

# CONTRACTOR *ENFORCEMENT*



**Well Construction Program**

**IS THIS THE BEST APPROACH?**





**EDUCATION**

+



**ENFORCEMENT**



**Goal =  
COMPLIANCE**



# **COMPLIANCE STRATEGIES**

## **- Educational Approach -**

- 1. Host contractor meetings**
- 2. Attend MGWA district meetings**
- 3. Visit contractors' shops**
- 4. Visit well suppliers**
- 5. Send contractor newsletter**
- 6. Attend MGWA annual convention**
- 7. Attend technical training events**

# COMPLIANCE STRATEGIES

## - Regulatory Approach -



1. Maintain field presence
2. Correction orders
3. Local civil fines & prosecution
4. Licensing action by DEQ
5. Criminal investigation

# ENFORCEMENT PRINCIPLES

## CONSISTENT

*Uniform policies, procedures, and interpretations.*

## FAIR

*Enforcement action & penalty reasonable & appropriate.*

## TIMELY

*Minimal time between discovery and correction order & correction and reinspection.*



# Reasons for Noncompliance



- > ***Lack of Communication***
- > ***Lack of Understanding of Code***
- > ***Competition/\$\$\$ Incentives \$\$\$***
- > ***Lack of Regulator Field Presence***
- > ***Opposition to Industry Regulation***

# **ENFORCEMENT ROLES**

## **LHDs**

- **INSPECTIONS**
- **CORRECTION ORDERS**
- **CIVIL PENALTIES  
(BY ORDINANCE)**
- **SEEK PROSECUTION**

# **ENFORCEMENT ROLES**

## **DEQ**

- **CONDUCT REGISTRATION ENFORCEMENT ACTIONS**
  - **ASSIST LHDs WITH ENFORCEMENT ACTION**
  - **ATTAIN STATEWIDE CONSISTENCY**
  - **REFERRAL TO OCI, IF NEEDED**

# ON OUR WEBSITE

[www.michigan.gov/deqwaterwellconstruction](http://www.michigan.gov/deqwaterwellconstruction)

## “Suggested Well Construction Code Enforcement Procedures”

- Legal Authority
- Enforcement Procedure Steps
- Establishing Correction Deadlines
- Administrative Procedures
- Sample Letters
- Sample Correction Order
- Sample Proof of Service



# COMPLAINT INVESTIGATION

*LHDs are to investigate all written well driller/customer and drinking water complaints.*

# ***Word from the Wise....***

***“Stay out of financial matters between the contractor and the well owner.”***



***Dalai Lama***

# The DEQ can help with complaint investigations



**Coliform problem in Roscommon County**



**Sand pumping well in  
Monroe County**

**Checking open  
annulus on  
irrigation well in  
Allegan County**





Checking for  
flowing well in  
Macomb County



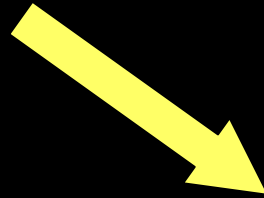
**Stuck drill rods  
in abandoned  
well in Isabella  
County**

# Methane investigation in Livingston County





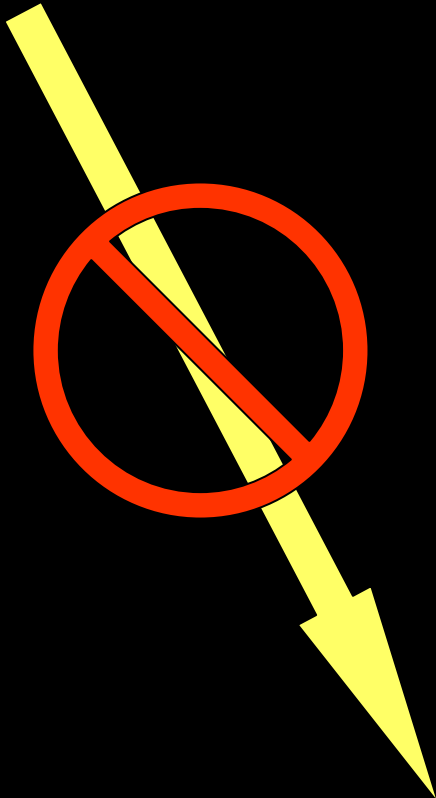
**COMPLAINT**



**INVESTIGATION**

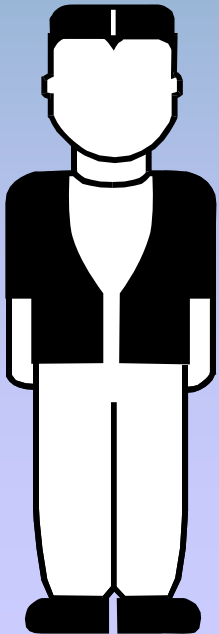


**CORRECTION ORDER**

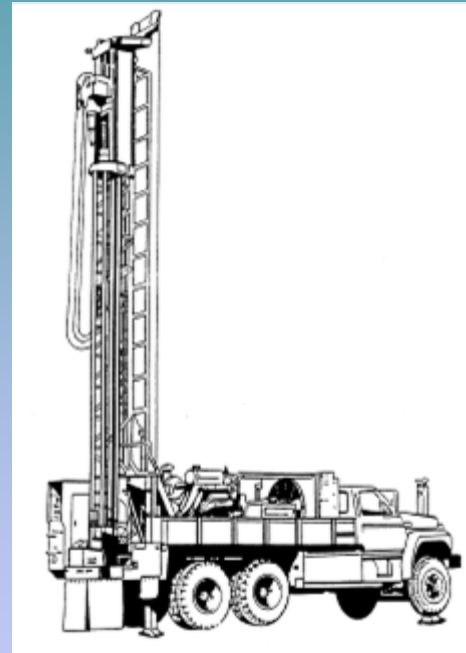


Determine who is the  
**RESPONSIBLE PERSON??**

**OWNER**



**OR**

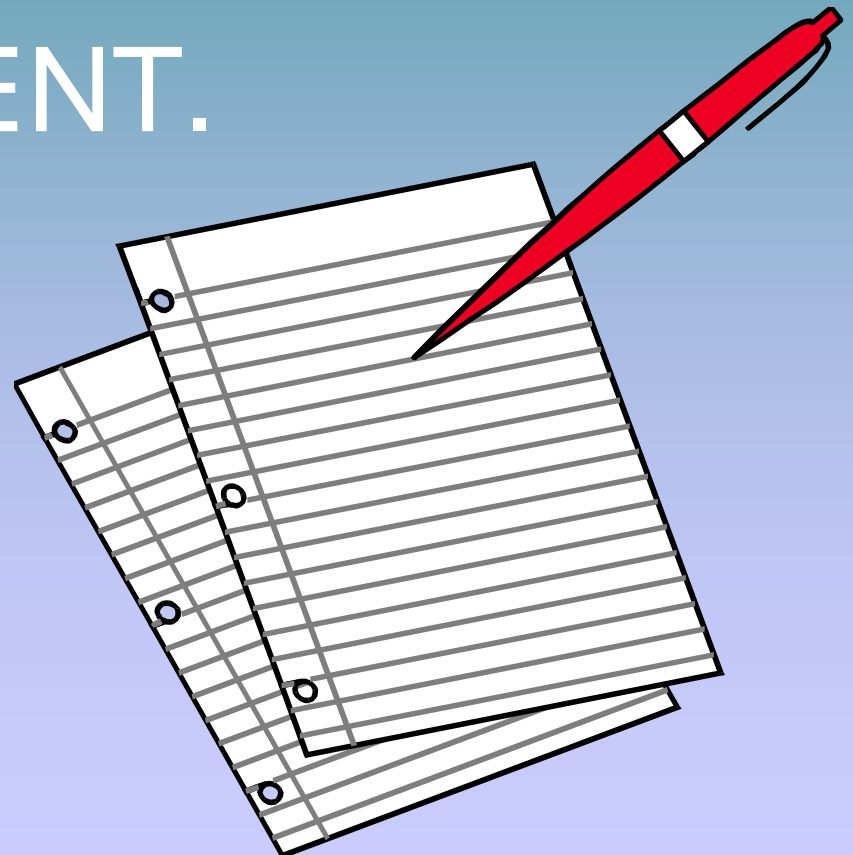


**WELL DRILLING  
CONTRACTOR**

DOCUMENT...

DOCUMENT...

DOCUMENT.



**CC: DEQ  
Environmental Health  
Programs Unit**

# Correction Orders

**1**

**Violation  
observed**

**2**

**Statute/rule  
violated**

**3**

**Method of  
correction**

**4**

**Deadline for  
correction**

**5**

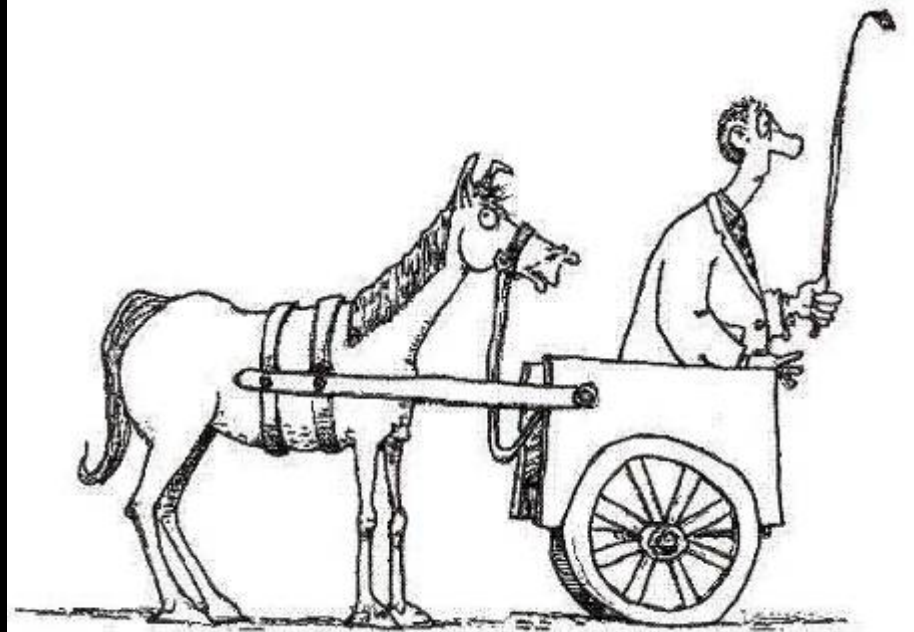
**Penalty for  
noncompliance**

# Examples of POOR DOCUMENTATION on correction orders

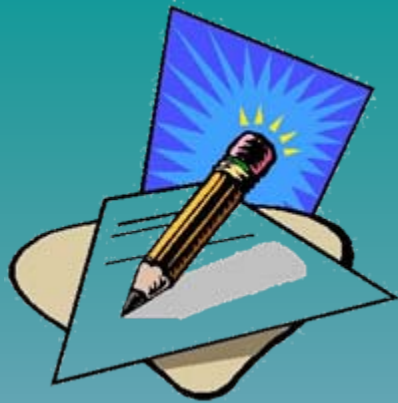
- “well was not properly grouted...grout the well as soon as possible”
- “well log is late, submit log”
- “well not 50 foot”
- “unapproved sample tap...fix sample tap”
- “your well has coliform bacteria in it, contact the driller”



**Don't put the  
cart before  
the horse!**



**Before the DEQ can take an enforcement action against a contractor, LHDs need to send correction orders & document.**



# CORRECTION ORDER

Send to **Registered Contractor**

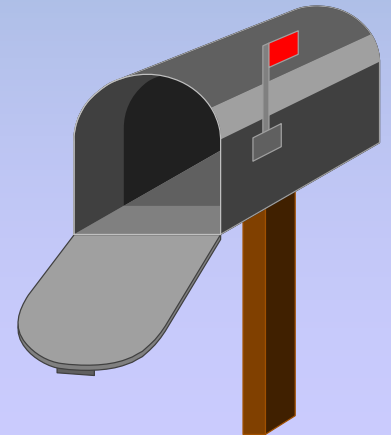
cc: Property owner

**DEQ, Environmental Health Programs Unit**

**Regular Mail**

**Registered Mail:**

**Return  
Receipt  
Requested**



# Correction Orders



**FOLLOW-UP**

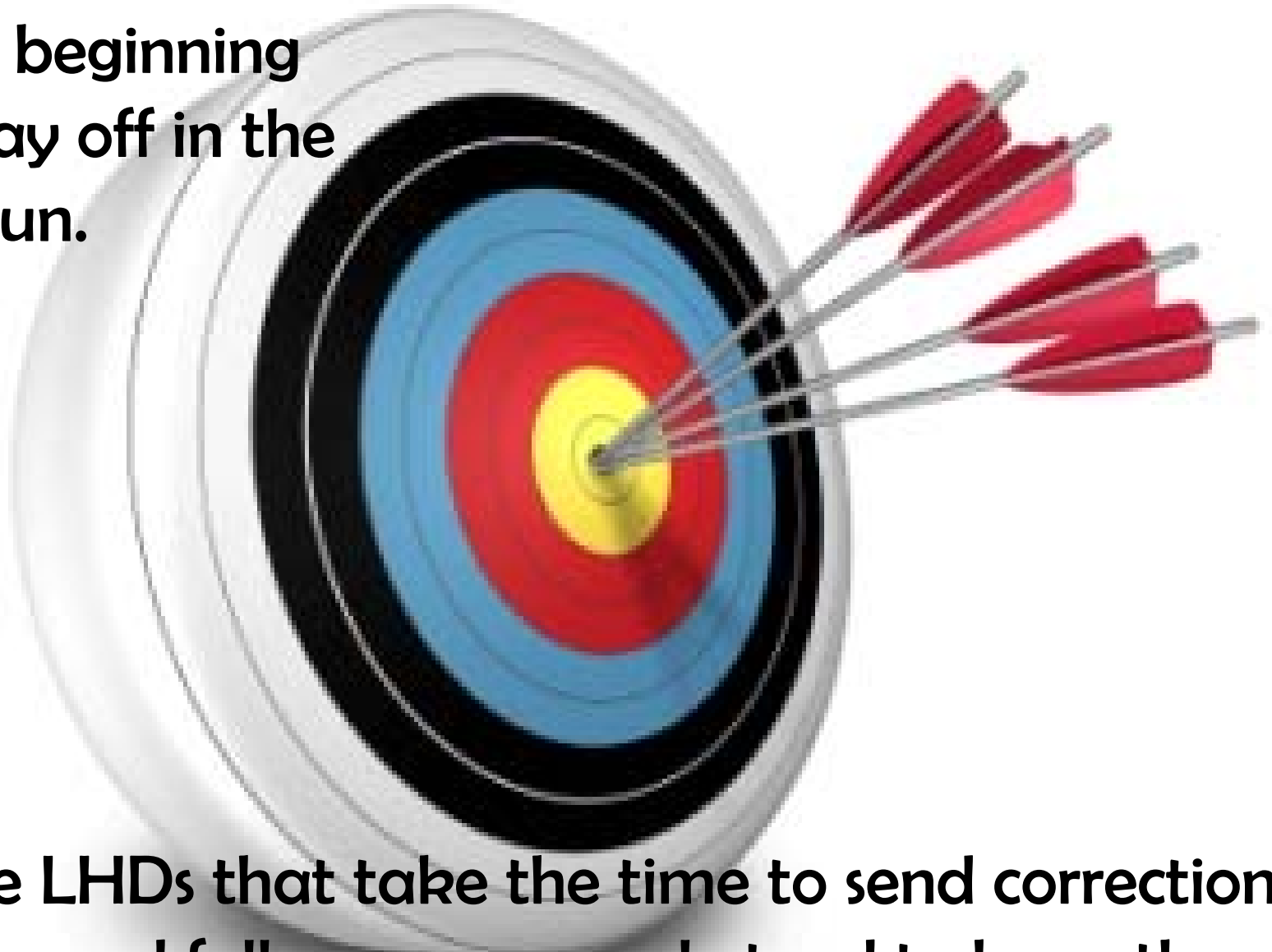
**PROMPTLY**

**on**

**CORRECTION ORDER  
DEADLINES**

**REINSPECT ASAP**

**Some hard work  
in the beginning  
will pay off in the  
long run.**



**Those LHDs that take the time to send correction  
orders and follow-up properly tend to have the  
most compliant contractors.**

**WHEN IT COMES TO  
ENFORCEMENT,  
NEVER EVER **ASS-U-ME****



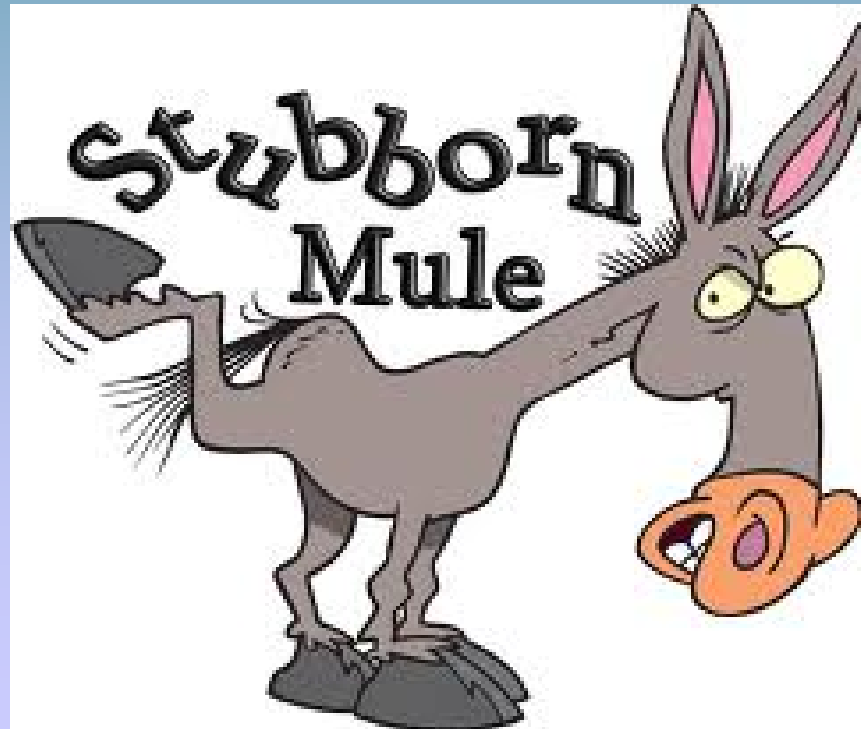
# NEVER ASS-U-ME...

Sanitarian views a plastic bucket over the top of an uncompleted well.

Sanitarian **assumes** the well is open and sends “order letter” to driller requiring an approved temporary cap.

Driller explains to Sanitarian that the well did have approved temporary cap and the bucket was to make the well more visible to truck drivers.

**What if the contractor  
doesn't comply with the  
correction orders?**



# Good first step: “LHD/Driller Meeting”



*\*DEQ will attend, if requested*

**But what if they *STILL*  
don't comply?**



# What are the options to gain compliance?

- 1. LHD can issue civil fines**
- 2. LHD can go to District Court to prosecute as a misdemeanor**
- 3. DEQ can take administrative action to revoke the certificate of registration**
- 4. DEQ can go to the Attorney Generals' office for enforcement**

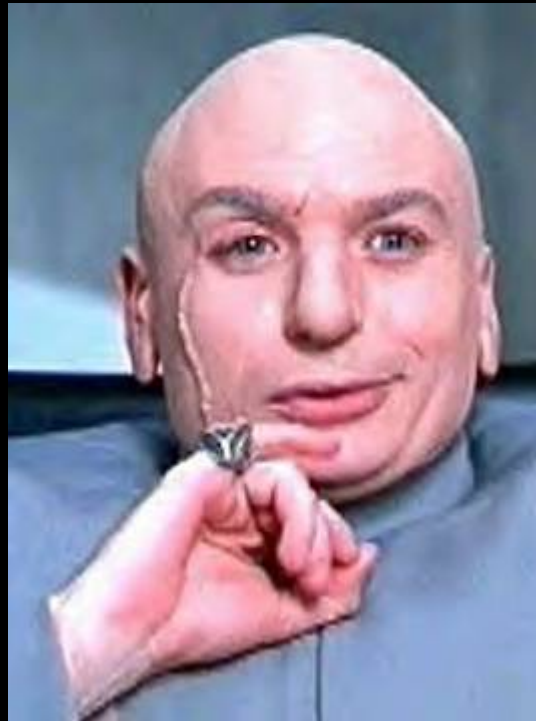
# WHEN IS DEQ ADMINISTRATIVE ACTION APPROPRIATE?

**EXCESSIVE  
CUSTOMER  
COMPLAINTS**

**PATTERN  
OF  
NONCOMPLIANCE**

**UNETHICAL  
PRACTICES**

**SERIOUS  
HEALTH  
THREAT**



**FAILURE TO  
RESPOND TO  
CORRECTION  
ORDER(S)**

# DEQ CAN DENY

*Refusal of DEQ to process  
registration application*

**\*DEQ may initiate an enforcement action based on a pattern of noncompliance in multiple jurisdictions.**



# **STEP #1: NOTICE OF INTENT TO REVOKE CERTIFICATION OF REGISTRATION**

- Prepared by DEQ with LHD input
- Informs contractor of licensing action
- Cites violations (statutes/rules)
- Sets date & location of informal conference



*DEQ MUST  
PREPARE  
ENFORCEMENT  
CASES TO  
WITHSTAND  
SCRUTINY OF  
COURT*



# REASONS WHY SOME EVIDENCE CAN'T BE USED



- **Lack of documentation**
- **Improper correction orders**
- **No follow-up on orders**
- **Loss of documentation - well logs**
- **Lack of (or illegible) date stamp on well logs**

# STEP #2 - INFORMAL CONFERENCE



☰ Opportunity for contractor to show compliance

☰ **Held at DEQ**

☰ Good opportunity for resolution

# Informal Conference Overview:

1. DEQ reviews each violation from the NOI
2. Driller has opportunity to respond to each allegation
3. LHDs provide background info, if needed
4. DEQ and LHDs discuss offering a Consent Agreement
5. Consent Agreement is presented to driller

**-DEQ or Driller may decide not to pursue a CA-**

# CONSENT AGREEMENT

*Contract between DEQ and contractor*



**CAN BE USED AT:**  
**Pre-informal conference**  
**Informal conference**  
**Formal hearing**



# CONSENT AGREEMENT

## - Standard Provisions -

**Correction  
schedule**

**Training**

**Monetary penalty**

**Future compliance**

**Acknowledgement  
of code violation**

**Restitution**

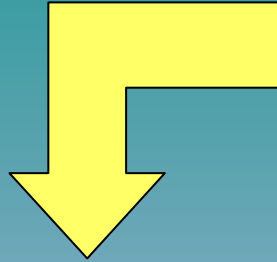
**Suspension**

**Other provisions  
as agreed upon**



LHD

# MONETARY PENALTIES



**DETERRENT TO  
CODE VIOLATION**

**OFFSET PROFIT FROM  
NONCOMPLIANCE**

**REIMBURSE LHD's  
INVESTIGATION COSTS**

## MONETARY PENALTY EXAMPLES

\$250 – Well records, rig identification, notify owner of need to sample

\$500 – Local codes (no permit), sand pumper, pressure relief valve, sample tap

\$750 – Isolation distance, grouting, flow control, disinfection, plugging

\$1000 – Correction order noncompliance, false information

**The DEQ collects more monetary penalties for well record violations than any other violation.**



# Office of Criminal Investigations

*“Investigative and law enforcement specialist for the DEQ”*



***Referrals for: criminal actions, some well code violations***

***Examples: unregistered contractors, falsification of documents, etc.***

## Water

Printer Friendly | Text Version | Text Size | Share

- Biosolids & Industrial Pretreatment
- Campgrounds and Pools
- Drinking Water**
- Abandoned Water Wells
- Community Water Supply
- Contamination Investigation
- Noncommunity Water Supply
- Source Water Assessment
- Water Wellhead Protection
- Water Well Construction**
- Great Lakes
- Groundwater Conservation Advisory Council
- Groundwater Discharge
- Groundwater Modeling
- Inland Lakes & Streams
- On Site Wastewater

## Water Well Construction

Michigan Well Construction Program  
Our mission is to protect the health of Michigan's citizens who rely on water wells as their drinking water source through implementation of the Michigan Water Well Construction and Pump Installation Code (Part 127, Act 368, PA 1978 and Administrative Rules). Protection of public health, ground water resources, and aquifers is accomplished by assuring that water wells are constructed, operated, and decommissioned in a technically sound manner.



## Information

- [Presentations](#)
- [Manuals/Handbooks](#)
- [Guide to Local Health Department Personnel](#) PDF
- [Water Well Drilling and Pump Installation Contractor Registration](#)
- [Ground Water's Role in Michigan's Economic Vitality](#) PDF
- **[Administrative Enforcement Actions](#) PDF** ←
- [Private and Type III Water Supply Program Quarterly Report Form & Instructions](#) DOC
- [Fact Sheets & Brochures](#)
- [Directory of Operational Memos/Policies/Guidance](#)
- [Water Well Equipment Approval List](#) PDF
- [Printed Materials Order Form](#) PDF
- [Well Construction Program Staff](#)
- [Well Complaint Investigation](#)
- [Well Component Evaluation](#)
- [Educational Opportunities](#)



# SHAME

**WATER WELL DRILLING CONTRACTOR/PUMP INSTALLER  
ADMINISTRATIVE ENFORCEMENT ACTIONS**

Below is a listing of recent administrative enforcement actions initiated by the Michigan Department of Environmental Quality to revoke or suspend a water well drilling contractor or pump installer certificate of registration. The actions are authorized under Part 127, Water Supply and Sewer Systems, of the Public Health Code, 1978 PA 368, as amended, and the associated administrative rules (Michigan Water Well Construction and Pump Installation Code).

Name/Business	Registration Number	Alleged Type of Violation	Outcome
Wolfgang Arndt T & T Well Drilling & Repair 2205 South Meridian Road Midland, Michigan 48648	WD#56-1836	Failure to comply with Consent Agreement and various well code violations.	Well Drilling Certificate of Registration Revoked (60 months) on 5/11/2006 after Contested Case Hearing  \$6,750 penalty
Christopher J. Sappington MKC Group 2357 Joseph Drive Mount Pleasant, Michigan 48858	WD#37-2332	R 325.1634 Failure to grout entire length of casing. R 325.1675 Failure to submit complete water well records within 60 days. MCL 333.12709 Failure to respond to order letters. R 325.1621 Failure to provide enough water for the intended use. R 325. 1621 Failure to control the discharge on a flowing well. R 325.1612 Failure to provide minimum isolation distance. R 325.1631 Failure to use approved casing at depths greater than 200 feet. R 325.1612 Failure to obtain well permits prior to construction. R 325.1707 Failure to respond to a written complaint. R 325.1664 Failure to use proper plugging material.	Notice of Suspension of Certificate of Registration and Notice of Violation and Order to Correct issued: 6/22/2006  Well Drilling Certificate of Registration Revoked and Cease and Desist Order issued: 8/17/2006
Bruce Brown 4695 Henry Beaverton, Michigan 48612	Formerly WD#26-2184 (Revoked 4/22/2002)	R 325.1709(2) Failure to meet criteria for reinstatement of Certificate of Registration.	Reinstatement requests denied: 5/3/2006 and 5/19/2006  Cease and Desist Order issued: 7/26/2006

1. Contractor Name & Business Name
2. Registration Number
3. Type of Violation
4. Outcome

# Questions?

