

ORAL ARGUMENT SCRIPT — JULY 27, 2026

Ballantyne v GCRC, Wade Trim, Nashville Construction · 2026-63926-CZ · Judge Elizabeth A. Kelly

HOW TO USE: Read the OPENING nearly verbatim (60–90 seconds). Then follow the four factors. Answers to likely questions are at the end. Speak slowly. If you don't know an answer: "I don't know, Your Honor, but I can find out and submit it." Never interrupt the judge. Address her as "Your Honor."

OPENING (60–90 seconds)

"Good morning, Your Honor. Jason Ballantyne, plaintiff, appearing in pro per. I live at 6385 Seymour Road with my family.

This motion is about one culvert and one choice. The county's culvert takes the stormwater from the west side of Seymour Road and discharges it onto private land on the east side — my neighbors' yards and mine. It crosses four properties, floods them for months at a time, and is then pumped back into the county's own ditch at the end. The county's current project makes it worse: they set the culvert lower, they didn't restore the west ditch, and they removed the culvert that let water continue down the west side.

All that's left of this project is the last layer of asphalt and the paint. Once that goes down, this defect is sealed under a brand-new road, and fixing it means tearing that road up. I'm not asking Your Honor to stop the project. I'm asking for a pause on just the final surface and the drainage items on our stretch, and an order that the drainage be reviewed and corrected first. And Your Honor, the fix already exists on paper: the project's own contractor, Nashville Construction, submitted change orders to restore the west ditch, reinstall the culvert they removed, and ditch the east side so the water stays with the road. The Road Commission denied them. The contractor asked permission to fix this — and the Road Commission said no."

FACTOR 1 — Likely to prevail

"Michigan's rule since 1887 is that no one — including a road commission — may collect surface water and discharge it, concentrated, onto someone else's land in greater volume and velocity. That's *Gregory v Bush*, and the Court of Appeals applied it to a government drainage project in *Wiggins v City of Burton* in 2011, quoting *Herro* — a case about a county road commission — that causing excess water to flow onto another's property 'is beyond dispute' a trespass.

FEMA maps my property Zone X — minimal flood hazard, outside any floodplain. This isn't

nature; it's the culvert. And there is no established drain and no recorded easement across our parcels. If this route to the Snell Drain were lawful, there would be paperwork. There isn't."

FACTOR 2 — Irreparable harm

"Three harms money can't fix, Your Honor. First, the lock-in: one more lift of asphalt and this defect is under a finished road — no practical remedy after that. Second, my neighbor Mary at 6463: her basement sump outlet sits exactly where they're sending more water; before construction the water came within one inch of it. The next big rain risks her basement. Third, the continuing trespass on our land — my driveway washes out, my pond floods through, my yard runs like a creek five months a year. The cascade is real enough that my own driveway culvert is now crushed flat — collapsed by a loaded truck bringing in the stone I have to buy every single year to repair the flood damage. I have the photos: only a sliver of light passes through that pipe today. And the manufacturer itself, ADS, confirmed in a signed engineer's letter that culverts on this project were installed with less than minimum cover — their own people said 'this pipe will fail.' Dated photos, video, and the site itself show this is imminent and real, not speculative."

FACTOR 3 — Balance of harms

"The cost to the defendants of a pause is scheduling. Their contractor is already mobilized — and it's their own contractor's fix: Nashville Construction put it in change orders, and the Road Commission denied them. The cost to us without a pause is our yards, a pond, a basement, and then the public pays double to tear up a new road later. The cheapest moment to fix this is right now, and it disappears the day they stripe the road."

FACTOR 4 — Public interest

"More than thirty property owners sit along this corridor, and every household approached between Hill and Reid supports exactly this review — over a dozen signatures are already filed with the Court. Diverted stormwater is a real safety hazard — trucks can't see driveway edges under moving water; one sank in my yard. MDOT has been contacted about the drainage compliance. The public interest is a road built right the first time."

THE ASK (close with this)

"Your Honor, we ask for a narrow order: pause the final lift, the striping, and the drainage close-out on our stretch; require a drainage review and corrective plan within fourteen days; and let the defendants implement their engineer's own backslope immediately if they choose. Thank you."

LIKELY QUESTIONS & ANSWERS

“Didn't I already deny this motion?” Respectfully, no, Your Honor — the July 15 order denied emergency ex parte relief only and expressly scheduled this motion for today's full hearing. The Court wrote that the relief sought 'may be appropriate.' Today is the ordinary four-factor determination with both sides present — and since July 15, the manufacturer's engineer has confirmed in writing that culverts on this project will fail.

“Why isn't money damages enough?” Because the invasion is continuing and about to be made permanent. Courts of equity protect land from recurring trespass precisely because yearly damage suits are no remedy — and no damages award un-floods Mary's basement or un-seals the defect under new pavement.

“What exactly do you want me to stop?” Only three things on our stretch: the final asphalt lift, the striping, and drainage close-out. Everything else can proceed. The order is one page, Your Honor — I have a proposed order.

“Isn't this the Road Commission's engineering discretion?” Discretion doesn't authorize discharging concentrated water onto private land — Wiggins. And we're not asking the Court to design anything; their own engineer proposed the fix. We ask only that the defect not be sealed in before it's corrected.

“What about a bond under MCR 3.310(D)?” We'd ask the Court to set nominal or waived security. The enjoined items are limited, the pause is short, and the correction the engineer proposed is low-cost — this injunction saves public money rather than risks it.

“The defendants say the water always went this way.” The flow predates the project — that's true, and my home flooded before it. But the law prohibits increasing and concentrating it, and that's precisely what the lowered culvert, the unrestored west ditch, and the removed driveway culvert do. 'It was already bad' is not a license to make it worse.

“Why did you sue the engineer and contractor too?” They're the parties physically performing the work an injunction must reach; complete relief requires their presence. And the record shows the contractor tried to do right: Nashville Construction submitted change orders proposing the fix, and the Road Commission denied them. Our dispute is with the Road Commission's decisions.

“What change orders? How do you know about them?” Matt, Nashville Construction's project manager, told me about them directly: restore the west ditch, reinstall the removed driveway culvert at 10-10-400-023, and ditch the east side so the water follows the road. We ask the

Court to order production of those change orders and the denials as part of the 14-day review — they are Defendants' own documents and will speak for themselves.

“What's your evidence the culvert is lower?” Dated photographs of the old and new installations (Exhibits D1–D2, E3–E4), the site itself, and the residents' direct observations. If the defendants dispute it, their as-built elevations will show it — that's exactly what the 14-day review would produce.

LOGISTICS CHECKLIST

- Bring: 3 copies of the hearing brief, proposed order, and exhibit binder (Court, Backus, you).
- Bring the signed community-support packet and a laptop/phone able to play the Vimeo video if allowed.
- Arrive 30+ min early; courtroom 305, 900 S. Saginaw St., Flint. Dress business formal.
- If the judge wants testimony: you, Mary (basement risk), and a long-time resident (historic flow) are the three voices.
- File any reply brief and this proposed order with the clerk BEFORE the hearing and serve Backus.
- If Backus raises something new, ask for leave to respond briefly rather than winging it.