

Question: Do artificial lakes have the same riparian rights as natural inland lakes?

Answer: In 2010, Michigan Court of Appeals in *Presell v Wertz*, 287 Mich App 576 (2010) confirmed that artificial bodies of water in Michigan generally do not have riparian rights. Please see my Attorney Writes column in the Summer, 2010 issue of the Michigan Riparian Magazine. In early 2014, the Court of Appeals addressed the issue again in *Holton v Ward*, 303 Mich App 718 (2014). The new case decision involved an artificial pond approximately 20 acres in size that was created many years ago via an earthen dam that flooded a wetlands. The Court confirmed that the owner of one half of the pond could fence his portion of the pond and keep the plaintiff off that half of the pond. Since this case is a published decision, it is binding precedent (as is *Presell v Wertz*).

It is easy to comprehend that a pond or small artificial body of water does not have riparian rights. Unfortunately, both the Persell and Holton appellate court decisions have left unanswered what they mean for larger artificial bodies of water that strongly resemble natural inland lakes and are used for the full range of riparian uses occurring on natural lakes such as swimming, boating, fishing and general recreating. What are the rights of lakefront property owners on such artificial lakes where the original developer left silent whether the lake is to be treated as a riparian lake? Unfortunately, the public will have to wait until future appellate decisions “flesh out” this area over the years or even decades. It is possible that an artificial lake that has been treated like a natural lake for a number of hears could be deemed a riparian lake by the courts.

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