

Good morning Mr. Chair and Members of the Committee. I appreciate the opportunity to come before you this morning to discuss what I believe are two serious flaws with the Draft 4 Substitute for HB 5638.

My name is Dave Lusch. I'm a recently retired professor from Michigan State University where I served for 40 years in the Department of Geography, Environment and Spatial Sciences and the last 27 years in the Institute of Water Research. I am an active member of the *Water Use Advisory Council*, serving on the *Technical Underpinnings Work Group* and the *Leadership Team*.

Let me begin by stating that the Draft 4 Substitute for HB 5638 provides some significant enhancements to the Water Use Program established under Part 327. First, it describes a system for the collection of standardized data sets that could be useful in quantifying the stream depletion impact from a proposed Large Quantity water withdrawal. The proposed private-sector data collection protocol will likely contribute extremely useful data to Michigan's natural resources database which, in turn, could greatly improve our water resource management capabilities. Second, it leaves in place the existing Water Withdrawal Assessment Tool and the majority of Part 327.

However, I believe that there are two serious flaws with the Draft 4 Substitute for HB 5638. The first occurs in Subsection (2) (page 2, line 20) and again in Subsection (6) (page 7, lines 1 – 3), both of which mandate that the department shall make its determination and notify the property owner within 10 working

days. This is an arbitrary and unrealistically short review period. During its 8<sup>th</sup> year of operation (July 9, 2016 - July 8, 2017), the Water Use Program processed about one-third of the total Large Quantity Withdrawal authorizations through site-specific reviews. Only 22% of these SSRs were completed within 10 business days; the average time to complete an SSR in Program Year 8 was 35 business days. With its current budget, only two staff persons in the Water Use Program conduct site specific reviews and they have other duties to perform as well. Clearly, by mandating a 10 working day turn around for SSRs, the Draft 4 Substitute for HB 5638 is setting the department up to fail, while perpetuating the original, unrealistic expectation of Part 327 about the ease of evaluating stream depletion impacts of large quantity withdrawals.

A second, more serious problem occurs in Subsection (2)(A) (page 2, line 27 through page 3, line 3), which allows the property owner to register and operate their withdrawal if the department fails to notify them with a determination within 10 working days. As mentioned previously, the 10 working day review period limit is both arbitrary and unrealistic and is based on the false assumption that existing staff at DEQ should easily be able to evaluate the potential stream depletion impacts of a large quantity withdrawal within a few days. Such default registrations will not be based on science or data, but simply on time of response by the department. This ill-advised provision establishes a penalty for the DEQ for missing an unreasonable deadline at the potential expense of the environment.

Lastly, a small problem occurs in Subsection (3) (page 5, lines 2 - 11). Here, no time limit is specified for a property owner to notify the department of deviations between the data evaluated for a registration and the actual conditions of the installed withdrawal. This oversight has the potential to unduly burden not only the DEQ Water Use Program staff, but also other potential water users in the same or neighboring water management areas.

Thank you for the opportunity to speak with you this morning.