

ASK THE EXPERTS

If you have a question about water related issues, riparian rights, and/or lakes and streams, etc., let us know by email or snail mail.

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Question: Can anything be done about our high lake level?

Answer: Many inland lakes in Michigan are overflowing with water this year. Riparian property owners on many of those lakes are wondering how the lake level can be temporarily lowered during these record high water times. Unfortunately, in most cases, there is no easy answer. The legal and proper way to regulate a Michigan inland lake level is to have the local county circuit court set a lake level or range pursuant to the Michigan Lake Level Act, being MCL 324.30701, et seq. However, having a circuit court set a lake level or range is usually a time-consuming process that can take anywhere from four months to a year and a half from the beginning of the process through the litigation proceedings.

Can a lake be artificially lowered during an emergency without a county circuit court proceeding setting a lake level range? In general, no. Simply having one or more riparian property owners *ad hoc* lower the lake level is not only unlawful in most cases, but also increases the liability potential when property owners “downstream” are damaged by the increased water flow from the lake.

Does the county drain commissioner have the authority to temporarily lower a lake level without a county circuit court lake level order? It is unlikely. Nevertheless, some have asserted that a county drain commissioner has that authority pursuant to the Michigan Drain Code without a statutory lake level being set by a circuit court order.

For more information regarding setting lake levels under the Michigan Lake Level Act, please see my articles in this edition of *The Michigan Riparian* magazine entitled “High Water Blues” and “Limited Michigan Legislation Regarding Emergency Local Boating Regulations” and “Who Pulled the Plug on my Lake” (in the Summer 2000 issue).

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Our experts include our riparian attorney, a biologist, a limnologist, an engineer, a college professor and a state agency official. They look forward to responding to your question.