STATE OF MICHIGAN

COURT OF CLAIMS

ADVOCATES FOR MICHIGAN WILDLIFE,

Plaintiff,

v

Case No. 25-000197-MZ

MICHIGAN DEPARTMENT OF NATURAL RESOURCES,

Hon. Randy J. Wallace

Defendant.
_____ /

OPINION AND ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY DISPOSITION AND DENYING PLAINTIFF'S REQUEST FOR SUMMARY DISPOSITION UNDER MCR 2.116(I)(2)

Plaintiff Advocates for Michigan Wildlife (AFMW) filed this action for declaratory and injunctive relief in Ingham Circuit Court against defendant Michigan Department of Natural Resources (DNR) under Part 17 of the Natural Resources and Environmental Protection Act (NREPA), also known as the Michigan Environmental Protection Act (MEPA), MCL 324.1701 to 324.1706. AFMW seeks a declaration under MCR 2.605 that the DNR's issuing of damage and nuisance control permits ("nuisance permits") that authorize the use of bait when culling deer[1] in the lower peninsula violates the MEPA and is inconsistent with wildlife management practices established under Part 401 of the NREPA, MCL 324.40101 *et seq*. AFMW also seeks equitable

[1] Deer culling is a targeted, government-approved wildlife management practice in which trained professionals use lethal methods to reduce overabundant white-tailed deer populations in suburban and urban areas to address environmental or public safety concerns such as overpopulation, disease management, habitat and crop protection, and lowering the frequency of vehicle-deer collisions.

relief under the MEPA in the form of an injunction preventing the use of bait as part of a nuisance permit for culling deer.[2] After the DNR transferred the case to this Court, AFMW amended its complaint, raising the same substantive claims. The DNR moved for summary disposition of the amended complaint under MCR 2.116(C)(7) and (10). AFMW responded and requested summary disposition in its favor under MCR 2.116(I)(2). The Court heard oral arguments on the motions. For the reasons discussed below, the Court GRANTS the DNR's motion for summary disposition under MCR 2.116(C)(10), DENIES AFMW's request for summary disposition under MCR 2.116(I)(2), and DISMISSES the case.

I. BACKGROUND

White-tailed deer located throughout Michigan are wild game and protected under Part 401 of NREPA. There is no dispute that white-tailed deer are a natural resource protected under MCL 324.1701. The DNR is the state agency charged with enforcement of Part 401, as well as regulation of deer hunting and deer culling. AFMW is a nonprofit corporation that advocates for the preservation of natural resources in Michigan. The focus of this lawsuit is on whether the DNR may lawfully issue nuisance permits that authorize the use of bait to cull deer. AFMW's concern is that the use of bait will spread Chronic Wasting Disease (CWD), a neurodegenerative disease

[2] AFMW also moved for entry of a preliminary injunction banning the use of bait as part of nuisance permit issued by the DNR. After oral argument on the motion, the Court invited the DNR's counsel to submit information about the number of nuisance permits issued. AFMW objected to the DNR's supplemental brief, leaving the Court at an impasse. In an order concerning the posthearing documents, the Court accepted the submission but stated that it would address all issues, including AFMW's motion for a preliminary injunction, at a scheduled hearing on April 13, 2026, on the DNR's motion for summary disposition. After the hearing, the parties stipulated to withdraw AFMW's motion for a preliminary injunction, without prejudice, as moot because no ongoing culling was occurring. The stipulated order provided, however, that the Court could consider the briefs and oral arguments when ruling on the DNR's motion for summary disposition.

affecting deer, elk, and other cervids. The DNR has confirmed the presence of CWD in Michigan but maintains that its prevalence remains low and that the disease is concentrated in Montcalm, Kent, and Jackson Counties.

Before 2019, it was legal in Michigan to use bait during deer-hunting season, with some exceptions.[3] In 2018, the DNR issued a Wildlife Conservation Order (WCO) that banned deer baiting in the lower peninsula for hunting purposes, with a limited exception for hunters with disabilities during certain designated hunting events. The WCO went into effect in 2019. The DNR acknowledges that it banned baiting activities in most hunting contexts out of a concern that widespread bait usage would spread CWD.

According to DNR Wildlife Division employee Chad Stewart, another problem facing the DNR is that deer populations have increased in urban and suburban areas in the lower peninsula because of a loss of hunting opportunities, lack of natural predators, attraction to garden plants, and loss of traditional management techniques. Overpopulation of deer in these areas has created a nuisance. Stewart explained in an affidavit attached to the DNR's motion for summary disposition that because hunting cannot occur in a traditional manner in urban and suburban areas, deer culling has become "[a] primary management tool."

The DNR allows culling by permit in urban and suburban communities in the lower peninsula on a seasonal basis from January through March, with nuisance permits issued in

[3] In the past, exceptions have included bans on deer baiting in specific counties and townships, related to concerns about bovine tuberculosis. See, for example, *Byce v Dep't of Nat Resources*, unpublished per curiam opinion of the Court of Appeals, issued January 14, 2003 (Docket No. 236727).

December. Most nuisance permits are issued to local governments, but some are issued to private landowners. The DNR typically issues 10 or fewer nuisance permits per year. A DNR biologist reviews all permit applications to determine whether all management options have been explored (including nonlethal options). For nearly a decade, the DNR has approved nuisance permits that authorize the use of bait to cull deer.

AFMW does not take issue with the practice of culling in this matter; its claims are focused solely on the authorization of the use of bait. AFMW alleges that the DNR's practice of issuing nuisance permits that authorize the use of bait violates the MEPA. AFMW's theory is that the use of bait increases exposure to CWD because the disease can be contracted off the bait itself, from the surfaces on which the bait is placed, or through deer-deer contact when the deer congregate around the bait.

To support its position, AFMW relies on an affidavit of its expert, Dr. Christopher DePerno, a Professor of Fisheries, Wildlife, and Conservation Biology at North Carolina State University. DePerno opined in his affidavit that CWD is a "significant threat" to the deer population because it is a transmissible disease that can live on surfaces and is difficult to control when deer congregate in high concentrations. He opined that

> issuing permits that allow the use of bait to cull deer is inconsistent with science-based wildlife management, is inconsistent with the [DNR] rule on not allowing hunters to use bait, and has a high likelihood of impairing the deer population, which is a natural resource. The DNR prohibits hunters in the lower peninsula from baiting during the regular deer season because the DNR accurately believes that baiting increases the risk of transmitting CWD. However, the DNR allows baiting for the purpose of culling deer that present a nuisance to people and property, disregarding its own stated positions about what is necessary to control CWD. These two contradictory policies cannot be reconciled.

He further opined, "Allowing baiting for culling contradicts what the relevant scientific community views as generally accepted principles about how CWD spreads among free-ranging deer." Deperno cited a 2018 document authored by the DNR compiling information and references about CWD. DePerno explained that when bait is placed before culling begins, the deer will return to the same site, increasing the possibility for contact with contaminated surfaces. However, DePerno did not cite any evidence to support that CWD has increased in Michigan over the last decade because of permissible baiting.

In contrast, the DNR explains that it has engaged in a risk-benefit analysis on the issue of baiting in the nuisance-permit context. In each instance in which a nuisance permit is issued, the DNR ensures that conditions are set so that the bait is promptly removed from the landscape once the culling activity has concluded. Stewart acknowledged in his affidavit that "bait causes deer to artificially congregate, which presents greater opportunity for disease transmission," but explained that "there is a material difference between the long-term placement of bait on the landscape and the short-term placement of it as what occurs during a cull." Using bait allows the culling activity to occur in the shortest time possible while ensuring the bait is removed promptly. Thus, Stewart opined, "[T]he long-term benefits of reducing deer population often outweigh the short-term risk of putting bait out for culling purposes."

AFMW filed this lawsuit in December 2025. As noted earlier, AFMW moved for a preliminary injunction at the outset of the case. After the case was transferred to this Court, AFMW amended its complaint. The first-amended complaint raised two claims: (1) a claim for equitable relief under the MEPA; and (2) a claim for declaratory relief under MCR 2.605. The DNR answered AFMW's complaint and responded to AFMW's motion for a preliminary injunction.

The DNR then moved for summary disposition under MCR 2.116(C)(7) and (10).[4] The DNR argues that no genuine issue of material fact exists on the issue whether the DNR violated the MEPA by issuing nuisance permits that authorize the use of bait. The DNR contends that discovery does not stand a fair chance of uncovering additional factual support for AFMW's position because the publicly available data shows that the prevalence of CWD in Michigan remains low despite the DNR's longstanding practice of issuing nuisance permits that allow the use of bait to cull deer in urban and suburban communities in the lower peninsula. In other words, there is no evidence that the use of bait for culling purposes has translated into an increase in CWD cases. In the DNR's view, the mere potential for CWD transmission does not rise to the level of an impairment to the environment justifying an injunction. On this issue, the DNR argues that the factors outlined in *City of Portage v Kalamazoo Co Rd Comm*, 136 Mich App 276; 355 NW2d 913 (1984), weigh against granting an injunction. Additionally, the DNR argues, AFMW has not demonstrated a detrimental effect requiring court intervention. The DNR takes the position that a hypothetical CWD epidemic is not an actual controversy requiring declaratory relief under MCR 2.605.

As noted earlier, Judge YATES, who was previously assigned to this matter, heard AFMW's motion for a preliminary injunction while the motion for summary disposition was pending. The parties then agreed to a stipulated order to withdraw the motion for a preliminary injunction without prejudice because no culling activity was occurring. The DNR also submitted a second

[4] Because the Court concludes that the DNR is entitled to summary disposition under MCR 2.116(C)(10), it will not address the DNR's immunity argument.

Stewart affidavit to address a question that arose during the hearing about the number of nuisance permits issued by the DNR.

AFMW responded to the DNR's motion for summary disposition, arguing, in relevant part, that DePerno's affidavit established that baiting causes actual harm to the deer population and is not offset by a legally cognizable benefit. Thus, AFMW argues that summary disposition should be granted in its favor under MCR 2.116(I)(2). Alternatively, AFMW argues that DePerno's affidavit created a genuine issue of material fact on the issue of whether the DNR complied with the MEPA. AFMW emphasizes that the DNR admitted that baiting facilitates the spread of CWD, which is why the practice was largely banned in the hunting context. Thus, AFMW argues that it made a prima facie showing of impairment, and the DNR has not met its burden to rebut the prima facie showing or establish an affirmative defense. AFMW argues that this Court should not apply the *Portage* factors because the DNR's conduct violated the plain language of the MEPA, rendering the application of the *Portage* factors improper and unnecessary. AFMW contends that even if this Court were to apply the *Portage* factors, the factors would weigh in its favor.

AFMW submitted a second affidavit of DePerno to support its response to the motion for summary disposition, which addressed Stewart's representations in his first affidavit. In his second affidavit, DePerno attested that the DNR's data on the prevalence of CWD is incomplete. He opined that "by focusing on the potential efficacies of culling, Mr. Stewart fails to address what I believe to be the central scientific issue in this lawsuit," which is "whether the use of bait during culling in the manner approved by the DNR is scientifically justified and supported by measurable evidence." He explained, "The actual manner in which the DNR allows the use of bait when culling is unscientific because the culling is insufficient to trigger any advantages while creating

actual harm." He opined that the DNR's baiting practices increase the CWD-transmission risk while not removing enough deer to offset that risk.

In reply, the DNR argues that AFMW incorrectly claims that a technical violation of any Part of NREPA creates a prima facie case under the MEPA. During the April 13, 2026 hearing on the motion for summary disposition, AFMW argued that the DNR failed to follow certain procedural steps when issuing nuisance permits that allow the use of bait for culling deer and clarified that this Court should prohibit the DNR from issuing nuisance permits that allow baiting unless the DNR makes findings based on sound scientific management principles that the manner of baiting will benefit the deer population.

On September 15, 2026, AFMW filed a renewed motion for preliminary declaratory or injunctive relief, requesting that this Court order a temporary ban on issuing nuisance permits for communities in Michigan's lower peninsula that allow baiting. AFMW requests relief before the DNR will issue nuisance permits in December 2026 for the 2026–2027 season. The DNR has filed a response brief.[5]

II. STANDARDS OF REVIEW

The DNR moved for summary disposition under MCR 2.116(C)(7) and (10). The Court concludes that MCR 2.116(C)(10) is the controlling standard of review.

> A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint. When evaluating a motion for summary disposition under MCR 2.116(C)(10), a trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties . . . in the light most favorable to the party opposing the motion. Where the proffered evidence fails to establish a genuine

[5] On September 23, 2026, this Court granted the DNR's request for a protective order and stayed discovery pending further order of the Court.

> issue regarding any material fact, the moving party is entitled to judgment as a matter of law. [*Innovation Ventures v Liquid Mfg*, 499 Mich 491, 507; 885 NW2d 861 (2016) (quotation marks and citations omitted).]

When discovery is not complete, the question becomes "whether further discovery stands a fair chance of uncovering factual support for the opposing party's position." *Marilyn Froling Revocable Living Trust v Bloomfield Hills Country Club*, 283 Mich App 264, 292; 769 NW2d 234 (2009). In its response brief, AFMW moved for summary disposition under MCR 2.116(I)(2), which provides, "If it appears to the court that the opposing party, rather than the moving party, is entitled to judgment, the court may render judgment in favor of the opposing party."

MCR 2.605(A)(1) provides, "In a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted." An "actual controversy" exists for purposes of MCR 2.605 when a plaintiff pleads and demonstrates "an adverse interest necessitating the sharpening of the issues raised." *Int'l Union, United Auto, Aerospace & Agricultural Implement Workers of America v Central Mich Univ Trustees*, 295 Mich App 486, 495; 815 NW2d 132 (2012) (quotation marks and citation omitted). This requirement prevents the Court from deciding hypothetical issues, although the Court is not precluded from granting declaratory relief before an actual injury has occurred. *Id*.

III. ANALYSIS

Part 401 of NREPA explicitly recognizes that the DNR may issue a permit for the taking of deer because of a nuisance caused by the animals:

> (4) In addition, the department may issue permits authorizing 1 or more of the following:

(a) The taking or possession of animals for the purpose of rehabilitating animals.

(b) The taking of animals to prevent or control damage to crops or feed, disease, or nuisance caused by the animals. [MCL 324.40114(4).]

As noted earlier, deer living in urban or suburban settings can create a nuisance by causing motor vehicle accidents, damage to flora and fauna typically found in suburban and urban settings, and other problems. There is no dispute that the DNR may issue a nuisance permit under Part 401 for the taking of deer through culling. The question for purposes of this lawsuit is whether nuisance permits may include the use of bait to congregate the deer for a more effective culling.

To support that the issuance of nuisance permits that allow baiting would create a prohibited impairment on a natural resource, AFMW relies on the MEPA, MCL 324.1701, which states:

(1) The attorney general or any person may maintain an action in the circuit court having jurisdiction where the alleged violation occurred or is likely to occur for declaratory and equitable relief against any person for the protection of the air, water, and other natural resources and the public trust in these resources from pollution, impairment, or destruction.

(2) In granting relief provided by subsection (1), if there is a standard for pollution or for an antipollution device or procedure, fixed by rule or otherwise, by the state or an instrumentality, agency, or political subdivision of the state, the court may:

(a) Determine the validity, applicability, and reasonableness of the standard.

(b) If a court finds a standard to be deficient, direct the adoption of a standard approved and specified by the court. [MCL 324.1701(1)-(2).]

MCL 324.1703(1) adds, in relevant part:

When the plaintiff in the action has made a prima facie showing that the conduct of the defendant has polluted, impaired, or destroyed or is likely to pollute, impair, or destroy the air, water, or other natural resources or the public trust in these resources, the defendant may rebut the prima facie showing by the submission of evidence to the contrary. The defendant may also show, by way of an affirmative defense, that there is no feasible and prudent alternative to defendant's conduct and

> that his or her conduct is consistent with the promotion of the public health, safety, and welfare in light of the state's paramount concern for the protection of its natural resources from pollution, impairment, or destruction.

AFMW sued the DNR under MCL 324.1701 and argues that it has made a prima facie showing under MCL 324.1703 by "showing that the conduct of the [DNR] has polluted, impaired, or destroyed or is likely to pollute, impair, or destroy the . . . natural resources or the public trust in these resources." *Id*.

The DNR argues that AFMW has not made a prima facie showing that the practice of issuing nuisance permits allowing the use of bait is likely to impair a natural resource. In *Dafter Sanitary Landfill v Mich Dep't of Nat Resources*, 198 Mich App 499, 504; 499 NW2d 383 (1993), the Court of Appeals held:

> In order to determine whether a plaintiff has established a prima facie case under the MEPA, the trial court must consider [1] whether a natural resource was involved and [2] whether the effect of the activity on the environment rose to the level of impairment to justify the court's injunction. [Quotation marks and citation omitted.]

The second prong of the test was at issue in *Dafter* and is likewise at issue in the present case. See *id*.

> In determining whether a prima facie case under the MEPA has been established, a court must not weigh the environmental risk with the good to be accomplished by the action. Rather, the court must determine whether the action rises to the level of an impairment or destruction of a natural resource so as to constitute an environmental risk. [*Attorney General ex rel Nat Resources Comm v Balkema*, 191 Mich App 201, 206; 477 NW2d 100 (1991).]

As a preliminary matter, according to the DNR, the Michigan Supreme Court indicated in *Preserve the Dunes, Inc v Dep't of Environmental Quality*, 471 Mich 508, 519; 684 NW2d 847 (2004), that determinations of permit eligibility are unrelated to the issue of whether the DNR violates the provisions of the MEPA. Further, the DNR argues, the activity at issue—short-term

baiting for urban or suburban deer cull—is not conducted by the DNR; rather, the DNR merely issues the permits for others to conduct the activity. However, because this case does not involve the issue of whether a person or entity is eligible to receive a permit to cull deer, this Court finds that *Preserve the Dunes* is inapplicable.

Instead, the Court finds the *Portage* factors instructive in this context. The Court of Appeals has explained that "[i]n determining whether the impact of a proposed action on wildlife is so significant as to constitute an environmental risk and require judicial intervention, the [trial] court should evaluate the environmental situation prior to the proposed action and compare it with the probable condition of the particular environment afterwards," which involves applying the *Portage* factors. *Portage*, 136 Mich App at 282. Although the *Portage* factors "are not mandatory, exclusive, or dispositive," they are nevertheless relevant considerations. *Nemeth v Abonmarche Dev, Inc*, 457 Mich 16, 37; 576 NW2d 641 (1998). The *Portage* factors include the following:

> (1) whether the natural resource involved is rare, unique, endangered, or has historical significance, (2) whether the resource is easily replaceable, (for example, by replanting trees or restocking fish), (3) whether the proposed action will have any significant consequential effect on other natural resources (for example, whether wildlife will be lost if its habitat is impaired or destroyed), and (4) whether the direct or consequential impact on animals or vegetation will affect a critical number, considering the nature and location of the wildlife affected. The magnitude of the harm likely to result from the proposed action will depend on the characteristics of the resources involved. Esthetic considerations alone are not determinative of significant environmental impact. [*Portage*, 136 Mich App at 282 (citation omitted).[6]]

[6] Although plaintiff relies on *Dep't of Environmental Quality v Gomez*, 318 Mich App 1, 42; 896 NW2d 39 (2016), for the position that the Court should not apply the *Portage* factors when the activity in question violates the clear statutory language of the MEPA, this case does not present the situation present in *Gomez* where application of the *Portage* factors would have required the trial court to deviate "from the clear text of the statute and interject[] judicially crafted meaning into the words written by the Legislature and signed into law by the Executive." See *id*. In other

The DNR argues that the *Portage* factors weigh in its favor, explaining that "summary disposition is appropriate under MCR 2.116(C)(10) even at this early phase of proceedings because no amount of discovery stands a reasonable chance of Plaintiff uncovering factual support for its position." As the DNR explains, "The publicly available data shows the prevalence of [CWD] remains low in Michigan despite DNR's long standing authorization of bait to cull deer from urban and suburban communities in the [l]ower [p]eninsula." The DNR argues that the same rationale applies to the declaratory claim. This Court agrees.

The evidence submitted by AFMW does not create a genuine issue of material fact on the issue of whether the effect of the activity on the environment rose to the level of impairment justifying an injunction or other equitable action by this Court. A key fact unrebutted by AFMW is that years have passed since the DNR first began allowing bait in the culling context, and AFMW presents no objective evidence that the DNR's limited allowance of the use of bait has "greatly exacerbate[d] the spread of [CWD] amongst Michigan's deer herd," as alleged in AFMW's first-amended complaint. As a result, AFMW has failed to create a question of fact on the issue of whether the "activity on the environment rose to the level of impairment to justify the court's injunction." See *Dafter*, 198 Mich App at 504 (quotation marks and citation omitted).

Although AFMW has submitted expert testimony from DePerno, who opines that he expects the "DNR's baiting practices to increase CWD transmission risk while not achieving removal levels sufficient to remove that risk," DePerno does not opine that those practices have

---

words, there is no clear violation of the MEPA based solely on the language of the statute, and application of the *Portage* factors is helpful to guide the Court's decision-making.

actually caused a significant CWD transmission during the years that they have been in place.[7] To the extent that DePerno's affidavits predicts such an outcome in the future, such a forecast can best be described as hypothetical because it ignores the fact that these practices have been in place for years and the predicted outcome has not occurred. DePerno offered no opinion as to why such an outcome will occur in the future despite having not occurred in the past.

DePerno also opined that "the use of bait creates harmful impacts on CWD transmission," a fact he claimed Stewart did not deny. Based on the briefs and oral argument in this matter, the DNR appears to agree with this assertion. But accepting as true that permitting such baiting increases the risk of disease in the deer herd, and accepting the consensus between the parties on the allegation that the use of bait creates harmful impacts on CWD transmission, neither of those facts is dispositive of the issue before this Court. Rather, this Court is tasked with deciding whether the effect of the activity on the environment rose to the level of impairment to justify an injunction. The Court finds based on the evidence presented that it does not. See *Karbel v Comerica Bank*, 247 Mich App 90, 97; 635 NW2d 69 (2001) (explaining that "parties opposing a motion for summary disposition must present more than conjecture and speculation to meet their burden of providing evidentiary proof establishing a genuine issue of material fact") (quotation marks and citation omitted).

[7] While DePerno did opine that the spread of tuberculosis in Michigan's deer herd in the 1990s was caused by deer hunters being allowed to spread bait long-term in the northern lower peninsula, and he compared the DNR's present practice with that situation, he did not actually opine that there had been a significant spread of CWD in the years that the DNR has allowed bait to be used during the subject deer culls.

Application of the *Portage* factors further demonstrates that AFMW has not established a prima facie case because at least three out of the four factors favor the DNR. Regarding factor (1), the natural resource involved is not rare, unique, or endangered, and does not possess the type of historical significance referenced in *Portage*. See *Portage*, 136 Mich App at 282. The evidence shows that the deer population in Michigan is substantial. Regarding factor (3), as indicated previously in this Opinion, AFMW has failed to demonstrate that the proposed action will have any *significant* consequential effect on other natural resources. See *id*. As for factor (4), AFMW has likewise failed to show that the direct or consequential impact on animals or vegetation will affect a *critical* number of deer considering the nature and location of the wildlife affected. See *id*. Again, AFMW has offered no evidence demonstrating that a critical number of deer living in the urban or suburban areas in which the nuisance permits are issued have contracted CWD in the years that the DNR has been allowing permit holders to bait during culls. The *Portage* factors favor the DNR on this issue, further establishing that no impairment has occurred.

As it relates to AFMW's procedural argument that the DNR failed to establish that it undertook necessary evaluations and made necessary findings that issuing nuisance permits that allow baiting of deer during culls is consistent with sound scientific management principles, AFMW does not cite a legal basis for its position that the DNR was required to undertake certain procedural steps or make specific scientific findings. As noted earlier, the standard for determining whether AFMW has established a prima facie case under the MEPA is whether the action rises to the level of an impairment or destruction of a natural resource. See *Balkema*, 191 Mich App at 206. This is a substantive analysis that examines the nature of the alleged impairment, not the procedural steps or scientific analysis taken by the agency charged with protecting the resource. AFMW does

not rely on any language in the MEPA or Part 401 to support its claim that that DNR had to follow specific procedures before issuing nuisance permits that allow the use of bait for culling.

For the reasons discussed earlier, AFMW has not made a prima facie showing of impairment to support its claim for violation of the MEPA. Further discovery would not stand a fair chance of uncovering further factual support for AFMW's position. For the same reasons, AFMW cannot establish an actual controversy supporting declaratory relief under MCR 2.605. The DNR is entitled to summary disposition of AFMW's amended complaint under MCR 2.116(C)(10).

Because the Court concludes that the DNR is entitled to summary disposition, AFMW's renewed motion for a preliminary injunction is denied as moot.

IV. CONCLUSION

For the reasons discussed in this Opinion and Order,

IT IS HEREBY ORDERED that the DNR's motion for summary disposition under MCR 2.116(C)(10) is GRANTED.

IT IS FURTHER ORDERED that AFMW's request for summary disposition under MCR 2.116(I)(2) is DENIED.

IT IS FURTHER ORDERED that AFMW's renewed motion for a preliminary injunction is DENIED as MOOT.

IT IS FURTHER ORDERED that AFMW's complaint is DISMISSED WITH PREJUDICE.

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

Date: November 10, 2026

Hon. Randy J. Wallace
Judge, Court of Claims