

STATE OF MICHIGAN

BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEGAN

OSTERHOUT LAKE – LAKE LEVEL

WHEREAS, Osterhout Lake, located in Lee Township, Allegan County, Michigan has a normal lake level established by the Allegan County Circuit Court under Part 307 of the Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended (“Part 307”); and

WHEREAS, the Allegan County Board of Commissioners and its delegated authority, the Allegan County Drain Commissioner (“Delegated Authority”), have jurisdiction to operate and maintain of the normal level of Osterhout Lake. MCL 324.30702; and

WHEREAS, Part 307’s primary mechanism to fund infrastructure and activities to operate and maintain the normal level of Osterhout Lake is by special assessments using a lake level special assessment district established by the Allegan County Circuit Court. See e.g., MCL 324.30711; and

WHEREAS, a review of the historical court orders relating to Osterhout Lake’s normal level found that updates are necessary to be consistent with state law and the current operation of Osterhout Lake’s lake level infrastructure, and to ensure that the boundaries of the lake level special assessment district accurately reflect the parcels that benefit from the normal level. See e.g., MCL 324.30711; and

WHEREAS, Part 307 requires annual expenditures of over \$10,000 to be approved by a county board of commissioners. MCL 324.30722(4); and

WHEREAS, for the reasons stated herein, the Allegan County Board of Commissioners finds it necessary to: (1) approve hiring legal counsel and engineers to assist with the Part 307 lake level process, including filing a petition in the Allegan County Circuit Court; (2) amend the lake level order for Osterhout Lake as necessary to allow Allegan County to operate and maintain the normal lake level, including updating and confirming the boundaries of the existing lake level special assessment district, and (3) authorize annual expenditures of over \$10,000 for activities to operate and maintain the normal level of Osterhout Lake.

THEREFORE, BE IT RESOLVED:

- 1. Legal Counsel:** The Drain Commissioner may retain legal counsel Fahey Schultz Burzych Rhodes PLC to assist with legal matters related to the Part 307 lake level process. Said legal counsel is explicitly authorized to file a petition in the Allegan County Circuit Court on behalf of Allegan County to amend the lake level order for Osterhout Lake to ensure that the normal level in the order accurately reflects the physical lake level, allow for lake level variations, update and confirm the boundaries of the existing lake level special assessment district, and conduct any other updates to the lake level order that are necessary to allow Allegan County to operate and maintain the normal level of Osterhout Lake. See MCL 324.30707(5) (circuit court has continuing jurisdiction). Said legal counsel is further authorized to assist the Delegated Authority with the compilation of a special assessment roll

and preparation/coordination of any necessary easements and/or other agreements.

2. **Engineers:** The Drain Commissioner may retain, in a manner consistent with the Drain Code, the necessary engineering services, to assist with activities related to maintenance and operation of the normal level of Osterhout Lake consistent with Part 307, including but not limited to the preparation of studies and recommendations related to the normal level, boundaries of the lake level special assessment district, and any other necessary updates to the lake level order; providing expert testimony related to the lake level order; compilation and approval of a special assessment roll, and preparation/coordination of any necessary easements and/or other agreements.
3. **Over \$10,000 Expenditure:** The Allegan County Board of Commissioners approves annual expenditures of over \$10,000 for activities to maintain the normal level of Osterhout Lake, including maintenance and repair of lake level infrastructure. MCL 324.30722(4). This express authorization to spend more than \$10,000 annually shall authorize annual expenditures of over \$10,000 for all years in which work for the authorized activities herein continues to occur.
4. **Costs of Activities:** All costs associated with the activities authorized herein, including retaining all necessary consultants (e.g. legal counsel and engineers), shall be reimbursed by a lake level special assessment district to the extent permitted by Part 307.

(STATE OF MICHIGAN)

)ss I, Bob Genetski, Clerk of the Allegan County Board of

(COUNTY OF ALLEGAN)

Commissioners and Clerk of the County of Allegan, do hereby Certify that the above Resolution was duly adopted by said Board on March 26, 2026.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said County and Court in Allegan, Michigan, this 26th day of March, 2026.

Bob Genetski, Clerk-Register