



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



GRETCHEN WHITMER  
 GOVERNOR

AARON B. KEATLEY  
 ACTING DIRECTOR

VIA EMAIL

TO: Members of the Michigan Legislature

FROM: Aaron B. Keatley, Acting Director

DATE: May 18, 2023

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 28, 2021, to February 28, 2023.

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 517-512-5992.

Attachment

- cc/att: Kathryn Summers, Director, Senate Fiscal Agency  
 Mary Ann Cleary, Director, House Fiscal Agency  
 Christopher M. Harkins, Director, State Budget Office  
 Curtis Hertel Jr., Director of Legislative Affairs, Governor's Office  
 Marc Rehmann, Policy Director, Governor's Office  
 Chris Semrinec, Senate Fiscal Agency  
 Austin Scott, House Fiscal Agency  
 Jacques McNeely, State Budget Office  
 Zach Hendrix, State Budget Office  
 Travis Boeskool, Deputy Director, 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 28, 2021, to February 28, 2023

Authority:  
MCL 324.31711

**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 28, 2021, and February 28, 2023:

Salary	\$ 740.80
Fringe Expenses	\$ 481.66
Travel	\$ 0.00
Other	<u>\$ 375.92</u>
Total	\$1,598.38

**Groundwater Dispute Complaints:**

Resolved Complaints:	1
Invalid/Incomplete Complaints:	3
Complaints Pending Resolution:	<u>0</u>
Total	4

**Complaints Received by County:**

Gratiot County	1
Ionia County	1
Saginaw County	1
Tuscola County	1

A total of one resolved and three 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 as needed.

## **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 for Dewatering Wells**

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.