Court of Appeals, State of Michigan

ORDER

William Q Tingley III v Robert F Wardrop II

Docket No. 243171; 244609

LC No. 02-003723-NZ, 02-003723-NZ

Patrick M. Meter
Presiding Judge

Kurtis T. Wilder

Stephen L. Borrello
Judges

On the Court's own motion, the June 24, 2004 opinion is hereby VACATED. *In Nat'l Wildlife Fed'n v Cleveland Cliffs Iron Co*, 471 Mich 608, 628-632; 684 NW2d 800 (2004), the Michigan Supreme Court held that members of a conservation group, supported by affidavits and expert opinion on causation, had alleged sufficient injury to establish standing to sue under the Michigan Environmental Protection Act (MEPA), MCL 324.1701 *et seq.* In the instant case, plaintiffs' claims under MCL 324.20135(3) were not supported by affidavit or expert opinion, and failed to establish sufficient injury or causation. Accordingly and pursuant to *Cleveland Cliffs, supra,* the trial court properly granted summary disposition in favor of defendants on count three of plaintiffs' amended complaint, and this Court's conclusion to the contrary in the June 24, 2004 opinion was palpably erroneous. A new opinion is attached.

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 22 2005
Date

Sandra Schultz Mengel
Chief Clerk