



MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER BUREAU, LANSING OPERATIONS DIVISION
DRINKING WATER & ENVIRONMENTAL HEALTH SECTION
WELL CONSTRUCTION UNIT

**COMPLAINT INVESTIGATION PROCEDURES
FOR
LOCAL HEALTH DEPARTMENTS,
WELL DRILLING CONTRACTORS, AND WELL OWNERS**

Why Are Water Well Complaints Filed?

When well owners feel they did not receive the product or service they paid for, are not satisfied with the quality of the product or service, or are dissatisfied with the performance of a water well company, they may choose to file a complaint with the local health department (LHD). Filing a complaint allows a well owner to express the causes of their dissatisfaction. It may also get the problem corrected and improve the quality of service from the contractor.

The Complaint Process:

As a requirement to receive state funding for their water supply program, LHDs investigate written complaints related to wells drilling and drinking water supplies. Technical assistance is provided by the Michigan Department of Environmental Quality (MDEQ).

Upon receipt of a written complaint, the LHD determines if a well code violation has occurred. If the complaint involves a violation of the well construction code (R 325.1601 *et seq.*, adopted under Part 127, Water Supply and Sewer Systems, 1978 PA 368, as amended), and it is within the health department's authority, an investigation is made. Certain types of complaints are not within the legal jurisdiction of LHDs. These include complaints about: pricing or "overcharging," product warranties, or contractual disputes. However, a LHD may offer to mediate between the contractor and well owner in an attempt to get the issue resolved.

If the complaint is not an obvious well code violation, the LHD may choose to forward a copy of the complaint to the contractor with a request to provide a written explanation back to the LHD and to the well owner. The contractor should provide a detailed response and include any additional relevant information and any supporting evidence. Upon receiving the written explanation, the LHD will determine if further investigation is necessary.

LHDs need to use technically sound investigative methods when investigating complaints. They must assure that investigation findings, corrections, recommendations, and methods of resolution are adequately documented and any code violations discovered during the investigation are corrected promptly.

Types of Complaints:

Well Code Violations

Complaints involving well code violations are easier for LHDs to resolve because they have the legal authority to enforce the well construction code. Some examples of well code violation complaints are: 1) wells producing sand or turbidity, 2) wells not producing enough water, and 3) wells producing coliform bacteria.

Sometimes well contractors choose not to correct a well code violation because they have not been paid for the work performed. Well contractors are responsible to correct well code violations regardless of payment status. Payment for the well is not addressed in the well construction code and, therefore, is often resolved by negotiation between parties; or, as a last resort, through the court system. Unfortunately, the MDEQ has had to take administrative actions against contractors' registration certificates for not responding to complaints and not correcting well code violations. For this reason, it is very important for contractors to respond to complaint even if they believe they are not at fault.

Stating that they are not responsible for repairs because the well owner will not let them back on the property does not absolve the contractor of their liability for causing the code violation or their obligation to correct the violation. The contractor must show due diligence in working with the well owner and the LHD to resolve the violation. This may involve hiring another contractor to make the correction.

Water Quantity Complaints

"How much water does a well have to produce?" This is a typical question from a well owner when a new well does not produce enough water for their needs. There are areas in Michigan where 2-5 gallons per minute (gpm) is all the geologic formation is able to produce.

Rule 121 of the well construction code states, "a well shall be adequate in size, design, and development for the intended use giving due consideration to local groundwater conditions." Therefore, if a well owner needs 20 gpm to supply his/her new residence, and the well only produces 5 gpm, the potential for a code violation has occurred. If local groundwater conditions prevent the development of a well with a capacity sufficient to meet the peak water demands, it is imperative that the contractor compensate by providing supplemental storage capacity to increase the amount of available water.

Water Quality Complaints

LHDs can be faced with a variety of complaints regarding poor water quality ranging from aesthetic to economic to health concerns. The causes of these complaints can be physical, chemical, or biological. A well owner's acceptance or intolerance of these water quality characteristics can be based on individual preferences and lifestyle patterns.

The first step in investigating a water quality complaint is to determine the cause of the complaint. It is important to determine if the problem is caused by the groundwater conditions or the distribution system piping. Some water quality problems are a result of plumbing issues, such as dead-end water lines. Other water quality problems are a result of naturally-occurring substances in the groundwater such as hydrogen sulfide, chloride, or iron; or it may occur as a result of manmade contamination.

The Water Quality Association's website (<http://www.wqa.org/consumer>) helps well owners diagnose water quality problems and determine potential treatments and solutions.

The Wisconsin Department of Natural Resources also has a website (<http://dnr.wi.gov/org/water/dwg/private/waterproblems.htm>) to help well owners diagnose water quality problems. While some of the information on their website does not apply in Michigan, most of it is very helpful.

After the contaminant is identified, the LHD should decide if the water quality problem poses a significant health risk. For example, an unusual odor in the drinking water could be caused by a

harmless groundwater organism or could be caused by serious groundwater contamination. Water testing through a state certified laboratory will help determine the exact contaminant and the level at which it exists.

While some water quality problems are aesthetic in nature, pose no risk to human health and are not considered well code violations, LHDs should investigate water quality complaints nonetheless. The more the LHD can learn about groundwater conditions in their area, the more likely they will be able to help well owners and contractors understand and deal with local groundwater problems. A thorough investigation by the LHD should include evaluating the water well and pump record from the subject well along with area well records and water quality records. Careful, collective analysis of this data will help assess whether the problem could have been avoided or minimized by using special well construction practices.

Areas that show a pattern of water quality (or quantity) issues should be identified by the LHD, the information put on a map, and should be provided to the general public. A LHD may decide to designate “well first areas” where groundwater conditions may cause health risks when consuming the water, such as nitrates and arsenic. Other areas where the groundwater problem is not a direct health risk, such as low yield areas or flowing artesian well areas may be labeled “advisory areas.”

If the water quality problem can not be resolved by seeking an alternate source (such as changing the elevation of the well intake), water treatment may be an alternative. In the last decade, interest in home water treatment products has grown tremendously. Unfortunately, it is not always easy for consumers to know whether or not a particular product will actually be as safe and effective as the manufacturer claims at reducing various contaminants from their water supply. By first identifying the contaminants that are present in their water supply, a well owner can ensure that they are selecting a water treatment system that will be capable of treating those specific contaminants. National Sanitation Foundation International has useful information on their website to help consumers identify contaminants in their water and choose the appropriate water treatment device. This information can be found at http://www.nsf.org/consumer/drinking_water/. Regardless of which treatment device is used, well owners need to keep in mind that all home water treatment devices need regular maintenance to operate effectively.

Consumer Protection Complaints

Water well complaints that involve issues that are outside of the authority of the LHD (e.g., overcharging) may be taken to the Consumer Protection Division (CPD) of the Michigan Department of Attorney General (www.michigan.gov/ag). The CPD helps consumers by mediating complaints.

For consumer complaints, the CPD will, in most cases, write to the contractor's business and enclose a copy of the complaint. The contractor will be asked to respond, and the CPD will contact the well owner after they receive a reply from the business. If they do not hear back from the contractor within 30 days, they will recontact them regarding the complaint.

In some cases, the CPD may be unable to obtain any cooperation from the contractor. If this happens, a well owner may want to consider filing a lawsuit in Small Claims Court or consulting with an attorney to review their legal options.

Communication is Key!

Many water quality problems can be avoided if effective communication is achieved between the LHD, the contractor, and the well owner. First, written communication is needed from the LHD when issuing well permits. If a LHD is aware that the well is going to be drilled in an area of high nitrates, high chlorides, low well yields, flowing wells, etc., the LHD should communicate those conditions to the contractor and well owner on the well construction permit. The LHD may require special construction stipulations for wells drilled in those areas.

Second, the contractor should communicate those known groundwater conditions to the well owner prior to drilling the well. If a contractor knows that it is likely that the well is going to flow and, by law, is required to be confined within the casing thus resulting in a higher cost to the well owner, the contractor should communicate that information to the well owner beforehand.

Third, the well owner must communicate with the contractor. Well owners should explain the current and future water use needs to the contractor before the well is drilled. Contractors need to know if an underground sprinkler system or an open-loop geothermal heat pump system will be installed, both of which would require additional water volume to operate properly. If the well will be used as a foster care home in the future, the well should be designed to accommodate that future need. Communication throughout the water supply system planning and construction process will minimize the occurrence of complaints. In the rare instance when a complaint arises, effective communication and sensible expectations are keys to a successful resolution.

Complaint Do's and Don'ts:

- ✓ Well Owners: **Don't** wait a long time to file a complaint. Make the complaint soon after the problem occurs or you risk not being taken seriously. After all, if you use a sand producing well for a year, you will have a hard time convincing the contractor that it was a problem when it was drilled.
- ✓ Contractors and LHDs: **Do** use area well records and Wellogic searches to research an unfamiliar well drilling area ahead of time. This will help prevent unexpected problems like catastrophic flowing well breakouts.
- ✓ Contractors: **Do** identify with a customer by asking yourself, "If this had happened to me, how would I feel?" "Would I be satisfied paying for a well I can't use?"
- ✓ LHDs: **Don't** refer well owners directly to the MDEQ. MDEQ's role in the complaint process involves consulting with LHDs on complaint investigation procedures.
- ✓ Contractors: **Do** use other contractors as a resource to resolve a complaint. If you are unfamiliar in dealing with a particular problem, seek help from your peers in your trade organization.
- ✓ Well Owners: **Do** tell the contractor your water use needs before the well is drilled. Proper planning of a water supply system depends on the well drilling contractor having prior knowledge about the intended use and water pumping rates required to meet peak demands.
- ✓ Contractors: **Do** use water well and pump records to document difficult groundwater conditions. For example, if the well produces water with a slight salty taste, then state it in the remarks section on the well record.

- ✓ LHDs: **Do** use well permits to advise the contractor (and well permit applicant) of any areas of concern and to state well construction requirements and recommendations.
- ✓ Contractors: **Do** respond to the well owner's phone calls and return to the site to make corrections when promised. Complaints are often filed because the contractor failed to respond to the well owner.
- ✓ Well Owners: **Do** keep a log to document the problem and any steps you have taken to resolve the issues. Written documentation shows the contractor and LHD that you care enough about the problem to spend the time carefully documenting it. Accurate documentation is valuable if the matter cannot be easily resolved and escalates into a lawsuit.

For additional information regarding water well complaints, contact your LHD. The list of LHD's contact information can be found at www.malph.org.

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