

Water Law Explanation

Who can use groundwater water, when they can use it, and how much they can use is determined by state law.

Use of groundwater in Michigan is regulated, in part, by statutes enacted by the legislature, such as Part 327 (Great Lakes Preservation) of the Natural Resources and Environmental Protection Act. Part 327 specifies procedures and standards for certain groundwater uses.

But the primary source of Michigan groundwater law is the common law doctrine of reasonable use of water. Common law is that body of judge-made law which has long been applied and explained by appellate courts in the context of particular legal disputes.

Under the reasonable use doctrine, neither individual property owners nor the state “owns” (i.e. has the right to make exclusive use of) groundwater.

Instead, property owners can make reasonable use the water beneath their land.

That is, they make use of the groundwater in a way that does not unreasonably interfere with the rights of adjacent property owners to do the same, decrease the value of adjacent lands for legitimate uses, or unreasonably affect groundwater quality.

Underlying the reasonable use doctrine is the concept of correlative rights under which no one's use preempts anyone else's use.

Importantly, the ecosystems which depend on the water are considered reasonable uses that must be protected.

Great Lakes Compact

Michigan is also a party to The Great Lakes-St. Lawrence River Basin Water Resources Compact (The Compact) which is an agreement among the eight U.S. states and two Canadian Provinces whose land area encompasses the entire Great Lakes basin.

The Compact is a legally binding international agreement in which the parties recognize our collective responsibility to manage and to restore the lakes for future generations.

In it we establish that the landscape that drains to the lakes, inland lakes and streams, and the ground water constitute a single system that must be managed as such. Each signatory agrees to manage water within their jurisdictions similarly and annually report their water use and regulation to a central body.

Through the agreement we all hold one another accountable for the health and future of the lakes. Michigan's land makes up the center of the basin making our role in The Compact essential. After all, twenty percent of the world's fresh water is in the Great Lakes Basin and nearly all of it touches Michigan.