

Environmental Update

Michigan Environmental News

VARNUM
ATTORNEYS AT LAW

November/December 2012

[Michigan Passes Groundwater Well Dispute Statute - Again](#)

The hectic lame-duck session of the Michigan Legislature has resulted in the resurrection of the state's once-and-future groundwater dispute resolution process. Michigan had originally passed similar legislation in 2003, then repealed it in 2009 as a budget cutting measure. Pressure to revive the dispute resolution process mounted as complaints about failing wells increased under the past year's drought conditions, as water use for irrigation increased and water tables lowered. The bill provides a formal process for resolving disputes between high-capacity wells (such as irrigation wells) and residential or other low-capacity wells that allege impacts from the high-capacity withdrawals. [Read more >>](#)

[Matt Eugster](#)
616 / 336-6821

[Bruce Goodman](#)
616 / 336-6574

[Timothy J. Lundgren](#)
616 / 336-6750

[David E. Preston](#)
616 / 336-6520

[Matthew D. Zimmerman](#)
616 / 336-6536

[EPA Pushes Back on Stormwater Discharges from Logging Roads](#)

I previously wrote about the Ninth Circuit decision in *Northwest Environmental Defense Center v. Brown* (NEDC), 640 F.3d 1063 (9th Cir. 2011) where the court overturned EPA's Silviculture Rule and said that where stormwater runoff is collected in systems of ditches, channels, and culverts, and then discharged into adjacent rivers, these discharges constitute industrial "point sources" under the CWA and require NPDES permits. Now, the EPA has revised its Phase I stormwater regulations to say that a NPDES permit is (again) not required for stormwater discharges from logging roads. The EPA says it did not intend for logging roads to be regulated as industrial facilities, and so in light of NEDC, it has revised its rules to clarify the Agency's intent. [Read more >>](#)

Forward to a friend

[Storage Tank Program Undergoes Changes](#)

By recent executive order, all Michigan programs relative to above ground and underground storage tanks will be administered through the Department of Licensing and Regulatory Affairs (LARA) instead of the Department of Environmental Quality (DEQ). The change became effective on Dec. 2, 2012. [Read more >>](#)

[Sierra Club Ready to Sue on Alleged Air Quality Violations](#)

As required under the federal Clean Air Act, the Sierra Club has filed a "notice of intent to sue" alleging at least 1330 air quality violations by DTE Energy coal-fired power plants: St. Clair, Belle River, and Trenton Channel. It is likely that any legal action would seek injunctive relief. DTE Energy's responsive press release indicated it has already invested \$2 billion in the last 10 years to install emissions controls, and would be spending another \$1-2 billion to meet new emission regulations. This is

part of the Sierra Club's effort to draw attention to the harm caused by coal-fired pollution through its "Beyond Coal" campaign.

Governor's Message on Energy and the Environment

In his special message on energy and the environment, given November 28 at Hickory Corners, Governor Snyder stated he is looking at 2015 as the time "to implement new decisions about the state's energy framework to enhance Michigan's adaptability, reliability, affordability and environment." Citing energy efficiency as an "everyone wins" strategy, he wants to scale up the highly successful Michigan Saves program. As to new generation, if it is a choice between coal and natural gas, "gas is cleaner." On increased energy reliability for the Upper Peninsula, he favorably cited the repowering of the Presque Isle Power Plant and proposed a new transmission line connection between the U.P. and the Lower Peninsula. The message appendix sets out a 2013 timetable for the Chair of the Michigan Public Service Commission and the head of the Michigan Energy Office to convene public participation opportunities, gather information, and then issue energy reports in December. Subjects to be addressed include energy efficiency, renewable energy, and customer choice.

This newsletter has been prepared by [Varnum LLP](#) for informational purposes only and does not constitute legal advice. Copyright © 2012, Varnum LLP, 333 Bridge St. NW, Grand Rapids, Michigan, 49504. All rights reserved. Date of newsletter: 12/19/2012. [Privacy Policy](#), [Terms & Conditions](#)



Try it FREE today.