any time cut, trim, remove, destroy or otherwise control any or all trees, bushes, or brush now or hereafter standing or growing upon or within the Easement Area, all at Grantee's sole and absolute discretion;

(f) have ingress to and egress from the Easement Area at all times on, over and across other portions of the Property; and

(g) enter upon and cross the Easement Area for the above purposes and to access other land(s) through the Easement Area;

For purposes of this Agreement, the term "Telecommunications Line or Lines" as used in ¶1(a) shall be defined as Grantee's internal telecommunications line or lines (and not the telecommunications line of a third party telecommunications provider).

2. **Repair and Restoration.** Grantee shall:

(a) re-grade, repair and restore any portions of the Easement Area or Property damaged by Grantee's temporary placement of surface improvements for the Grantee's construction, operation, maintenance, repair, reconstruction and use of Grantee's Facilities;

(b) repair or replace at Grantee's sole expense any actual damage located within the Easement Area or Property, arising from Grantee's construction, operation, maintenance, repair, reconstruction and use of Grantee's Facilities. Notwithstanding the foregoing, at no time shall Grantee be responsible for any damage to the extent that such damage results from Grantor's negligence. Upon reasonable notice to Grantee that damage has been sustained, the parties shall work cooperatively to identify the damage and to determine the scope of repair or replacement work; and





(c) reimburse Grantor, or the owner of the crops if different from the Grantor, the value of any growing crops damaged by Grantee's exercise of any of Grantee's rights under this Agreement.

3. **Binding/Run With The Land.** This conveyance shall be permanent, shall run with the land, and shall be binding upon the parties' successors and assigns.

4. **Limited Use/Non-Use.** Limited use or non-use of the rights granted herein shall not prevent later use to the full extent herein conveyed.

This Easement is exempt from real estate transfer tax pursuant to MCLA 207.505(f) and from State real estate transfer tax pursuant to the provisions of MCLA 207.526(f).

GRANTOR:

[\_\_\_\_\_]

By \_\_\_\_\_

Its \_\_\_\_\_

Acknowledged before me in \_\_\_\_\_ County, State of Michigan, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, on behalf of [\_\_\_\_\_], a [\_\_\_\_\_], by \_\_\_\_\_, its \_\_\_\_\_.

\_\_\_\_\_, Notary Public

\_\_\_\_\_ County, \_\_\_\_\_  
Acting in \_\_\_\_\_ County, \_\_\_\_\_

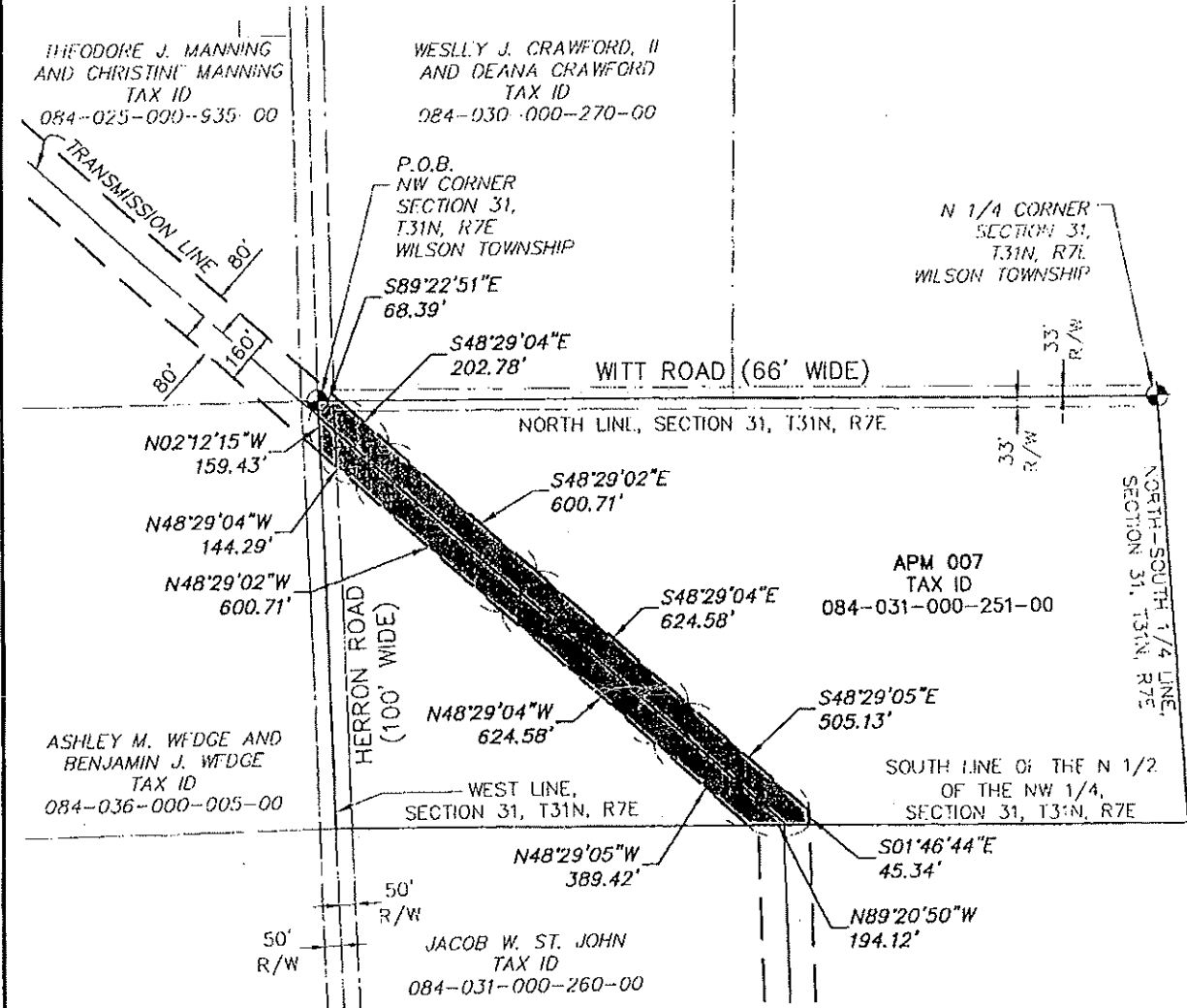
My Commission Expires \_\_\_\_\_

Drafted by:  
Patricia T. Murphy (P61872)  
ITC Holdings Corp.  
27175 Energy Way  
Novi, Michigan 48377

When recorded return to:  
Real Estate Manager  
ITC Holdings Corp.  
27175 Energy Way  
Novi, Michigan 48377

**EXHIBIT A**  
 APM-007

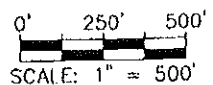
DALE O. LEMKE, JEREMY D. LEMKE, JASON C. LEMKE, AND ROBERT N. LEMKE



**LEGEND**

- TRANSMISSION LINE.
- EASEMENT AREA
- N 88° E DESCRIBED EASEMENT - BEARINGS BASED ON MICHIGAN STATE PLANE COORDINATES, NAD83, CENTRAL ZONE, INTERNATIONAL FOOT
- SECTION CORNER
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT

NOTE: THIS IS NOT A BOUNDARY SURVEY



Total Easement area  
305,220 Square Feet (7.01 Acres)  
 Total Easement area less Road  
 Right-of-way  
294,910 Square Feet (6.77 Acres)

METC MICHIGAN ELECTRIC TRANSMISSION COMPANY	MCA 800.525.6016 www.metroca.net	CLIENT: MICHIGAN ELECTRIC TRANSMISSION COMPANY	JOB: 1054-20-9619
		PROJECT: AIRPORT-MIO	DATE: 1-21-2021
		REV.: --	SHEET: 1 OF 2

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Catherine Murphy, Register Alpena Co., MI

\$30.00



PROPERTY:

(PER QUIT CLAIM DEED LIBER 293, PAGE /98)

THE NORTH FRACTIONAL HALF OF THE NORTHWEST FRACTIONAL QUARTER OF SECTION 31, T31N, R7E.

TAX ID: 084-031-000-251-00

EASEMENT AREA:

BEGINNING AT THE NORTHWEST CORNER OF SECTION 31, TOWN 31 NORTH, RANGE 7 EAST, WILSON TOWNSHIP, ALPENA COUNTY, MICHIGAN; THENCE S89°22'51"E 68.39 FEET ALONG THE NORTH LINE OF SAID SECTION 31, AND CENTERLINE OF WITT ROAD (66' WIDE RIGHT-OF-WAY); THENCE S48°29'04"E 202.78 FEET; THENCE S48°29'02"E 600.71 FEET; THENCE S48°29'04"E 624.58 FEET; THENCE S48°29'05"E 505.13 FEET; THENCE S01°46'44"E 45.34 FEET TO THE SOUTH LINE OF THE NORTH HALF OF THE FRACTIONAL NORTHWEST ONE-QUARTER OF SAID SECTION 31; THENCE N89°20'50"W 194.12 FEET ALONG SAID SOUTH LINE OF THE NORTH HALF OF THE FRACTIONAL NORTHWEST ONE-QUARTER OF SECTION 31; THENCE N48°29'05"W 389.42 FEET; THENCE N48°29'04"W 624.58 FEET; THENCE N48°29'02"W 600.71 FEET; THENCE N48°29'04"W 144.29 FEET TO THE WEST LINE OF SAID SECTION 31, AND CENTERLINE OF HERRON ROAD (100' WIDE RIGHT-OF-WAY); THENCE N02°12'15"W 159.43 FEET ALONG SAID WEST LINE OF SECTION 31, AND SAID CENTERLINE OF HERRON ROAD (100' WIDE RIGHT-OF-WAY), TO SAID NORTH LINE OF SECTION 31, AND SAID CENTERLINE OF WITT ROAD (66' WIDE RIGHT-OF-WAY) TO THE POINT OF BEGINNING

METC

MICHIGAN ELECTRIC TRANSMISSION COMPANY



800.525.6016 www.metroca.net

CLIENT: MICHIGAN ELECTRIC TRANSMISSION COMPANY

PROJECT: AIRPORT-MIO

JOB: 1054-20-9619

DATE: 1-21-2021

REV.: ---

SHEET: 2 OF 2