

HOUSE BILL No. 5916

March 28, 2006, Introduced by Reps. Moolenaar, Walker, Stahl, Palsrok, Newell, Emmons and Shaffer and referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 31702 (MCL 324.31702), as added by 2003 PA 177.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 31702. (1) Subject to section 31712, the owner of a small
2 quantity well may submit a complaint alleging a potential
3 groundwater dispute if the small quantity well has failed to
4 furnish the well's normal supply of water or the well has failed to
5 furnish potable water and the owner has credible reason to believe
6 the well's problems have been caused by a high capacity well. A
7 complaint shall be submitted to the director or to the director of
8 the department of agriculture if the complaint involves an
9 agricultural well. The complaint shall be in writing and shall be

1 submitted in person, via certified mail, via the toll-free
2 facsimile telephone number provided in subsection ~~-(4)-~~ (5), or via
3 other means of electronic submittal as developed by the department.
4 However, the director or the director of the department of
5 agriculture may refuse to accept an unreasonable complaint. The
6 complaint shall include all of the following information:

7 (a) The name, address, and telephone number of the owner of
8 the small quantity well.

9 (b) The location of the small quantity well, including the
10 county, township, township section, and address of the property on
11 which the small quantity well is situated, and all other available
12 information that ~~defines~~ **SPECIFIES** the location of that well.

13 (c) An explanation of why the small quantity well owner
14 believes that a high capacity well has interfered with the proper
15 function of the small quantity well and any information available
16 to the small quantity well owner about the location and operation
17 of the high capacity well.

18 (d) The date or dates that the small quantity well owner
19 alleges that the interference by a high capacity well occurred.

20 (e) Sufficient evidence to establish a reasonable belief that
21 the interference was caused by a high capacity well.

22 (2) The owner of a small quantity well may call the toll-free
23 telephone line provided for in subsection (5) to request a
24 complaint form or other information regarding the dispute
25 resolution process provided in this part.

26 (3) Within 2 working days after receipt of a complaint under
27 subsection (1), the director or the director of the department of

1 agriculture, as appropriate, shall contact the complainant and
2 begin an investigation. Within 5 working days after receipt of a
3 complaint under subsection (1), the director or the director of the
4 department of agriculture, as appropriate, shall **NOTIFY THE OWNERS**
5 **OF ALL HIGH CAPACITY WELLS THAT ARE BEING INVESTIGATED PURSUANT TO**
6 **THE COMPLAINT AND SHALL** conduct an on-site evaluation. However, if
7 the complaint is for a small quantity well that is in close
8 proximity to other small quantity wells for which documented
9 complaints have been received and investigated during the previous
10 60 days, the department need not conduct an on-site evaluation
11 unless the department determines an on-site evaluation is
12 necessary. If the director or the director of the department of
13 agriculture, as appropriate, considers it necessary for an
14 investigation under this subsection, he or she may request that the
15 owner of the small quantity well provide **ADDITIONAL INFORMATION,**
16 **INCLUDING** a written assessment by a well drilling contractor that
17 the small quantity well failure was not the result of well failure
18 or equipment failure. The assessment shall include a determination
19 of the static water level in the well at the time of the assessment
20 and, if readily available, the type of pump and equipment. **IF THE**
21 **OWNER OF THE SMALL QUANTITY WELL FAILS TO PROVIDE THE REQUESTED**
22 **INFORMATION WITHIN 180 DAYS OF THE DATE OF THE REQUEST, THE**
23 **DIRECTOR OR THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, AS**
24 **APPROPRIATE, SHALL CLOSE THE INVESTIGATION AND TAKE NO FURTHER**
25 **ACTION WITH REGARD TO THE COMPLAINT.** The director or the director
26 of the department of agriculture, as appropriate, shall give
27 affected persons an opportunity to contribute to the investigation

1 of a complaint. In conducting the investigation, the director or
2 the director of the department of agriculture, as appropriate,
3 shall consider whether the owner of the high capacity well is using
4 industry-recognized water conservation management practices.

5 (4) After conducting an investigation, the director or the
6 director of the department of agriculture, as appropriate, shall
7 make a diligent effort to resolve the complaint. In attempting to
8 resolve a complaint, the director or the director of the department
9 of agriculture, as appropriate, may propose a remedy that he or she
10 believes would equitably resolve the complaint. If, within 14 days
11 following the submittal of a complaint, the director of the
12 department of agriculture is unable to resolve a complaint, the
13 director of the department of agriculture shall refer the
14 complaint, and provide all relevant information, to the director.
15 **HOWEVER, IF THE DIRECTOR, THE DIRECTOR OF THE DEPARTMENT OF**
16 **AGRICULTURE, THE COMPLAINANT, AND THE OWNERS OF THE HIGH CAPACITY**
17 **WELLS SUBJECT TO THE INVESTIGATION AGREE TO RETAIN THE DISPUTE**
18 **BEFORE THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, THE DISPUTE**
19 **SHALL REMAIN BEFORE THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE**
20 **UNLESS ANY OF THE PARTIES REQUEST THAT THE DISPUTE BE REFERRED TO**
21 **THE DIRECTOR.**

22 (5) The director shall provide for the use of a toll-free
23 facsimile telephone line to receive complaints and a toll-free
24 telephone line for owners of small quantity wells to request
25 complaint forms and to obtain other information regarding the
26 dispute resolution process provided in this part.

27 (6) The director and the director of the department of

1 agriculture shall do both of the following:

2 (a) Publicize the toll-free facsimile line and the toll-free
3 telephone line provided for in subsection (5).

4 (b) Enter into a memorandum of understanding that describes
5 the process that will be followed by each director when a complaint
6 involves an agricultural well.

7 (7) A complainant who submits more than 2 unverified
8 complaints under this section within 1 year may be ordered by the
9 director to pay for the full costs of investigation of any third or
10 subsequent unverified complaint. As used in this subsection,
11 "unverified complaint" means a complaint in response to which the
12 director determines that there is not reasonable evidence to
13 declare a groundwater dispute.