

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5073

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 32701 (MCL 324.32701), as amended by 2006 PA
33.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 32701. **(1)** As used in this part:

2 (a) "Adverse resource impact" means ~~either~~ **ANY** of the
3 following:

4 (i) ~~Decreasing~~ **UNTIL FEBRUARY 1, 2009, DECREASING** the flow of a
5 **RIVER OR** stream by part of the index flow such that the **RIVER'S OR**
6 stream's ability to support characteristic fish populations is
7 functionally impaired.

8 (ii) **BEGINNING FEBRUARY 1, 2009, SUBJECT TO SUBPARAGRAPH (vi),**

1 DECREASING THE FLOW OF A COLD RIVER SYSTEM BY PART OF THE INDEX
2 FLOW AS FOLLOWS:

3 (A) FOR A COLD STREAM, THE WITHDRAWAL WILL RESULT IN A 3% OR
4 MORE REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS
5 DETERMINED BY THE THRIVING FISH CURVE.

6 (B) FOR A COLD SMALL RIVER, THE WITHDRAWAL WILL RESULT IN A 1%
7 OR MORE REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS
8 DETERMINED BY THE THRIVING FISH CURVE.

9 (iii) BEGINNING FEBRUARY 1, 2009, SUBJECT TO SUBPARAGRAPH (vi),
10 DECREASING THE FLOW OF A COLD-TRANSITIONAL RIVER SYSTEM BY PART OF
11 THE INDEX FLOW SUCH THAT THE WITHDRAWAL WILL RESULT IN A 5% OR MORE
12 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED
13 BY THE THRIVING FISH CURVE.

14 (iv) BEGINNING FEBRUARY 1, 2009, SUBJECT TO SUBPARAGRAPH (vi),
15 DECREASING THE FLOW OF A COOL RIVER SYSTEM BY PART OF THE INDEX
16 FLOW AS FOLLOWS:

17 (A) FOR A COOL STREAM, THE WITHDRAWAL WILL RESULT IN A 10% OR
18 MORE REDUCTION IN THE ABUNDANCE OF CHARACTERISTIC FISH POPULATIONS
19 AS DETERMINED BY THE CHARACTERISTIC FISH CURVE.

20 (B) FOR A COOL SMALL RIVER, THE WITHDRAWAL WILL RESULT IN A
21 15% OR MORE REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS
22 AS DETERMINED BY THE THRIVING FISH CURVE.

23 (C) FOR A COOL LARGE RIVER, THE WITHDRAWAL WILL RESULT IN A
24 12% OR MORE REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS
25 AS DETERMINED BY THE THRIVING FISH CURVE.

26 (v) BEGINNING FEBRUARY 1, 2009, SUBJECT TO SUBPARAGRAPH (vi),
27 DECREASING THE FLOW OF A WARM RIVER SYSTEM BY PART OF THE INDEX

1 FLOW AS FOLLOWS:

2 (A) FOR A WARM STREAM, THE WITHDRAWAL WILL RESULT IN A 5% OR
3 MORE REDUCTION IN THE ABUNDANCE OF CHARACTERISTIC FISH POPULATIONS
4 AS DETERMINED BY THE CHARACTERISTIC FISH CURVE.

5 (B) FOR A WARM SMALL RIVER, THE WITHDRAWAL WILL RESULT IN A
6 10% OR MORE REDUCTION IN THE ABUNDANCE OF CHARACTERISTIC FISH
7 POPULATIONS AS DETERMINED BY THE CHARACTERISTIC FISH CURVE.

8 (C) FOR A WARM LARGE RIVER, THE WITHDRAWAL WILL RESULT IN A
9 10% OR MORE REDUCTION IN THE ABUNDANCE OF CHARACTERISTIC FISH
10 POPULATIONS AS DETERMINED BY THE CHARACTERISTIC FISH CURVE.

11 (vi) BEGINNING FEBRUARY 1, 2009, DECREASING THE FLOW OF A
12 STREAM OR RIVER BY MORE THAN 25% OF ITS INDEX FLOW.

13 (vii) ~~(ii) Decreasing the level of a body of surface water LAKE~~
14 OR POND WITH A SURFACE AREA OF 5 ACRES OR MORE THROUGH A DIRECT
15 WITHDRAWAL FROM THE LAKE OR POND IN A MANNER THAT WOULD IMPAIR OR
16 DESTROY THE LAKE OR POND OR THE USES MADE OF THE LAKE OR POND,
17 INCLUDING THE ABILITY OF THE LAKE OR POND TO SUPPORT CHARACTERISTIC
18 FISH POPULATIONS, OR such that the ~~body of surface water's~~ ability
19 OF THE LAKE OR POND to support characteristic fish populations is
20 functionally impaired. AS USED IN THIS SUBPARAGRAPH, LAKE OR POND
21 DOES NOT INCLUDE A RETENTION POND OR OTHER ARTIFICIALLY CREATED
22 SURFACE WATER BODY.

23 (b) "Agricultural purpose" means the agricultural production
24 of plants and animals useful to human beings and includes, but is
25 not limited to, forages and sod crops, grains and feed crops, field
26 crops, dairy animals and dairy products, poultry and poultry
27 products, cervidae, livestock, including breeding and grazing,

1 equine, fish and other aquacultural products, bees and bee
 2 products, berries, herbs, fruits, vegetables, flowers, seeds,
 3 grasses, nursery stock, trees and tree products, mushrooms, and
 4 other similar products, or any other product, as determined by the
 5 commission of agriculture, that incorporates the use of food, feed,
 6 fiber, or fur.

7 (C) "ASSESSMENT TOOL" MEANS THE WATER WITHDRAWAL ASSESSMENT
 8 TOOL PROVIDED FOR IN SECTION 32706A.

9 (D) ~~(e)~~-"Baseline capacity", SUBJECT TO SUBSECTION (2), means
 10 ~~either ANY~~ of the following, WHICH SHALL BE CONSIDERED THE EXISTING
 11 WITHDRAWAL APPROVAL AMOUNT UNDER SECTION 4.12.2 OF THE COMPACT:

12 (i) The following applicable withdrawal capacity as reported to
 13 the department or the department of agriculture, as appropriate, by
 14 the person making the withdrawal in the ~~April 1, 2007~~ annual report
 15 submitted under section 32707 **NOT LATER THAN APRIL 1, 2009** or in
 16 the ~~April 1, 2007~~ water use conservation plan submitted under
 17 section 32708 **NOT LATER THAN APRIL 1, 2009**:

18 ~~— (A) For a community supply, the total designed withdrawal~~
 19 ~~capacity for the community supply under the safe drinking water~~
 20 ~~act, 1976 PA 399, MCL 325.1001 to 325.1023, on the effective date~~
 21 ~~of the amendatory act that added this subparagraph.~~

22 (A) ~~(B)~~ Unless reported under a different provision of this
 23 subparagraph, for a quarry or mine that holds an authorization to
 24 discharge under part 31 that includes a discharge volume, the
 25 discharge volume stated in that authorization on ~~the effective date~~
 26 ~~of the amendatory act that added this subparagraph~~ **FEBRUARY 28,**
 27 **2006.**

1 (B) ~~(C)~~—The system capacity used or developed to make a
2 withdrawal on ~~the effective date of the amendatory act that added~~
3 ~~this subparagraph~~ **FEBRUARY 28, 2006**, if the system capacity and a
4 description of the system capacity are included in an annual report
5 that is submitted under this part **NOT LATER THAN APRIL 1, 2009**.

6 (ii) If the person making the withdrawal does not report under
7 subparagraph (i), the highest annual amount of water withdrawn as
8 reported under this part for calendar year 2002, 2003, 2004, or
9 2005. **HOWEVER, FOR A PERSON WHO IS REQUIRED TO REPORT BY VIRTUE OF**
10 **THE 2008 AMENDMENTS TO SECTION 32705(2)(D), BASELINE CAPACITY MEANS**
11 **THE PERSON'S WITHDRAWAL CAPACITY AS REPORTED IN THE APRIL 1, 2009**
12 **ANNUAL REPORT SUBMITTED UNDER SECTION 32707.**

13 (iii) **FOR A COMMUNITY SUPPLY, THE TOTAL DESIGNED WITHDRAWAL**
14 **CAPACITY FOR THE COMMUNITY SUPPLY UNDER THE SAFE DRINKING WATER**
15 **ACT, 1976 PA 399, MCL 325.1001 TO 325.1023, ON FEBRUARY 28, 2006 AS**
16 **REPORTED TO THE DEPARTMENT IN A REPORT SUBMITTED NOT LATER THAN**
17 **APRIL 1, 2009.**

18 (E) **"CHARACTERISTIC FISH CURVE" MEANS A FISH FUNCTIONAL**
19 **RESPONSE CURVE THAT DESCRIBES THE ABUNDANCE OF CHARACTERISTIC FISH**
20 **POPULATIONS IN RESPONSE TO REDUCTIONS IN INDEX FLOW AS PUBLISHED IN**
21 **THE DOCUMENT ENTITLED "REPORT TO THE MICHIGAN LEGISLATURE IN**
22 **RESPONSE TO 2006 PUBLIC ACT 34" BY THE FORMER GROUNDWATER**
23 **CONSERVATION ADVISORY COUNCIL DATED JULY 2007, WHICH IS**
24 **INCORPORATED BY REFERENCE.**

25 (F) **"CHARACTERISTIC FISH POPULATION" MEANS THE FISH SPECIES,**
26 **INCLUDING THRIVING FISH, TYPICALLY FOUND AT RELATIVELY HIGH**
27 **DENSITIES IN STREAM REACHES HAVING SPECIFIC DRAINAGE AREA, INDEX**

1 FLOW, AND SUMMER TEMPERATURE CHARACTERISTICS.

2 (G) "COLD RIVER SYSTEM" MEANS A STREAM OR SMALL RIVER THAT HAS
3 THE APPROPRIATE SUMMER WATER TEMPERATURE THAT, BASED ON STATEWIDE
4 AVERAGES, SUSTAINS A FISH COMMUNITY COMPOSED PREDOMINANTLY OF COLD-
5 WATER FISH SPECIES, AND WHERE SMALL INCREASES IN WATER TEMPERATURE
6 WILL NOT CAUSE A DECLINE IN THESE POPULATIONS, AS DETERMINED BY A
7 SCIENTIFIC METHODOLOGY ADOPTED BY ORDER OF THE COMMISSION.

8 (H) "COLD-TRANSITIONAL RIVER SYSTEM" MEANS A STREAM OR RIVER
9 THAT HAS THE APPROPRIATE SUMMER WATER TEMPERATURE THAT, BASED ON
10 STATEWIDE AVERAGES, SUSTAINS A FISH COMMUNITY COMPOSED
11 PREDOMINANTLY OF COLD-WATER FISH SPECIES, AND WHERE SMALL INCREASES
12 IN WATER TEMPERATURE WILL CAUSE A DECLINE IN THE PROPORTION OF
13 COLD-WATER SPECIES, AS DETERMINED BY A SCIENTIFIC METHODOLOGY
14 ADOPTED BY ORDER OF THE COMMISSION.

15 (I) ~~(d)~~—"Community supply" means that term as it is defined in
16 section 2 of the safe drinking water act, 1976 PA 399, MCL
17 325.1002.

18 (J) "COMPACT" MEANS THE GREAT LAKES-ST. LAWRENCE RIVER BASIN
19 WATER RESOURCES COMPACT PROVIDED FOR IN PART 342.

20 (K) ~~(e)~~—"Consumptive use" means that portion of water
21 withdrawn or withheld from the Great Lakes basin and assumed to be
22 lost or otherwise not returned to the Great Lakes basin due to
23 evaporation, incorporation into products or agricultural products,
24 use as part of the packaging of products or agricultural products,
25 or other processes. Consumptive use includes a withdrawal of waters
26 of the Great Lakes basin that is packaged within the Great Lakes
27 basin in a container of 5.7 gallons (20 liters) or less **AND IS**

1 BOTTLED DRINKING WATER AS DEFINED IN THE FOOD CODE, 2005
2 RECOMMENDATIONS OF THE FOOD AND DRUG ADMINISTRATION OF THE UNITED
3 STATES PUBLIC HEALTH SERVICE.

4 (I) "COOL RIVER SYSTEM" MEANS A STREAM OR RIVER THAT HAS THE
5 APPROPRIATE SUMMER WATER TEMPERATURE THAT, BASED ON STATEWIDE
6 AVERAGES, SUSTAINS A FISH COMMUNITY COMPOSED MOSTLY OF WARM-WATER
7 FISH SPECIES, BUT ALSO CONTAINS SOME COOL-WATER SPECIES OR COLD-
8 WATER SPECIES, OR BOTH, AS DETERMINED BY A SCIENTIFIC METHODOLOGY
9 ADOPTED BY ORDER OF THE COMMISSION.

10 (M) "COUNCIL" MEANS THE GREAT LAKES-ST. LAWRENCE RIVER BASIN
11 WATER RESOURCES COUNCIL CREATED IN THE COMPACT.

12 (N) ~~(f)~~-"Department" means the department of environmental
13 quality.

14 (O) ~~(g)~~-"Designated trout stream" means a trout stream
15 identified on the document entitled "Designated Trout Streams for
16 the State of Michigan", as issued under order of the director of
17 the department of natural resources, FO-210.04, on October 10,
18 2003.

19 (P) ~~(h)~~-"Diverted" means a transfer of water by pipeline,
20 canal, tunnel, aqueduct, channel, modification of the direction of
21 a watercourse, tanker ship, tanker truck, rail tanker, or similar
22 means from the Great Lakes basin into a watershed outside of the
23 Great Lakes basin. Diverted-"DIVERSION" MEANS A TRANSFER OF WATER
24 FROM THE GREAT LAKES BASIN INTO ANOTHER WATERSHED, OR FROM THE
25 WATERSHED OF 1 OF THE GREAT LAKES INTO THAT OF ANOTHER BY ANY MEANS
26 OF TRANSFER, INCLUDING, BUT NOT LIMITED TO, A PIPELINE, CANAL,
27 TUNNEL, AQUEDUCT, CHANNEL, MODIFICATION OF THE DIRECTION OF A WATER

1 COURSE, TANKER SHIP, TANKER TRUCK, OR RAIL TANKER BUT DOES NOT
2 APPLY TO WATER THAT IS USED IN THE GREAT LAKES BASIN OR A GREAT
3 LAKE WATERSHED TO MANUFACTURE OR PRODUCE A PRODUCT THAT IS THEN
4 TRANSFERRED OUT OF THE GREAT LAKES BASIN OR WATERSHED. DIVERTED HAS
5 A CORRESPONDING MEANING. DIVERSION includes a transfer of water
6 withdrawn from the waters of the Great Lakes basin that is removed
7 from the Great Lakes basin in a container greater than 5.7 gallons
8 (20 liters). ~~Diverted~~ **DIVERSION** does not include any of the
9 following:

10 (i) A consumptive use.

11 (ii) The supply of vehicles, including vessels and aircraft,
12 whether for the needs of the persons or animals being transported
13 or for ballast or other needs related to the operation of vehicles.

14 (iii) Use in a noncommercial project on a short-term basis for
15 firefighting, humanitarian, or emergency response purposes.

16 (iv) **A TRANSFER OF WATER FROM A GREAT LAKE WATERSHED TO THE**
17 **WATERSHED OF ITS CONNECTING WATERWAYS.**

18 (Q) ~~(i)~~—"Environmentally sound and economically feasible water
19 conservation measures" means those measures, methods, technologies,
20 or practices for efficient water use and for reduction of water
21 loss and waste or for reducing a withdrawal, consumptive use, or
22 diversion that meet all of the following:

23 (i) Are environmentally sound.

24 (ii) Reflect best practices applicable to the water use sector.

25 (iii) Are technically feasible and available.

26 (iv) Are economically feasible and cost-effective based on an
27 analysis that considers direct and avoided economic and

1 environmental costs.

2 (v) Consider the particular facilities and processes involved,
3 taking into account the environmental impact, **THE** age of equipment
4 and facilities involved, the process employed, energy impacts, and
5 other appropriate factors.

6 (R) ~~(j)~~—"Farm" means that term as it is defined in section 2
7 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

8 ~~——(k) "Generally accepted water management practices" means~~
9 ~~standards or guidelines for water use that ensure water is used~~
10 ~~efficiently.~~

11 (S) "FLOW-BASED SAFETY FACTOR" MEANS A PROTECTIVE MEASURE OF
12 THE ASSESSMENT TOOL THAT REDUCES THE PORTION OF INDEX FLOW
13 AVAILABLE FOR A WITHDRAWAL TO 1/2 OF THE INDEX FLOW FOR THE PURPOSE
14 OF MINIMIZING THE RISK OF ADVERSE RESOURCE IMPACTS CAUSED BY
15 STATISTICAL UNCERTAINTY.

16 (T) "GREAT LAKES" MEANS LAKES SUPERIOR, MICHIGAN AND HURON,
17 ERIE, AND ONTARIO AND THEIR CONNECTING WATERWAYS INCLUDING THE ST.
18 MARYS RIVER, LAKE ST. CLAIR, THE ST. CLAIR RIVER, AND THE DETROIT
19 RIVER. FOR PURPOSES OF THIS DEFINITION, LAKES HURON AND MICHIGAN
20 SHALL BE CONSIDERED A SINGLE GREAT LAKE.

21 (U) ~~(l)~~—"Great Lakes basin" means the watershed of the Great
22 Lakes and the St. Lawrence river.

23 (V) ~~(m)~~—"Great Lakes charter" means the document establishing
24 the principles for the cooperative management of the Great Lakes
25 water resources, signed by the governors and premiers of the Great
26 Lakes region on February 11, 1985.

27 (W) ~~(n)~~—"Great Lakes region" means the geographic region

1 composed of the states of Illinois, Indiana, Michigan, Minnesota,
2 New York, Ohio, and Wisconsin, the commonwealth of Pennsylvania,
3 and the provinces of Ontario and Quebec, Canada.

4 (X) ~~(e)~~ "Index flow" means the 50% exceedance flow for the
5 lowest **SUMMER** flow month of the flow regime, for the applicable
6 stream reach, as determined over the period of record or
7 extrapolated from analyses of the United States geological survey
8 ~~stream~~ flow gauges in Michigan. **BEGINNING ON OCTOBER 1, 2008, INDEX**
9 **FLOW SHALL BE CALCULATED AS OF THAT DATE.**

10 (Y) "INTRABASIN TRANSFER" MEANS A DIVERSION OF WATER FROM THE
11 SOURCE WATERSHED OF A GREAT LAKE PRIOR TO ITS USE TO THE WATERSHED
12 OF ANOTHER GREAT LAKE.

13 (Z) "LAKE AUGMENTATION WELL" MEANS A WATER WELL USED TO
14 WITHDRAW GROUNDWATER FOR THE PURPOSE OF MAINTAINING OR RAISING
15 WATER LEVELS OF AN INLAND LAKE OR STREAM AS DEFINED IN SECTION
16 30101.

17 (AA) ~~(p)~~ "Large quantity withdrawal" means 1 or more
18 cumulative total withdrawals of over 100,000 gallons of water per
19 day average in any consecutive 30-day period that supply a common
20 distribution system.

21 (BB) "LARGE RIVER" MEANS A RIVER WITH A DRAINAGE AREA OF 300
22 OR MORE SQUARE MILES.

23 (CC) ~~(q)~~ "New or increased large quantity withdrawal" means a
24 new water withdrawal of over 100,000 gallons of water per day
25 average in any consecutive 30-day period or an increase of over
26 100,000 gallons of water per day average in any consecutive 30-day
27 period beyond the baseline capacity of a withdrawal.

1 (DD) ~~(r)~~ "New or increased withdrawal capacity" means new or
2 additional water withdrawal capacity to supply a common
3 distribution system that is an increase from the person's baseline
4 capacity. New or increased capacity does not include maintenance or
5 replacement of existing withdrawal capacity.

6 ~~(s) "Political subdivision" means that term as it is defined~~
7 ~~in section 2 of the safe drinking water act, 1976 PA 399, MCL~~
8 ~~325.1002.~~

9 (EE) "ONLINE REGISTRATION PROCESS" MEANS THE ONLINE
10 REGISTRATION PROCESS PROVIDED FOR IN SECTION 32706.

11 (FF) "PREVENTATIVE MEASURE" MEANS AN ACTION AFFECTING A STREAM
12 OR RIVER THAT PREVENTS AN ADVERSE RESOURCE IMPACT BY DIMINISHING
13 THE EFFECT OF A WITHDRAWAL ON STREAM OR RIVER FLOW OR THE
14 TEMPERATURE REGIME OF THE STREAM OR RIVER.

15 (GG) ~~(t)~~ "Registrant" means a person who registers ~~HAS~~
16 REGISTERED A water withdrawal capacity under this part UNDER
17 SECTION 32705.

18 (HH) "RIVER" MEANS A FLOWING BODY OF WATER WITH A DRAINAGE
19 AREA OF 80 OR MORE SQUARE MILES.

20 (II) "SITE-SPECIFIC REVIEW" MEANS THE DEPARTMENT'S INDEPENDENT
21 REVIEW UNDER SECTION 32706C TO DETERMINE WHETHER THE WITHDRAWAL IS
22 A ZONE A, ZONE B, ZONE C, OR ZONE D WITHDRAWAL AND WHETHER A
23 WITHDRAWAL IS LIKELY TO CAUSE AN ADVERSE RESOURCE IMPACT.

24 (JJ) "SMALL RIVER" MEANS A RIVER WITH A DRAINAGE AREA OF LESS
25 THAN 300 SQUARE MILES.

26 (KK) "SOURCE WATERSHED" MEANS THE WATERSHED FROM WHICH A
27 WITHDRAWAL ORIGINATES. IF WATER IS WITHDRAWN DIRECTLY FROM A GREAT

1 LAKE, THEN THE SOURCE WATERSHED SHALL BE CONSIDERED TO BE THE
2 WATERSHED OF THAT GREAT LAKE AND ITS CONNECTING WATERWAYS. IF WATER
3 IS WITHDRAWN FROM THE WATERSHED OF A DIRECT TRIBUTARY TO A GREAT
4 LAKE, THEN THE SOURCE WATERSHED SHALL BE CONSIDERED TO BE THE
5 WATERSHED OF THAT GREAT LAKE AND ITS CONNECTING WATERWAYS, WITH A
6 PREFERENCE FOR RETURNING WATER TO THE WATERSHED OF THE DIRECT
7 TRIBUTARY FROM WHICH IT WAS WITHDRAWN.

8 (II) "STREAM" MEANS A FLOWING BODY OF WATER WITH A DRAINAGE
9 AREA OF LESS THAN 80 SQUARE MILES.

10 (MM) "STREAM REACH" MEANS A SEGMENT OF A STREAM OR RIVER.

11 (NN) "THRIVING FISH CURVE" MEANS A FISH FUNCTIONAL RESPONSE
12 CURVE THAT DESCRIBES THE INITIAL DECLINE IN DENSITY OF THRIVING
13 FISH POPULATIONS IN RESPONSE TO REDUCTIONS IN INDEX FLOW AS
14 PUBLISHED IN THE DOCUMENT ENTITLED "REPORT TO THE MICHIGAN
15 LEGISLATURE IN RESPONSE TO 2006 PUBLIC ACT 34" BY THE FORMER
16 GROUNDWATER CONSERVATION ADVISORY COUNCIL DATED JULY 2007, WHICH IS
17 INCORPORATED BY REFERENCE.

18 (OO) "THRIVING FISH POPULATION" MEANS THE FISH SPECIES THAT
19 ARE EXPECTED TO FLOURISH AT VERY HIGH DENSITIES IN STREAM REACHES
20 HAVING SPECIFIC DRAINAGE AREA, INDEX FLOW, AND SUMMER TEMPERATURE
21 CHARACTERISTICS.

22 (PP) "WARM RIVER SYSTEM" MEANS A STREAM OR RIVER THAT HAS THE
23 APPROPRIATE SUMMER WATER TEMPERATURE THAT, BASED ON STATEWIDE
24 AVERAGES, SUSTAINS A FISH COMMUNITY COMPOSED PREDOMINANTLY OF WARM-
25 WATER FISH SPECIES, AS DETERMINED BY A SCIENTIFIC METHODOLOGY
26 ADOPTED BY ORDER OF THE COMMISSION.

27 (QQ) ~~(u)~~ "Waters of the Great Lakes basin" means the Great

1 Lakes and all streams, rivers, lakes, connecting channels, and
2 other bodies of water, including groundwater, within the Great
3 Lakes basin.

4 (RR) ~~(v)~~ "Waters of the state" means groundwater, lakes,
5 rivers, and streams and all other watercourses and waters,
6 including the Great Lakes, within the territorial boundaries of the
7 state. Waters of the state do not include drainage ways and ponds
8 designed and constructed solely for wastewater conveyance,
9 treatment, or control.

10 (SS) ~~(w)~~ "Withdrawal" means the removal of water from its
11 source for any purpose, other than for hydroelectric generation at
12 sites certified, licensed, or permitted by the federal energy
13 regulatory commission OF WATER FROM SURFACE WATER OR GROUNDWATER.

14 (TT) "ZONE A WITHDRAWAL" MEANS THE FOLLOWING:

15 (i) FOR A COLD RIVER SYSTEM, AS FOLLOWS:

16 (A) FOR A COLD STREAM, LESS THAN A 1% REDUCTION IN THE DENSITY
17 OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING FISH
18 CURVE.

19 (B) FOR A COLD SMALL RIVER, LESS THAN 50% OF THE WITHDRAWAL
20 THAT WOULD RESULT IN AN ADVERSE RESOURCE IMPACT.

21 (ii) FOR A COLD-TRANSITIONAL RIVER SYSTEM, THERE IS NOT A ZONE
22 A WITHDRAWAL.

23 (iii) FOR A COOL RIVER SYSTEM, AS FOLLOWS:

24 (A) FOR A COOL STREAM, LESS THAN A 10% REDUCTION IN THE
25 DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING
26 FISH CURVE.

27 (B) FOR A COOL SMALL RIVER, LESS THAN A 5% REDUCTION IN THE

1 DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING
2 FISH CURVE.

3 (C) FOR A COOL LARGE RIVER, LESS THAN AN 8% REDUCTION IN THE
4 DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING
5 FISH CURVE.

6 (iv) FOR A WARM RIVER SYSTEM, LESS THAN A 10% REDUCTION IN THE
7 DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING
8 FISH CURVE.

9 (UU) "ZONE B WITHDRAWAL" MEANS THE FOLLOWING:

10 (i) THERE IS NOT A ZONE B WITHDRAWAL FOR A COLD STREAM OR SMALL
11 RIVER.

12 (ii) FOR A COLD-TRANSITIONAL RIVER SYSTEM, LESS THAN A 5%
13 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED
14 BY THE THRIVING FISH CURVE.

15 (iii) FOR A COOL RIVER SYSTEM, AS FOLLOWS:

16 (A) FOR A COOL STREAM, A 10% OR MORE BUT LESS THAN A 20%
17 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED
18 BY THE THRIVING FISH CURVE.

19 (B) FOR A COOL SMALL RIVER, A 5% OR MORE BUT LESS THAN A 10%
20 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED
21 BY THE THRIVING FISH CURVE.

22 (C) FOR A COOL LARGE RIVER, AN 8% OR MORE BUT LESS THAN A 10%
23 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED
24 BY THE THRIVING FISH CURVE.

25 (iv) FOR A WARM RIVER SYSTEM, AS FOLLOWS:

26 (A) FOR A WARM STREAM, A 10% OR MORE BUT LESS THAN A 15%
27 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED

1 BY THE THRIVING FISH CURVE.

2 (B) FOR A WARM SMALL RIVER OR A WARM LARGE RIVER, A 10% OR
3 MORE BUT LESS THAN A 20% REDUCTION IN THE DENSITY OF THRIVING FISH
4 POPULATIONS AS DETERMINED BY THE THRIVING FISH CURVE.

5 (VV) "ZONE C WITHDRAWAL" MEANS THE FOLLOWING AS LONG AS THE
6 WITHDRAWAL WILL NOT DECREASE THE FLOW OF A STREAM OR RIVER BY MORE
7 THAN 25% OF ITS INDEX FLOW:

8 (i) FOR A COLD RIVER SYSTEM, AS FOLLOWS:

9 (A) FOR A COLD STREAM, A 1% OR MORE BUT LESS THAN A 3%
10 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED
11 BY THE THRIVING FISH CURVE.

12 (B) FOR A COLD SMALL RIVER, 50% OR MORE OF THE WITHDRAWAL THAT
13 WOULD RESULT IN AN ADVERSE RESOURCE IMPACT BUT LESS THAN A 1%
14 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED
15 BY THE THRIVING FISH CURVE.

16 (ii) THERE IS NOT A ZONE C WITHDRAWAL FOR A COLD-TRANSITIONAL
17 RIVER SYSTEM.

18 (iii) FOR A COOL RIVER SYSTEM, AS FOLLOWS:

19 (A) FOR A COOL STREAM, A 20% OR MORE REDUCTION IN THE DENSITY
20 OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING FISH
21 CURVE BUT LESS THAN A 10% REDUCTION IN THE ABUNDANCE OF
22 CHARACTERISTIC FISH POPULATIONS AS DETERMINED BY THE CHARACTERISTIC
23 FISH CURVE.

24 (B) FOR COOL SMALL RIVERS, A 10% OR MORE BUT LESS THAN A 15%
25 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED
26 BY THE THRIVING FISH CURVE.

27 (C) FOR COOL LARGE RIVERS, A 10% OR MORE BUT LESS THAN A 12%

1 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED
2 BY THE THRIVING FISH CURVE.

3 (iv) FOR WARM RIVER SYSTEMS, AS FOLLOWS:

4 (A) FOR WARM STREAMS, A 15% OR MORE REDUCTION IN THE DENSITY
5 OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING FISH
6 CURVE BUT LESS THAN A 5% REDUCTION IN THE ABUNDANCE OF
7 CHARACTERISTIC FISH POPULATIONS AS DETERMINED BY THE CHARACTERISTIC
8 FISH CURVE.

9 (B) FOR WARM SMALL RIVERS AND WARM LARGE RIVERS, A 20% OR MORE
10 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED
11 BY THE THRIVING FISH CURVE BUT LESS THAN A 10% REDUCTION IN THE
12 ABUNDANCE OF CHARACTERISTIC FISH POPULATIONS AS DETERMINED BY THE
13 CHARACTERISTIC FISH CURVE.

14 (WW) "ZONE D WITHDRAWAL" MEANS, BEGINNING FEBRUARY 1, 2009, A
15 WITHDRAWAL THAT IS LIKELY TO CAUSE AN ADVERSE RESOURCE IMPACT.

16 (2) FOR PURPOSES OF DETERMINING BASELINE CAPACITY, A PERSON
17 WHO REPLACES HIS OR HER SURFACE WATER WITHDRAWAL CAPACITY WITH THE
18 SAME AMOUNT OF GROUNDWATER WITHDRAWAL CAPACITY FROM THE DRAINAGE
19 AREA OF THE SAME STREAM REACH MAY RETAIN THE BASELINE CAPACITY
20 ESTABLISHED UNDER THIS SECTION.

21 Enacting section 1. This amendatory act does not take effect
22 unless all of the following bills of the 94th Legislature are
23 enacted into law:

24 (a) Senate Bill No. 212.

25 (b) Senate Bill No. 723.

26 (c) Senate Bill No. 727.

27 (d) Senate Bill No. 858.

- 1 (e) Senate Bill No. 859.
- 2 (f) Senate Bill No. 860.
- 3 (g) House Bill No. 4343.
- 4 (h) House Bill No. 5065.
- 5 (i) House Bill No. 5066.
- 6 (j) House Bill No. 5067.
- 7 (k) House Bill No. 5069.