

SENATE BILL No. 1177

February 25, 2010, Introduced by Senators KAHN, BIRKHOLZ, STAMAS and RICHARDVILLE and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding part 317.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 317

AQUIFER PROTECTION AND DISPUTE RESOLUTION

SEC. 31701. AS USED IN THIS PART:

(A) "AGRICULTURAL WELL" MEANS A HIGH-CAPACITY WELL THAT IS USED FOR AN AGRICULTURAL PURPOSE.

(B) "COMPLAINT" MEANS A COMPLAINT SUBMITTED UNDER SECTION 31702 ALLEGING A POTENTIAL GROUNDWATER DISPUTE.

(C) "CONSTRUCTION" MEANS THE PROCESS OF BUILDING A BUILDING, ROAD, UTILITY, OR ANOTHER STRUCTURE, INCLUDING ALL OF THE FOLLOWING:

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1 (i) ASSEMBLING MATERIALS.

2 (ii) DISASSEMBLING AND REMOVING A STRUCTURE.

3 (iii) PREPARING THE CONSTRUCTION SITE.

4 (iv) WORK RELATED TO ANY OF THE ITEMS DESCRIBED IN
5 SUBPARAGRAPHS (i) TO (iii).

6 (D) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES AND
7 ENVIRONMENT.

8 (E) "DEWATERING WELL" MEANS A WELL OR PUMP THAT IS USED FOR A
9 LIMITED TIME PERIOD AS PART OF A CONSTRUCTION PROJECT TO REMOVE OR
10 PUMP WATER FROM A SURFACE OR SUBSURFACE AREA AND CEASES TO BE USED
11 UPON COMPLETION OF THE CONSTRUCTION PROJECT OR SHORTLY AFTER
12 COMPLETION OF THE CONSTRUCTION PROJECT.

13 (F) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF NATURAL
14 RESOURCES AND ENVIRONMENT OR HIS OR HER DESIGNEE.

15 (G) "FARM" MEANS THAT TERM AS IT IS DEFINED IN SECTION 2 OF
16 THE MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL 286.472.

17 (H) "FUND" MEANS THE AQUIFER PROTECTION REVOLVING FUND CREATED
18 IN SECTION 31710.

19 (I) "GROUNDWATER" MEANS THE WATER IN THE ZONE OF SATURATION
20 THAT FILLS ALL OF THE PORE SPACES OF THE SUBSURFACE GEOLOGIC
21 MATERIAL.

22 (J) "GROUNDWATER DISPUTE" MEANS A GROUNDWATER DISPUTE DECLARED
23 BY ORDER OF THE DIRECTOR UNDER SECTION 31703.

24 (K) "HIGH-CAPACITY WELL" MEANS 1 OR MORE WATER WELLS
25 ASSOCIATED WITH AN INDUSTRIAL OR PROCESSING FACILITY, AN IRRIGATION
26 FACILITY, A FARM, OR A PUBLIC WATER SUPPLY SYSTEM THAT, IN THE
27 AGGREGATE FROM ALL SOURCES AND BY ALL METHODS, HAVE THE CAPABILITY

1 OF WITHDRAWING 100,000 OR MORE GALLONS OF GROUNDWATER IN 1 DAY.

2 (I) "LOCAL HEALTH DEPARTMENT" MEANS THAT TERM AS IT IS DEFINED
3 IN SECTION 1105 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
4 333.1105.

5 (M) "OWNER" MEANS EITHER OF THE FOLLOWING:

6 (i) THE OWNER OF AN INTEREST IN PROPERTY.

7 (ii) A PERSON IN POSSESSION OF PROPERTY.

8 (N) "POTABLE WATER" MEANS WATER THAT AT THE POINT OF USE IS
9 ACCEPTABLE FOR HUMAN CONSUMPTION.

10 (O) "PUBLIC WATER SUPPLY SYSTEM" MEANS A WATER SYSTEM THAT
11 PROVIDES WATER FOR HUMAN CONSUMPTION OR OTHER PURPOSES TO PERSONS
12 OTHER THAN THE SUPPLIER OF WATER.

13 (P) "SMALL-QUANTITY WELL" MEANS 1 OR MORE WATER WELLS OF A
14 PERSON AT THE SAME LOCATION THAT, IN THE AGGREGATE FROM ALL SOURCES
15 AND BY ALL METHODS, DO NOT HAVE THE CAPABILITY OF WITHDRAWING
16 100,000 OR MORE GALLONS OF GROUNDWATER IN 1 DAY.

17 (Q) "WATER WELL" MEANS AN OPENING IN THE SURFACE OF THE EARTH,
18 HOWEVER CONSTRUCTED, THAT IS USED FOR THE PURPOSE OF WITHDRAWING
19 GROUNDWATER. WATER WELL DOES NOT INCLUDE A DRAIN AS DEFINED IN
20 SECTION 3 OF THE DRAIN CODE OF 1956, 1956 PA 40, MCL 280.3.

21 (R) "WELL DRILLING CONTRACTOR" MEANS A WELL DRILLING
22 CONTRACTOR REGISTERED UNDER PART 127 OF THE PUBLIC HEALTH CODE,
23 1978 PA 368, MCL 333.12701 TO 333.12771.

24 SEC. 31702. (1) THE OWNER OF A SMALL-QUANTITY WELL MAY SUBMIT
25 A COMPLAINT ALLEGING A POTENTIAL GROUNDWATER DISPUTE IF THE SMALL-
26 QUANTITY WELL HAS FAILED TO FURNISH THE WELL'S NORMAL SUPPLY OF
27 WATER OR THE WELL HAS FAILED TO FURNISH POTABLE WATER AND THE OWNER

1 HAS CREDIBLE REASON TO BELIEVE THAT THE WELL'S PROBLEMS HAVE BEEN
2 CAUSED BY A HIGH-CAPACITY WELL. A COMPLAINT SHALL BE SUBMITTED TO
3 THE DIRECTOR OR TO THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE IF
4 THE COMPLAINT INVOLVES AN AGRICULTURAL WELL. THE COMPLAINT SHALL BE
5 IN WRITING AND SHALL BE SUBMITTED IN PERSON, VIA CERTIFIED MAIL,
6 VIA THE TOLL-FREE FACSIMILE TELEPHONE NUMBER PROVIDED IN SUBSECTION
7 (5), OR VIA OTHER MEANS OF ELECTRONIC SUBMITTAL AS DEVELOPED BY THE
8 DEPARTMENT. HOWEVER, THE DIRECTOR OR THE DIRECTOR OF THE DEPARTMENT
9 OF AGRICULTURE MAY REFUSE TO ACCEPT AN UNREASONABLE COMPLAINT. THE
10 COMPLAINT SHALL INCLUDE ALL OF THE FOLLOWING INFORMATION:

11 (A) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE OWNER OF
12 THE SMALL-QUANTITY WELL.

13 (B) THE LOCATION OF THE SMALL-QUANTITY WELL, INCLUDING THE
14 COUNTY, TOWNSHIP, TOWNSHIP SECTION, AND ADDRESS OF THE PROPERTY ON
15 WHICH THE SMALL-QUANTITY WELL IS SITUATED, AND ALL OTHER AVAILABLE
16 INFORMATION THAT DEFINES THE LOCATION OF THAT WELL.

17 (C) AN EXPLANATION OF WHY THE SMALL-QUANTITY WELL OWNER
18 BELIEVES THAT A HIGH-CAPACITY WELL HAS INTERFERED WITH THE PROPER
19 FUNCTION OF THE SMALL-QUANTITY WELL AND ANY INFORMATION AVAILABLE
20 TO THE SMALL-QUANTITY WELL OWNER ABOUT THE LOCATION AND OPERATION
21 OF THE HIGH-CAPACITY WELL.

22 (D) THE DATE OR DATES ON WHICH THE INTERFERENCE BY A HIGH-
23 CAPACITY WELL OCCURRED.

24 (E) SUFFICIENT EVIDENCE TO ESTABLISH A REASONABLE BELIEF THAT
25 THE INTERFERENCE WAS CAUSED BY A HIGH-CAPACITY WELL.

26 (2) THE OWNER OF A SMALL-QUANTITY WELL MAY CALL THE TOLL-FREE
27 TELEPHONE LINE PROVIDED FOR IN SUBSECTION (5) TO REQUEST A

1 COMPLAINT FORM OR OTHER INFORMATION REGARDING THE DISPUTE
2 RESOLUTION PROCESS PROVIDED IN THIS PART.

3 (3) WITHIN 2 BUSINESS DAYS AFTER RECEIPT OF A COMPLAINT UNDER
4 SUBSECTION (1), THE DIRECTOR OR THE DIRECTOR OF THE DEPARTMENT OF
5 AGRICULTURE, AS APPROPRIATE, SHALL CONTACT THE COMPLAINANT AND
6 BEGIN AN INVESTIGATION. WITHIN 5 BUSINESS DAYS AFTER RECEIPT OF A
7 COMPLAINT UNDER SUBSECTION (1), THE DIRECTOR OR THE DIRECTOR OF THE
8 DEPARTMENT OF AGRICULTURE, AS APPROPRIATE, SHALL CONDUCT AN ON-SITE
9 EVALUATION. HOWEVER, IF THE COMPLAINT IS FOR A SMALL-QUANTITY WELL
10 THAT IS IN CLOSE PROXIMITY TO OTHER SMALL-QUANTITY WELLS FOR WHICH
11 DOCUMENTED COMPLAINTS HAVE BEEN RECEIVED AND INVESTIGATED DURING
12 THE PREVIOUS 60 DAYS, THE DEPARTMENT NEED NOT CONDUCT AN ON-SITE
13 EVALUATION UNLESS THE DEPARTMENT DETERMINES THAT AN ON-SITE
14 EVALUATION IS NECESSARY. IF THE DIRECTOR OR THE DIRECTOR OF THE
15 DEPARTMENT OF AGRICULTURE, AS APPROPRIATE, CONSIDERS IT NECESSARY
16 FOR AN INVESTIGATION UNDER THIS SUBSECTION, HE OR SHE MAY REQUEST
17 THAT THE OWNER OF THE SMALL-QUANTITY WELL PROVIDE A WRITTEN
18 ASSESSMENT BY A WELL DRILLING CONTRACTOR THAT THE SMALL-QUANTITY
19 WELL FAILURE WAS NOT THE RESULT OF WELL FAILURE OR EQUIPMENT
20 FAILURE. THE ASSESSMENT SHALL INCLUDE A DETERMINATION OF THE STATIC
21 WATER LEVEL IN THE WELL AT THE TIME OF THE ASSESSMENT AND, IF
22 READILY AVAILABLE, THE TYPE OF PUMP AND EQUIPMENT. THE DIRECTOR OR
23 THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, AS APPROPRIATE,
24 SHALL GIVE AFFECTED PERSONS AN OPPORTUNITY TO CONTRIBUTE TO THE
25 INVESTIGATION OF A COMPLAINT. IN CONDUCTING THE INVESTIGATION, THE
26 DIRECTOR OR THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, AS
27 APPROPRIATE, SHALL CONSIDER WHETHER THE OWNER OF THE HIGH-CAPACITY

1 WELL IS USING INDUSTRY-RECOGNIZED WATER CONSERVATION MANAGEMENT
2 PRACTICES.

3 (4) AFTER CONDUCTING AN INVESTIGATION, THE DIRECTOR OR THE
4 DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, AS APPROPRIATE, SHALL
5 MAKE A DILIGENT EFFORT TO RESOLVE THE COMPLAINT. IN ATTEMPTING TO
6 RESOLVE A COMPLAINT, THE DIRECTOR OR THE DIRECTOR OF THE DEPARTMENT
7 OF AGRICULTURE, AS APPROPRIATE, MAY PROPOSE A REMEDY THAT HE OR SHE
8 BELIEVES WOULD EQUITABLY RESOLVE THE COMPLAINT. IF, WITHIN 14 DAYS
9 FOLLOWING THE SUBMITTAL OF A COMPLAINT, THE DIRECTOR OF THE
10 DEPARTMENT OF AGRICULTURE IS UNABLE TO RESOLVE A COMPLAINT, THE
11 DIRECTOR OF THE DEPARTMENT OF AGRICULTURE SHALL REFER THE
12 COMPLAINT, AND PROVIDE ALL RELEVANT INFORMATION, TO THE DIRECTOR.

13 (5) THE DIRECTOR SHALL PROVIDE FOR THE USE OF A TOLL-FREE
14 FACSIMILE TELEPHONE LINE TO RECEIVE COMPLAINTS AND A TOLL-FREE
15 TELEPHONE LINE FOR OWNERS OF SMALL-QUANTITY WELLS TO REQUEST
16 COMPLAINT FORMS AND TO OBTAIN OTHER INFORMATION REGARDING THE
17 DISPUTE RESOLUTION PROCESS PROVIDED IN THIS PART.

18 (6) THE DIRECTOR AND THE DIRECTOR OF THE DEPARTMENT OF
19 AGRICULTURE SHALL DO BOTH OF THE FOLLOWING:

20 (A) PUBLICIZE THE TOLL-FREE FACSIMILE LINE AND THE TOLL-FREE
21 TELEPHONE LINE PROVIDED FOR IN SUBSECTION (5).

22 (B) ENTER INTO A MEMORANDUM OF UNDERSTANDING THAT DESCRIBES
23 THE PROCESS THAT WILL BE FOLLOWED BY EACH DIRECTOR WHEN A COMPLAINT
24 INVOLVES AN AGRICULTURAL WELL.

25 (7) A COMPLAINANT WHO SUBMITS MORE THAN 2 UNVERIFIED
26 COMPLAINTS UNDER THIS SECTION WITHIN 1 YEAR MAY BE ORDERED BY THE
27 DIRECTOR TO PAY FOR THE FULL COSTS OF INVESTIGATION OF ANY THIRD OR

1 SUBSEQUENT UNVERIFIED COMPLAINT. AS USED IN THIS SUBSECTION,
2 "UNVERIFIED COMPLAINT" MEANS A COMPLAINT IN RESPONSE TO WHICH THE
3 DIRECTOR DETERMINES THAT THERE IS NOT REASONABLE EVIDENCE TO
4 DECLARE A GROUNDWATER DISPUTE.

5 SEC. 31703. (1) THE DIRECTOR SHALL, BY ORDER, DECLARE A
6 GROUNDWATER DISPUTE IF AN INVESTIGATION OF A COMPLAINT DISCLOSES
7 ALL OF THE FOLLOWING, BASED UPON REASONABLE SCIENTIFICALLY BASED
8 EVIDENCE, AND WITHIN A REASONABLE AMOUNT OF TIME THE DIRECTOR IS
9 UNABLE TO RESOLVE THE COMPLAINT:

10 (A) THAT THE SMALL-QUANTITY WELL HAS FAILED TO FURNISH THE
11 WELL'S NORMAL SUPPLY OF WATER OR FAILED TO FURNISH POTABLE WATER.

12 (B) THAT THE SMALL-QUANTITY WELL AND THE WELL'S EQUIPMENT WERE
13 FUNCTIONING PROPERLY AT THE TIME OF THE FAILURE. THE DETERMINATION
14 UNDER THIS SUBDIVISION SHALL BE MADE BASED UPON AN ASSESSMENT FROM
15 A WELL DRILLING CONTRACTOR THAT IS PROVIDED BY THE OWNER OF THE
16 SMALL-QUANTITY WELL.

17 (C) THAT THE FAILURE OF THE SMALL-QUANTITY WELL WAS CAUSED BY
18 THE LOWERING OF THE GROUNDWATER LEVEL IN THE AREA.

19 (D) THAT THE LOWERING OF THE GROUNDWATER LEVEL EXCEEDS NORMAL
20 SEASONAL WATER LEVEL FLUCTUATIONS AND SUBSTANTIALLY IMPAIRS
21 CONTINUED USE OF THE GROUNDWATER RESOURCE IN THE AREA.

22 (E) THAT THE LOWERING OF THE GROUNDWATER LEVEL WAS CAUSED BY
23 AT LEAST 1 HIGH-CAPACITY WELL.

24 (F) THAT THE OWNER OF THE SMALL-QUANTITY WELL DID NOT
25 UNREASONABLY REJECT A REMEDY PROPOSED BY THE DIRECTOR OR THE
26 DIRECTOR OF THE DEPARTMENT OF AGRICULTURE UNDER SECTION 31702(4).

27 (2) IN ADDITION TO THE AUTHORITY UNDER SUBSECTION (1) TO

1 DECLARE A GROUNDWATER DISPUTE, IF THE DIRECTOR HAS CLEAR AND
2 CONVINCING SCIENTIFICALLY BASED EVIDENCE THAT INDICATES THAT
3 CONTINUED GROUNDWATER WITHDRAWALS FROM A HIGH-CAPACITY WELL WILL
4 EXCEED THE RECHARGE CAPABILITY OF THE GROUNDWATER RESOURCE OF THE
5 AREA, THE DIRECTOR, BY ORDER, MAY DECLARE A GROUNDWATER DISPUTE.

6 (3) THE DIRECTOR MAY AMEND OR TERMINATE AN ORDER DECLARING A
7 GROUNDWATER DISPUTE AT ANY TIME.

8 SEC. 31704. (1) AN ORDER DECLARING A GROUNDWATER DISPUTE IS
9 EFFECTIVE WHEN A COPY OF THE ORDER IS SERVED UPON THE OWNER OF A
10 HIGH-CAPACITY WELL THAT IS REASONABLY BELIEVED TO HAVE CAUSED THE
11 FAILURE OF THE COMPLAINANT'S SMALL-QUANTITY WELL.

12 (2) IF A GROUNDWATER DISPUTE REQUIRES ACTION BEFORE SERVICE
13 CAN BE COMPLETED UNDER SUBSECTION (1), ORAL NOTIFICATION IN PERSON
14 BY THE DIRECTOR IS SUFFICIENT UNTIL SERVICE CAN BE COMPLETED. ORAL
15 NOTIFICATION IS EFFECTIVE FOR NOT MORE THAN 96 HOURS.

16 (3) AS SOON AS POSSIBLE AFTER AN ORDER DECLARING A GROUNDWATER
17 DISPUTE HAS BEEN ISSUED, THE DIRECTOR SHALL PROVIDE COPIES OF THE
18 ORDER TO THE LOCAL UNITS OF GOVERNMENT IN WHICH THE HIGH-CAPACITY
19 WELL AND THE SMALL-QUANTITY WELL ARE LOCATED AND TO THE LOCAL
20 HEALTH DEPARTMENTS WITH JURISDICTION OVER THOSE WELLS.

21 SEC. 31705. (1) UPON DECLARATION OF A GROUNDWATER DISPUTE, THE
22 DIRECTOR SHALL, BY ORDER, REQUIRE THE IMMEDIATE TEMPORARY PROVISION
23 AT THE POINT OF USE OF AN ADEQUATE SUPPLY OF POTABLE WATER.

24 (2) EXCEPT AS PROVIDED IN SUBSECTIONS (3), (4), AND (5), IF
25 THE DIRECTOR ISSUES AN ORDER DECLARING A GROUNDWATER DISPUTE, THE
26 DIRECTOR MAY, BY ORDER, RESTRICT THE QUANTITY OF GROUNDWATER THAT
27 MAY BE EXTRACTED FROM A HIGH-CAPACITY WELL UNDER EITHER OF THE

1 FOLLOWING CONDITIONS:

2 (A) IF THE HIGH-CAPACITY WELL IS REASONABLY BELIEVED TO HAVE
3 CAUSED THE FAILURE OF THE COMPLAINANT'S SMALL-QUANTITY WELL AND AN
4 IMMEDIATE TEMPORARY PROVISION OF AN ADEQUATE SUPPLY OF POTABLE
5 WATER HAS NOT BEEN PROVIDED TO THE COMPLAINANT BY THE OWNER OF THE
6 HIGH-CAPACITY WELL.

7 (B) IF THERE IS CLEAR AND CONVINCING SCIENTIFICALLY BASED
8 EVIDENCE THAT CONTINUED GROUNDWATER WITHDRAWALS FROM THE HIGH-
9 CAPACITY WELL WILL EXCEED THE RECHARGE CAPABILITY OF THE
10 GROUNDWATER RESOURCE OF THE AREA.

11 (3) IN ISSUING AN ORDER UNDER SUBSECTION (2), THE DIRECTOR
12 SHALL CONSIDER THE IMPACT THE ORDER WILL HAVE ON THE VIABILITY OF A
13 BUSINESS ASSOCIATED WITH THE HIGH-CAPACITY WELL OR OTHER USE OF THE
14 HIGH-CAPACITY WELL.

15 (4) IF AN OPERATOR OF A HIGH-CAPACITY WELL WITHDRAWS WATER BY
16 A MEANS OTHER THAN PUMPING, THE DIRECTOR MAY, BY ORDER, TEMPORARILY
17 RESTRICT THE QUANTITY OF GROUNDWATER THAT MAY BE EXTRACTED ONLY IF
18 THE CONDITIONS OF SUBSECTION (2) (A) OR (B) HAVE NOT BEEN MET.

19 (5) THE DIRECTOR SHALL NOT ISSUE AN ORDER THAT DIMINISHES THE
20 NORMAL SUPPLY OF DRINKING WATER OR THE CAPABILITY FOR FIRE
21 SUPPRESSION OF A PUBLIC WATER SUPPLY SYSTEM OWNED OR OPERATED BY A
22 LOCAL UNIT OF GOVERNMENT.

23 SEC. 31706. (1) IF A GROUNDWATER DISPUTE HAS BEEN DECLARED,
24 THE OWNER OF A HIGH-CAPACITY WELL SHALL, SUBJECT TO AN ORDER OF THE
25 DIRECTOR, PROVIDE TIMELY AND REASONABLE COMPENSATION AS PROVIDED IN
26 SECTION 31707 IF THERE IS A FAILURE OR SUBSTANTIAL IMPAIRMENT OF A
27 SMALL-QUANTITY WELL AND THE FOLLOWING CONDITIONS EXIST:

1 (A) THE FAILURE OR SUBSTANTIAL IMPAIRMENT WAS CAUSED BY THE
2 GROUNDWATER WITHDRAWALS OF THE HIGH-CAPACITY WELL.

3 (B) THE SMALL-QUANTITY WELL WAS CONSTRUCTED PRIOR TO FEBRUARY
4 14, 1967 OR, IF THE SMALL-QUANTITY WELL WAS CONSTRUCTED ON OR AFTER
5 FEBRUARY 14, 1967, THE WELL WAS CONSTRUCTED IN COMPLIANCE WITH PART
6 127 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.12701 TO
7 333.12771.

8 (2) IN ADDITION TO THE TIMELY AND REASONABLE COMPENSATION
9 REQUIRED UNDER SUBSECTION (1), IF A GROUNDWATER DISPUTE HAS BEEN
10 DECLARED, THE OWNER OF A HIGH-CAPACITY WELL SHALL REIMBURSE THE
11 DIRECTOR AN AMOUNT EQUAL TO THE ACTUAL AND REASONABLE COSTS
12 INCURRED BY THE DIRECTOR IN INVESTIGATING AND RESOLVING THE
13 GROUNDWATER DISPUTE, NOT TO EXCEED \$75,000.00. MONEY RECEIVED BY
14 THE DIRECTOR UNDER THIS SUBSECTION SHALL BE FORWARDED TO THE STATE
15 TREASURER FOR DEPOSIT INTO THE FUND.

16 SEC. 31707. (1) TIMELY AND REASONABLE COMPENSATION UNDER
17 SECTION 31706 CONSISTS OF AND IS LIMITED TO EITHER OR BOTH OF THE
18 FOLLOWING:

19 (A) THE REIMBURSEMENT OF EXPENSES REASONABLY INCURRED BY THE
20 COMPLAINANT BEGINNING 30 DAYS PRIOR TO THE DATE ON WHICH A
21 COMPLAINT WAS MADE UNDER SECTION 31702 IN DOING THE FOLLOWING:

22 (i) PAYING FOR THE COST OF CONDUCTING A WELL ASSESSMENT TO
23 DETERMINE THAT THE SMALL-QUANTITY WELL AND THE WELL'S EQUIPMENT
24 WERE FUNCTIONING PROPERLY AT THE TIME OF THE FAILURE.

25 (ii) PAYING FOR THE COST OF OBTAINING AN IMMEDIATE TEMPORARY
26 PROVISION AT THE PRIOR POINT OF USE OF AN ADEQUATE SUPPLY OF
27 POTABLE WATER.

1 (iii) OBTAINING 1 OF THE FOLLOWING:

2 (A) THE RESTORATION OF THE AFFECTED SMALL-QUANTITY WELL TO THE
3 WELL'S NORMAL SUPPLY OF WATER.

4 (B) THE PERMANENT PROVISION AT THE POINT OF USE OF AN
5 ALTERNATIVE POTABLE SUPPLY OF EQUAL QUANTITY.

6 (B) IF AN ADEQUATE REMEDY IS NOT ACHIEVABLE UNDER SUBDIVISION
7 (A), THE RESTRICTION OR SCHEDULING OF THE GROUNDWATER WITHDRAWALS
8 OF THE HIGH-CAPACITY WELL SO THAT THE AFFECTED SMALL-QUANTITY WELL
9 CONTINUES TO PRODUCE EITHER OF THE FOLLOWING:

10 (i) THE WELL'S NORMAL SUPPLY OF WATER.

11 (ii) THE NORMAL SUPPLY OF POTABLE WATER IF THE WELL NORMALLY
12 FURNISHES POTABLE WATER.

13 (2) THE REFUSAL OF AN OWNER OF AN AFFECTED SMALL-QUANTITY WELL
14 TO ACCEPT TIMELY AND REASONABLE COMPENSATION DESCRIBED IN
15 SUBSECTION (1) IS SUFFICIENT GROUNDS FOR THE DIRECTOR TO TERMINATE
16 AN ORDER IMPOSED ON THE OWNER OF A HIGH-CAPACITY WELL.

17 SEC. 31708. THE OWNER OF A HIGH-CAPACITY WELL SUBJECT TO AN
18 ORDER UNDER THIS PART MAY APPEAL THAT ORDER DIRECTLY TO CIRCUIT
19 COURT PURSUANT TO THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236,
20 MCL 600.101 TO 600.9947.

21 SEC. 31709. THIS PART DOES NOT APPLY TO A POTENTIAL
22 GROUNDWATER DISPUTE INVOLVING ANY OF THE FOLLOWING:

23 (A) A HIGH-CAPACITY WELL OWNED OR OPERATED BY A LOCAL UNIT OF
24 GOVERNMENT IF THE LOCAL UNIT OF GOVERNMENT AGREES TO MAKE THE
25 AGGRIEVED PROPERTY OWNER WHOLE BY CONNECTING THE OWNER'S PROPERTY
26 TO THE LOCAL UNIT OF GOVERNMENT'S PUBLIC WATER SUPPLY SYSTEM OR BY
27 DRILLING THE OWNER A NEW WELL, WITH THE INSTALLATION COSTS PAID BY

1 THE LOCAL UNIT OF GOVERNMENT.

2 (B) A HIGH-CAPACITY WELL ASSOCIATED WITH A PUBLIC WATER SUPPLY
3 SYSTEM THAT IS OWNED OR OPERATED BY A LOCAL UNIT OF GOVERNMENT IF
4 THE RECHARGE AREA OF THE WATER WELL IS PROTECTED BY A WELLHEAD
5 PROTECTION PROGRAM APPROVED BY THE DEPARTMENT UNDER THE STATE'S
6 WELLHEAD PROTECTION PROGRAM.

7 (C) A HIGH-CAPACITY WELL THAT IS A DEWATERING WELL.

8 (D) A HIGH-CAPACITY WELL THAT IS USED SOLELY FOR THE PURPOSE
9 OF FIRE SUPPRESSION.

10 SEC. 31710. (1) THE AQUIFER PROTECTION REVOLVING FUND IS
11 CREATED IN THE STATE TREASURY.

12 (2) THE FUND MAY RECEIVE MONEY OR OTHER ASSETS FROM ANY SOURCE
13 FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL DIRECT THE
14 INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT TO THE
15 FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

16 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL
17 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

18 (4) THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE FUND FOR
19 AUDITING PURPOSES.

20 (5) MONEY IN THE FUND SHALL BE EXPENDED BY THE DEPARTMENT ONLY
21 TO IMPLEMENT THIS PART.

22 (6) IF MONEY IN THE FUND IS USED TO CONDUCT HYDROGEOLOGICAL
23 STUDIES OR OTHER STUDIES TO GATHER DATA ON THE NATURE OF AQUIFERS
24 OR GROUNDWATER RESOURCES IN THE STATE, THE DEPARTMENT SHALL INCLUDE
25 THIS INFORMATION IN THE GROUNDWATER INVENTORY AND MAP PREPARED
26 UNDER SECTION 32802.

27 SEC. 31711. NOT LATER THAN APRIL 1, 2010, AND EVERY 2 YEARS

1 THEREAFTER, THE DEPARTMENT SHALL PREPARE AND SUBMIT TO THE STANDING
2 COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES A REPORT
3 THAT INCLUDES BOTH OF THE FOLLOWING:

4 (A) AN ANALYSIS OF THE DEPARTMENT'S COSTS OF IMPLEMENTING THIS
5 PART AND WHETHER THE LIMITATION ON REIMBURSABLE COSTS UNDER SECTION
6 31706(2) SHOULD BE MODIFIED.

7 (B) RECOMMENDATIONS ON MODIFICATIONS TO THIS PART THAT WOULD
8 IMPROVE THE OVERALL EFFECTIVENESS OF THIS PART.

9 SEC. 31712. (1) A PERSON WHO VIOLATES AN ORDER ISSUED UNDER
10 THIS PART IS RESPONSIBLE FOR A CIVIL FINE OF NOT MORE THAN
11 \$1,000.00 FOR EACH DAY OF VIOLATION, BUT NOT EXCEEDING A TOTAL OF
12 \$50,000.00.

13 (2) A DEFAULT IN THE PAYMENT OF A CIVIL FINE OR COSTS ORDERED
14 UNDER THIS SECTION OR AN INSTALLMENT OF THE FINE OR COSTS MAY BE
15 REMEDIED BY ANY MEANS AUTHORIZED UNDER THE REVISED JUDICATURE ACT
16 OF 1961, 1961 PA 236, MCL 600.101 TO 600.9947.

17 (3) ALL CIVIL FINES RECOVERED UNDER THIS SECTION SHALL BE
18 FORWARDED TO THE STATE TREASURER FOR DEPOSIT INTO THE GENERAL FUND.

19 (4) THE DIRECTOR MAY BRING AN ACTION IN A COURT OF COMPETENT
20 JURISDICTION TO ENFORCE AN ORDER UNDER THIS PART, INCLUDING
21 INJUNCTIVE OR OTHER EQUITABLE RELIEF.