

“Any Person” Has Standing For MEPA Lawsuit

The Michigan Court of Appeals, in an unpublished decision, has held that Part 17 of the Natural Resources and Environmental Protection Act (formerly known as the Michigan Environmental Protection Act, or MEPA) allows *any* person to bring a lawsuit under that statute, regardless of whether that person otherwise meets the traditional test for judicial “standing.”

The National Wildlife Federation and the Upper Peninsula Environmental Council sued the Michigan Department of Environmental Quality (MDEQ) and two northern-Michigan mining companies regarding MDEQ’s grant of a permit allowing the companies to fill wetlands and streams on their property with mining waste. The trial court held that the environmental groups had not suffered any direct injury from the permitted activity and, accordingly, lacked “standing” to sue.

The doctrine of “standing” in Michigan courts is a judicially-created limitation on the right to sue. Generally, a person has “standing” to bring a lawsuit only if that person has suffered an injury in fact, caused by the person being sued, that can be redressed by the court. If a person lacks “standing,” the court will dismiss the person’s lawsuit.

The environmental groups appealed the trial court’s ruling, arguing that the Michigan Legislature has eliminated any injury-in-fact requirement for a person to have standing to sue under MEPA, which provides that:

The attorney general or *any person may maintain an action* in the circuit court having jurisdiction where the alleged violation occurred or is likely to occur for declaratory relief against any person for the protection of the air, water, and other natural resources and the public trust in these resources from pollution, impairment, or destruction. (Emphasis added by the court).

The appeals court held that, “in light of the plain language of the statute,” when the Legislature said “any person” may sue under MEPA, the Legislature meant “*any person*.”

Accordingly, the court declined to “read in an additional requirement of compliance with non-statutory standing prerequisites,” and reversed the trial court, allowing the environmental groups’ lawsuit to proceed.

National Wildlife Federation v. Cleveland Cliffs Iron Co., No. 232706 (Mich. Ct. App. June 11, 2002)

Jeffrey L. Woolstrum

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