

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.31702 Allegation of potential groundwater dispute; submission of complaint by small-quantity well owner; investigation; on-site evaluation; inability to resolve complaint; toll-free facsimile and telephone line; duties of director of department of environmental quality and director of department of agriculture and rural development; unverified complaints; other resolutions.

Sec. 31702.

(1) The owner of a small-quantity well may submit a complaint alleging a potential groundwater dispute if the small-quantity well has failed to furnish the well's normal supply of water or the well has failed to furnish potable water and the owner has credible reason to believe that the well's problems have been caused by a high-capacity well. A complaint shall be submitted to the director or to the director of the department of agriculture and rural development if the complaint involves an agricultural well. The complaint shall be in writing and shall be submitted in person, via certified mail, via the toll-free facsimile telephone number provided in subsection (6), or via other means of electronic submittal as developed by the department. However, the director or the director of the department of agriculture and rural development may refuse to accept an unreasonable complaint. The complaint shall include all of the following information:

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

(b) The location of the small-quantity well, including the county, township, township section, and address of the property on which the small-quantity well is situated, and all other available information that indicates the location of that well.

(c) A written assessment by a well drilling contractor that the small-quantity well failure was not the result of well design or equipment failure. The assessment shall include a determination of the static water level in the well at the time of the assessment, if the static water level determination will not result in the well being damaged or decommissioned, and, if readily available, the type of pump and equipment.

(d) An explanation of why the small-quantity well owner believes that a high-capacity well has interfered with the proper function of the small-quantity well and any information available to the small-quantity well owner about the location and operation of the high-capacity well.

(e) The date or dates on which the interference by a high-capacity well occurred.

(f) Sufficient evidence to establish a reasonable belief that the interference was caused by a high-capacity well.

(2) The owner of a small-quantity well may call the toll-free telephone line provided for in subsection (6) to request a complaint form or other information regarding the dispute resolution process provided in this part.

(3) Within 2 business days after receipt of a complaint under subsection (1), the director or the director of the department of agriculture and rural development, as appropriate, shall contact the complainant and the owner of each high-capacity well identified in the complaint, shall provide actual notice of the complaint to the owner of each high-capacity well identified in the complaint, and shall begin an investigation.

(4) Within 5 business days after the owner of each high-capacity well has been provided with actual notice of the complaint under subsection (3), the director or the director of the department of agriculture and rural development, as appropriate, shall conduct an on-site evaluation. If the well is an agricultural well, the department shall consult with and provide technical assistance to the department of agriculture and rural development regarding the on-site evaluation. However, if the complaint is for a small-quantity well that is in close proximity to other small-quantity wells for which documented complaints have been received and investigated during the previous 60 days, the department or the department of agriculture and rural development, as appropriate, need not conduct an on-site evaluation unless it determines that an on-site evaluation is necessary. The director or the director of the department of agriculture and rural development, as appropriate, shall give affected persons an opportunity to contribute to the investigation of a complaint. In conducting the investigation, the director or the director of the department of agriculture and rural development, as appropriate, shall consider whether the owner of the high-capacity well is using industry-recognized water conservation management practices.

(5) After conducting an investigation, the director or the director of the department of agriculture and rural development, as appropriate, shall make a diligent effort to resolve the complaint. In attempting to resolve a complaint, the director or the director of the department of agriculture and rural development, as appropriate, may propose a remedy that he or she believes would equitably resolve the complaint.

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

(7) The director and the director of the department of agriculture and rural development shall do both of the following:

(a) Publicize the toll-free facsimile line and the toll-free telephone line provided for in subsection (6).

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

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

(9) If an owner of a high-capacity well that is not an agricultural well does not wish to participate in the dispute resolution process under this part, that dispute shall be resolved as otherwise provided by law.

History: Add. 2012, Act 602, Imd. Eff. Jan. 9, 2013 ;-- Am. 2013, Act 86, Imd. Eff. June 28, 2013

Compiler's Notes: Former MCL 324.31702, which pertained to complaints alleging potential groundwater disputes, was repealed by Act 176 of 2009, Imd. Eff. Dec. 15, 2009.

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