



STATE OF MICHIGAN
 DEPARTMENT OF
 ENVIRONMENT, GREAT LAKES, AND ENERGY
 LANSING




GRETCHEN WHITMER
 GOVERNOR

LIESL EICHLER CLARK
 DIRECTOR

VIA E-MAIL

TO: Members of the Michigan Legislature

FROM: Liesl Eichler Clark, Director 

DATE: April 26, 2021

SUBJECT: Report on the Aquifer Protection Revolving Fund and Recommendations for Modifications to Part 317, Aquifer Protection and Dispute Resolution

In accordance with Section 31711(1) of Part 317, Aquifer Protection and Dispute Resolution, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, attached is the Department of Environment, Great Lakes, and Energy's (EGLE) report on the Aquifer Protection Revolving Fund and recommendations for modifications to Part 317 for February 13, 2019, to February 28, 2021.

If you need further information, please contact James Milne, Supervisor, Water Use Assessment Unit, Water Resources Division, at 517-285-3253; or you may contact me at 517-284-6708.

Attachment

- cc/att: Chris Harkins, Director, Senate Fiscal Agency
 Mary Ann Cleary, Director, House Fiscal Agency
 David Massaron, Director, State Budget Office
 George W. Cook, III, Legislative Affairs Director, Governor's Office
 Ben Dawson, Senate Fiscal Agency
 Austin Scott, House Fiscal Agency
 Jacques McNeely, State Budget Office
 Rachel Eldridge, State Budget Office
 Aaron B. Keatley, Chief Deputy Director, EGLE
 Amy Epkey, Senior Deputy Director, EGLE
 Travis Boeskool, Legislative Liaison, EGLE
 Paul McDonald, EGLE
 Dale Shaw, EGLE
 Teresa Seidel, EGLE
 Lois Marinangeli, EGLE
 Christine Alexander, EGLE
 James Milne, EGLE
 Jill Van Dyke, EGLE



MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY

Legislative Report

AQUIFER PROTECTION AND DISPUTE RESOLUTION

Report Period:
February 13, 2019, to February 28, 2021

Authority:
MCL 324.31711(1)

Overview:

Part 317, Aquifer Protection and Dispute Resolution, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, created the Aquifer Protection and Dispute Resolution Program to resolve disputes between owners of small-quantity wells and owners of high-capacity wells without resorting to civil litigation. The directors of the Michigan Department of Agriculture and Rural Development (MDARD), for agricultural high-capacity wells; and the Michigan Department of Environment, Great Lakes, and Energy (EGLE), for all other high-capacity wells, have the authority to declare a groundwater dispute if the small-quantity and high-capacity well owners are unable to resolve the dispute on their own. That authority includes the ability to require the provision of an adequate supply of potable water and restricting the operation of the high-capacity well. To date, the directors of MDARD and EGLE have not had to declare a groundwater dispute because the small-quantity and high-capacity well owners have been able to resolve their disputes on their own.

Program Costs:

EGLE incurred the following costs related to implementation of the program between February 13, 2019, and February 28, 2021:

Salary	\$1,216.86
Fringe Expense	\$ 836.33
Travel	\$ 0.00
Other	<u>\$ 219.79</u>
Total	\$2,272.98

Groundwater Dispute Complaints:

Resolves Complaints:	0
Invalid/Incomplete Complaints:	4
Complaints Pending Resolution:	<u>0</u>
Total	4

Complaints Received by County:

Huron County	1
Muskegon County	1
Gratiot County	2

A total of four incomplete or invalid complaints were received that involved high-capacity agricultural wells. These complaints were forwarded to MDARD for investigation but complete forms or valid well assessments were not provided. EGLE covered MDARD staff costs pursuant to an interdepartmental Memorandum of Understanding. EGLE also assisted MDARD in the complaint evaluations by providing hydrogeological data analyses and two-dimensional computer modeling studies.

Recommended Statute Modifications:

The aquifer dispute resolution process is an effective way to resolve aquifer use conflicts at lower costs while avoiding exacerbating the already overloaded court dockets. The following recommended modifications would improve the overall effectiveness of Part 317:

1. Eliminate Opt-Out Option

Repeal the option for high-capacity well owners under EGLE's jurisdiction to opt out of the aquifer dispute resolution process in Section 31702(3) of Part 317. If the high-capacity well owner opts out of the dispute resolution process, the only recourse available to impacted small-capacity well owners is to pursue civil litigation.

High-capacity well owners under MDARD's jurisdiction do not have the option to opt out of the Aquifer Protection and Dispute Resolution Program. EGLE did not receive any aquifer dispute complaints during this reporting period that were under its jurisdiction.

2. Repeal Exemption

Repeal the exemption for dewatering wells in Section 31709(a) of Part 317. High-capacity wells for gravel mining, quarries, and construction dewatering have been responsible for impacts to many small-capacity wells statewide. Small-capacity well owners impacted by the operation of high-capacity dewatering wells have no recourse other than to pursue civil litigation if the high-capacity well owner does not voluntarily address the small-capacity well owner's concerns.