

REPORT OF THE

STATE WATER COMMISSION

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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**COMMONWEALTH OF VIRGINIA
RICHMOND
1985**

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**Report of the
State Water Commission
To
The Governor and the General Assembly of Virginia
Richmond, Virginia
January, 1985**

To: Honorable Charles S. Robb, Governor of Virginia,
and
The General Assembly of Virginia

I. BACKGROUND

The 1984 General Assembly passed HB 574 changing the status of the State Water Study Commission to the legislatively mandated State Water Commission (Va. Code § 9-145.5). The new legislation established a fifteen-member commission with two at-large members appointed by the Governor. Mr. Louis R. Jones and Mr. George Williams are the two new at-large members, with Mr. Robert R. Peters, J. Lewis Rawls, Jr., and Leonard Shabman leaving the Commission.

Delegate Lewis W. Parker and Senator Charles J. Colgan were re-elected by the Commission as chairman and vice-chairman, respectively.

II. 1984 ACTIVITIES

During 1984, the Commission devoted much of its time to keeping abreast of water policy issues by reviewing such policy areas as riparian conservation efforts undertaken in Virginia and other states, federal matching agricultural conservation programs, and groundwater contamination. Through this review the Commission began to identify those issues essential in formulating a comprehensive state water policy.

1. Review of Riparian Conservation Programs

During the 1984 Session, the General Assembly passed House Joint Resolution No. 141, requesting the State Water Commission to study the Riparian Tax Incentive Program in Oregon for the possible application of a similar program in Virginia. During a meeting this summer, a fisheries biologist from the Division of Game and Inland Fisheries explained Oregon's program which has been in operation for a year and a half. The Oregon program consists of two components. First, it provides private landowners in farm and forest zones, outside urban growth boundaries, with a complete property tax exemption for lands up to 100 feet landward of the line of non-aquatic vegetation at the edge of rivers and streams, provided they agree to abide by a signed management plan detailing measures required to preserve, enhance or restore riparian vegetation. Secondly, it provides a twenty-five percent Oregon State income tax credit for private landowners who complete a project, certified by the Department of Fish and Wildlife, to improve instream fish habitats. There is nothing mandatory about enrollment in the program. It is strictly voluntary. Under Oregon law, for the program to take place the counties must have a state land use planning law in effect.

Staff reported some statistics on the property tax exemption facet of the Oregon Program. As of January, 1984, nineteen applications for exemption under the program had been approved involving 158 acres of land and 15 miles of stream banks.

The Commission took these statistics to reflect problems with the incentives for enrolling in the program and inquired as to alternatives that might result in higher incentives and a greater rate of participation in such programs. As a follow-up to this inquiry, an engineer with the Virginia Soil and Water Conservation Commission reported one of Virginia's best management practices, the "grass filter strip" incentive program, could be a means to promote riparian conservation as an alternative to a tax incentive program.

2. Review of Federal and State Agricultural Programs

Having heard a detailed account of the Oregon riparian conservation program, the Commission decided to review other types of agricultural conservation programs. A representative from the federal government provided an overview of their agricultural conservation programs (ACP). He explained that there are twenty-one conservation practices funded under the ACP. The individual projects are administered at the local level with the federal government providing 50 - 75% of the costs through matching funds. The amount of the match is dependent upon the amount of soil saved by a particular practice.

A combination of federal and state funds has been devoted to the best management practices program (BMP) which includes methods to deal with agricultural nonpoint source pollution of the Chesapeake Bay. The BMP's program is voluntary and covers sixty-two counties, emphasizing direct contact with farmers, providing educational and technical assistance services and financial incentives. Such practices as the grass filter strip incentive or the erodible cropland conversion incentive provide other alternatives to a tax incentive program.

3. Ground Water Contamination

Dr. Jay Lehr, an official of the National Water Well Association, briefed the Commission on such topics as groundwater supplies, the physics of groundwater flow, the movement of pollution in groundwater, methods of diverting the movement of groundwater contaminants, as well as reviewing those laws which regulate groundwater pollution. He noted that one percent of the total groundwater supply is polluted. He surmised that the greatest contributors to this pollution are hazardous waste dumps and toxic lagoons. Dr. Lehr informed the commission that it is crucial that both federal as well as state governments begin to focus on those practices that cause pollution. Any effort in this area should be (a) educational, (b) research oriented and aimed toward assessing the existing problems, and (c) operational, cleaning up what is already there.

4. Development of a Comprehensive State Water Policy

During the past year, the Commission has worked closely with the State Water Control Board (SWCB) and that agency's State Water Plan Advisory Committee in identifying those water issues which should be considered in developing a comprehensive state water policy.

At its meeting on December 5, 1984, the Commission received a status report on the work of the advisory committee. This committee is made up of seventy-seven persons who have the broad experience and necessary expertise to advise the SWCB and its staff on various issues related to developing a state water resources plan. The advisory committee was broken down into eight subcommittees, each dealing with a particular water management issue. The Commission was informed that only one of the eight subcommittees had completed its work. This subcommittee, which analyzed the planning process, recommended that the SWCB eliminate the agricultural exemption in the water use reporting law. So as not to pre-empt the further work of the advisory committee, the Commission agreed to wait to receive all of the subcommittees' recommendations before proposing a comprehensive state water policy. The members of the Commission have indicated that such a policy would address at least the following issues:

- Consolidation and restatement of the presently fragmented water policy statutes;
- Clarification of riparian water rights;
- Interbasin transfer;
- Delineation of roles and responsibilities of the Health Department and State Water Control Board;
- Amendments to the Groundwater Act - Virginia's present policy does not require a permit for the use or supplying of groundwater for agricultural and livestock purposes for human consumption or domestic purposes, or for any simple industrial or commercial purpose not exceeding 50,000 gallons a day. There is also no requirement that municipal governments report groundwater use. Amendments may be made in order to monitor these uses;
- Staff and budget to carry out a new state water policy;

- Possible legal changes necessary to encourage private sector involvement in providing water treatment and water supply services;
- Protection of Virginia's aquifers.

III. COMMISSION RECOMMENDATIONS

1. With the assistance of the State Water Control Board, the Commission will work toward defining a comprehensive state water policy which would include such issues as riparian rights, groundwater permitting, interbasin transfer, and staff and budgets requirements for implementing such a policy.

2. Because of the problems with providing enough incentive for participation, the Commission has determined that the Oregon Riparian Tax Incentive Program would not be a feasible model for such a program to be instituted in Virginia. The Commission will continue to monitor the Virginia BMP programs and federal agricultural conservation programs.

3. A representative from the Virginia Water and Sewer Assistance Authority should become an ex-officio member of the State Water Commission.

Respectfully submitted,

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