

SUBSTITUTE FOR
SENATE BILL NO. 1008

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:

1 PART 317

2 AQUIFER PROTECTION AND DISPUTE RESOLUTION

3 SEC. 31701. AS USED IN THIS PART:

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

6 (B) "COMPLAINT" MEANS A COMPLAINT SUBMITTED UNDER SECTION
7 31702 ALLEGING A POTENTIAL GROUNDWATER DISPUTE.

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

1 FOLLOWING:

2 (i) ASSEMBLING MATERIALS.

3 (ii) DISASSEMBLING AND REMOVING A STRUCTURE.

4 (iii) PREPARING THE CONSTRUCTION SITE.

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

7 (D) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL
8 QUALITY.

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

15 (F) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OR HIS OR
16 HER DESIGNEE.

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

19 (H) "FUND" MEANS THE AQUIFER PROTECTION REVOLVING FUND CREATED
20 IN SECTION 31710.

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

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

26 (K) "HIGH-CAPACITY WELL" MEANS 1 OR MORE WATER WELLS
27 ASSOCIATED WITH AN INDUSTRIAL OR PROCESSING FACILITY, AN IRRIGATION

1 FACILITY, A FARM, OR A PUBLIC WATER SUPPLY SYSTEM THAT, IN THE
2 AGGREGATE FROM ALL SOURCES AND BY ALL METHODS, HAVE THE CAPABILITY
3 OF WITHDRAWING 100,000 OR MORE GALLONS OF GROUNDWATER IN 1 DAY.

4 (I) "LOCAL HEALTH DEPARTMENT" MEANS THAT TERM AS IT IS DEFINED
5 IN SECTION 1105 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
6 333.1105.

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

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

9 (ii) A PERSON IN POSSESSION OF PROPERTY.

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

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

15 (P) "SMALL-QUANTITY WELL" MEANS 1 OR MORE WATER WELLS OF A
16 PERSON AT THE SAME LOCATION THAT, IN THE AGGREGATE FROM ALL SOURCES
17 AND BY ALL METHODS, DO NOT HAVE THE CAPABILITY OF WITHDRAWING
18 100,000 OR MORE GALLONS OF GROUNDWATER IN 1 DAY.

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

23 (R) "WELL DRILLING CONTRACTOR" MEANS A WELL DRILLING
24 CONTRACTOR REGISTERED UNDER PART 127 OF THE PUBLIC HEALTH CODE,
25 1978 PA 368, MCL 333.12701 TO 333.12771.

26 SEC. 31702. (1) THE OWNER OF A SMALL-QUANTITY WELL MAY SUBMIT
27 A COMPLAINT ALLEGING A POTENTIAL GROUNDWATER DISPUTE IF THE SMALL-

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

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

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

20 (C) A WRITTEN ASSESSMENT BY A WELL DRILLING CONTRACTOR THAT
21 THE SMALL-QUANTITY WELL FAILURE WAS NOT THE RESULT OF WELL DESIGN
22 OR EQUIPMENT FAILURE. THE ASSESSMENT SHALL INCLUDE A DETERMINATION
23 OF THE STATIC WATER LEVEL IN THE WELL AT THE TIME OF THE ASSESSMENT
24 AND, IF READILY AVAILABLE, THE TYPE OF PUMP AND EQUIPMENT.

25 (D) AN EXPLANATION OF WHY THE SMALL-QUANTITY WELL OWNER
26 BELIEVES THAT A HIGH-CAPACITY WELL HAS INTERFERED WITH THE PROPER
27 FUNCTION OF THE SMALL-QUANTITY WELL AND ANY INFORMATION AVAILABLE

1 TO THE SMALL-QUANTITY WELL OWNER ABOUT THE LOCATION AND OPERATION
2 OF THE HIGH-CAPACITY WELL.

3 (E) THE DATE OR DATES ON WHICH THE INTERFERENCE BY A HIGH-
4 CAPACITY WELL OCCURRED.

5 (F) SUFFICIENT EVIDENCE TO ESTABLISH A REASONABLE BELIEF THAT
6 THE INTERFERENCE WAS CAUSED BY A HIGH-CAPACITY WELL.

7 (2) THE OWNER OF A SMALL-QUANTITY WELL MAY CALL THE TOLL-FREE
8 TELEPHONE LINE PROVIDED FOR IN SUBSECTION (6) TO REQUEST A
9 COMPLAINT FORM OR OTHER INFORMATION REGARDING THE DISPUTE
10 RESOLUTION PROCESS PROVIDED IN THIS PART.

11 (3) WITHIN 2 BUSINESS DAYS AFTER RECEIPT OF A COMPLAINT UNDER
12 SUBSECTION (1), THE DIRECTOR OR THE DIRECTOR OF THE DEPARTMENT OF
13 AGRICULTURE AND RURAL DEVELOPMENT, AS APPROPRIATE, SHALL CONTACT
14 THE COMPLAINANT AND THE OWNER OF EACH HIGH-CAPACITY WELL IDENTIFIED
15 IN THE COMPLAINT AND BEGIN AN INVESTIGATION. HOWEVER, IF THE OWNER
16 OF THE HIGH-CAPACITY WELL NOTIFIES THE DEPARTMENT THAT HE OR SHE
17 DOES NOT WISH TO PARTICIPATE IN THE DISPUTE RESOLUTION PROCESS
18 PROVIDED FOR IN THIS PART, THE INVESTIGATION SHALL BE SUSPENDED AND
19 THE DISPUTE SHALL BE RESOLVED AS OTHERWISE PROVIDED BY LAW.

20 (4) WITHIN 5 BUSINESS DAYS AFTER RECEIPT OF A COMPLAINT UNDER
21 SUBSECTION (1), THE DIRECTOR OR THE DIRECTOR OF THE DEPARTMENT OF
22 AGRICULTURE AND RURAL DEVELOPMENT, AS APPROPRIATE, SHALL CONDUCT AN
23 ON-SITE EVALUATION. HOWEVER, IF THE COMPLAINT IS FOR A SMALL-
24 QUANTITY WELL THAT IS IN CLOSE PROXIMITY TO OTHER SMALL-QUANTITY
25 WELLS FOR WHICH DOCUMENTED COMPLAINTS HAVE BEEN RECEIVED AND
26 INVESTIGATED DURING THE PREVIOUS 60 DAYS, THE DEPARTMENT NEED NOT
27 CONDUCT AN ON-SITE EVALUATION UNLESS THE DEPARTMENT DETERMINES THAT

1 AN ON-SITE EVALUATION IS NECESSARY. THE DIRECTOR OR THE DIRECTOR OF
2 THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT, AS
3 APPROPRIATE, SHALL GIVE AFFECTED PERSONS AN OPPORTUNITY TO
4 CONTRIBUTE TO THE INVESTIGATION OF A COMPLAINT. IN CONDUCTING THE
5 INVESTIGATION, THE DIRECTOR OR THE DIRECTOR OF THE DEPARTMENT OF
6 AGRICULTURE AND RURAL DEVELOPMENT, AS APPROPRIATE, SHALL CONSIDER
7 WHETHER THE OWNER OF THE HIGH-CAPACITY WELL IS USING INDUSTRY-
8 RECOGNIZED WATER CONSERVATION MANAGEMENT PRACTICES.

9 (5) AFTER CONDUCTING AN INVESTIGATION, THE DIRECTOR OR THE
10 DIRECTOR OF THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT, AS
11 APPROPRIATE, SHALL MAKE A DILIGENT EFFORT TO RESOLVE THE COMPLAINT.
12 IN ATTEMPTING TO RESOLVE A COMPLAINT, THE DIRECTOR OR THE DIRECTOR
13 OF THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT, AS
14 APPROPRIATE, MAY PROPOSE A REMEDY THAT HE OR SHE BELIEVES WOULD
15 EQUITABLY RESOLVE THE COMPLAINT. IF, WITHIN 14 DAYS FOLLOWING THE
16 SUBMITTAL OF A COMPLAINT, THE DIRECTOR OF THE DEPARTMENT OF
17 AGRICULTURE AND RURAL DEVELOPMENT IS UNABLE TO RESOLVE A COMPLAINT,
18 THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT
19 SHALL REFER THE COMPLAINT, AND PROVIDE ALL RELEVANT INFORMATION, TO
20 THE DIRECTOR.

21 (6) THE DIRECTOR SHALL PROVIDE FOR THE USE OF A TOLL-FREE
22 FACSIMILE LINE TO RECEIVE COMPLAINTS AND A TOLL-FREE TELEPHONE LINE
23 FOR OWNERS OF SMALL-QUANTITY WELLS TO REQUEST COMPLAINT FORMS AND
24 TO OBTAIN OTHER INFORMATION REGARDING THE DISPUTE RESOLUTION
25 PROCESS PROVIDED IN THIS PART.

26 (7) THE DIRECTOR AND THE DIRECTOR OF THE DEPARTMENT OF
27 AGRICULTURE AND RURAL DEVELOPMENT SHALL DO BOTH OF THE FOLLOWING:

1 (A) PUBLICIZE THE TOLL-FREE FACSIMILE LINE AND THE TOLL-FREE
2 TELEPHONE LINE PROVIDED FOR IN SUBSECTION (6).

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

6 (8) A COMPLAINANT WHO SUBMITS MORE THAN 2 UNVERIFIED
7 COMPLAINTS UNDER THIS SECTION WITHIN 1 YEAR MAY BE ORDERED BY THE
8 DIRECTOR TO PAY FOR THE FULL COSTS OF INVESTIGATION OF ANY THIRD OR
9 SUBSEQUENT UNVERIFIED COMPLAINT. AS USED IN THIS SUBSECTION,
10 "UNVERIFIED COMPLAINT" MEANS A COMPLAINT IN RESPONSE TO WHICH THE
11 DIRECTOR DETERMINES THAT THERE IS NOT REASONABLE EVIDENCE TO
12 DECLARE A GROUNDWATER DISPUTE.

13 SEC. 31703. (1) THE DIRECTOR SHALL, BY ORDER, DECLARE A
14 GROUNDWATER DISPUTE IF AN INVESTIGATION OF A COMPLAINT DISCLOSES
15 ALL OF THE FOLLOWING, BASED UPON REASONABLE SCIENTIFICALLY BASED
16 EVIDENCE, AND WITHIN A REASONABLE AMOUNT OF TIME THE DIRECTOR IS
17 UNABLE TO RESOLVE THE COMPLAINT:

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

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

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

27 (D) THAT THE LOWERING OF THE GROUNDWATER LEVEL EXCEEDS NORMAL

1 SEASONAL WATER LEVEL FLUCTUATIONS AND SUBSTANTIALLY IMPAIRS
2 CONTINUED USE OF THE GROUNDWATER RESOURCE IN THE AREA.

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

5 (F) THAT THE OWNER OF THE SMALL-QUANTITY WELL DID NOT
6 UNREASONABLY REJECT A REMEDY PROPOSED BY THE DIRECTOR OR THE
7 DIRECTOR OF THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT
8 UNDER SECTION 31702(5).

9 (2) IN ADDITION TO THE AUTHORITY UNDER SUBSECTION (1) TO
10 DECLARE A GROUNDWATER DISPUTE, IF THE DIRECTOR HAS CLEAR AND
11 CONVINCING SCIENTIFICALLY BASED EVIDENCE THAT INDICATES THAT
12 CONTINUED GROUNDWATER WITHDRAWALS FROM A HIGH-CAPACITY WELL WILL
13 EXCEED THE RECHARGE CAPABILITY OF THE GROUNDWATER RESOURCE OF THE
14 AREA, THE DIRECTOR, BY ORDER, MAY DECLARE A GROUNDWATER DISPUTE.

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

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

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

25 (3) AS SOON AS POSSIBLE AFTER AN ORDER DECLARING A GROUNDWATER
26 DISPUTE HAS BEEN ISSUED, THE DIRECTOR SHALL PROVIDE COPIES OF THE
27 ORDER TO THE LOCAL UNITS OF GOVERNMENT IN WHICH THE HIGH-CAPACITY

1 WELL AND THE SMALL-QUANTITY WELL ARE LOCATED AND TO THE LOCAL
2 HEALTH DEPARTMENTS WITH JURISDICTION OVER THOSE WELLS.

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

6 (2) EXCEPT AS PROVIDED IN SUBSECTIONS (3), (4), AND (5), IF
7 THE DIRECTOR ISSUES AN ORDER DECLARING A GROUNDWATER DISPUTE, THE
8 DIRECTOR MAY, BY ORDER, RESTRICT THE QUANTITY OF GROUNDWATER THAT
9 MAY BE EXTRACTED FROM A HIGH-CAPACITY WELL UNDER EITHER OF THE
10 FOLLOWING CONDITIONS:

11 (A) IF THE HIGH-CAPACITY WELL IS REASONABLY BELIEVED TO HAVE
12 CAUSED THE FAILURE OF THE COMPLAINANT'S SMALL-QUANTITY WELL AND AN
13 IMMEDIATE TEMPORARY PROVISION OF AN ADEQUATE SUPPLY OF POTABLE
14 WATER HAS NOT BEEN PROVIDED TO THE COMPLAINANT BY THE OWNER OF THE
15 HIGH-CAPACITY WELL.

16 (B) IF THERE IS CLEAR AND CONVINCING SCIENTIFICALLY BASED
17 EVIDENCE THAT CONTINUED GROUNDWATER WITHDRAWALS FROM THE HIGH-
18 CAPACITY WELL WILL EXCEED THE RECHARGE CAPABILITY OF THE
19 GROUNDWATER RESOURCE OF THE AREA.

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

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

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

5 SEC. 31706. IF A GROUNDWATER DISPUTE HAS BEEN DECLARED, THE
6 OWNER OF A HIGH-CAPACITY WELL SHALL, SUBJECT TO AN ORDER OF THE
7 DIRECTOR, PROVIDE TIMELY AND REASONABLE COMPENSATION AS PROVIDED IN
8 SECTION 31707 IF THERE IS A FAILURE OR SUBSTANTIAL IMPAIRMENT OF A
9 SMALL-QUANTITY WELL AND THE FOLLOWING CONDITIONS EXIST:

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

12 (B) THE SMALL-QUANTITY WELL WAS CONSTRUCTED PRIOR TO FEBRUARY
13 14, 1967 OR, IF THE SMALL-QUANTITY WELL WAS CONSTRUCTED ON OR AFTER
14 FEBRUARY 14, 1967, THE WELL WAS CONSTRUCTED IN COMPLIANCE WITH PART
15 127 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.12701 TO
16 333.12771.

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

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

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

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

1 POTABLE WATER.

2 (iii) OBTAINING 1 OF THE FOLLOWING:

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

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

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

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

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

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

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

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

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

1 DRILLING THE OWNER A NEW WELL, WITH THE INSTALLATION COSTS PAID BY
2 THE LOCAL UNIT OF GOVERNMENT.

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

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

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

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

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

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

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

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

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

1 SEC. 31711. NOT LATER THAN APRIL 1, 2013, AND EVERY 2 YEARS
2 THEREAFTER, THE DEPARTMENT SHALL PREPARE AND SUBMIT TO THE
3 LEGISLATURE A REPORT 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 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.