

# Water Rights: Pennsylvania Needs Much Work

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**HARRISBURG** (Dauphin Co.) — Pennsylvania agriculturalists can expect to eventually have to make a good case why they should get water for crops and livestock.

Also, all residents can expect to become more aware of from where their water comes, how much watershed is needed for specific communities and how much water an individual can reasonably expect to use — in wet and dry years.

One of the four essential requirements for human survival, Pennsylvania's water resources have never been addressed in any usable comprehensive or quantitative manner for planned use.

However, in light of increasing occurrences of non-potable, undesirable, or unreliable tap water sources, and the lack of clear guidelines for local and state officials in managing water supplies, efforts have been underway to initiate changes in how the state's water is managed, possessed and protected.

At least that's the gist of recommendations by the state Joint Legislative Air and Water Pollution Control and Conservation Committee.

The 18-member committee, aided by a staff of four, last year held several public hearings and reviewed research in an attempt to understand the effects of the state's use of old English law (riparian law) to determine water rights.

Pennsylvania's water rights

laws have been summarized as: Whomever digs the deepest well, uses the biggest pump and is furthest upstream, has the most rights to the water.

That concept is on the way out.

The committee, comprised of a mix of legislators representing the various watersheds throughout the state, has issued a special report of its findings and recommendations for use by the state Legislature in writing new water rights law.

Those recommendations basically point to the need for water rights laws which treat the state's water sources as renewable, but limited, commonwealth property; not a commodity available on command by the biggest and richest.

Some of the problems which exist are centered on the increasing competition for water, particularly groundwater, which is almost completely unprotected from over-use and abuse.

Other potential problems, though not singled out in the report, include such things as the lack of any requirement for new housing to show that adequate, potable water supplies exist for proposed housing.

Currently, in Pennsylvania, neither local municipal leaders, nor state regulatory authorities, can prevent such things as a housing development being built without safe drinking water, or even having enough water.

But in seemingly water-rich Pennsylvania, the need for regulatory control on water — either to provide or deny — has not been

widely seen as being needed.

Until now.

The committee, in its report, focused on the need for the state to create a structure of legal guidelines which people can use to ensure the adequate and safe supply of water for a variety of purposes.

Questions of which agency or authority would control water allocations in times of shortages needs to be addressed also, according to the report.

"Pennsylvania needs to strengthen its water management program," according to the report's introduction. "The committee's hearings and subsequent report indicates that this will involve complex issues and affect all the users of water in Pennsylvania.

"The recommendations . . . should provide some guidance to legislator and water managers who will be working on this essential program."

Seven major recommendations were issued by the committee to the state legislature.

- The Department of Environmental Resources should revise the State Water Plan for Pennsylvania. The department should also update the plan regularly. The new State Water Plan should guide future decisions on the management and allocation of the state's water resources.

- To properly manage the groundwater resources of Pennsylvania, legislation authorizing a permit and registration program for groundwater withdrawals

should be considered by the General Assembly. The legislation should also include a water use priority system and requirements for identifying areas of the state with critical water supply problems.

- The committee believes that all agricultural interest groups should participate in the development of future water resources management legislation and programs.

- The committee supports the inclusion of a comprehensive drought management plan in any water resources management legislation. The committee also believes that all major water users in the state should be required to develop a drought management plan.

- Water conservation efforts should be an integral part of Pennsylvania's water resources management program. Water conservation efforts should include all users of water, not just the residential sector. And, the committee supports legislation that would require the use of water-efficient plumbing fixtures throughout the state.

- Groundwater and surface water in Pennsylvania should be managed and allocated as one hydrologic unit. Any future legislation or regulatory program should recognize this conjunctive use approach.

- The General Assembly should sponsor a "Water Resources Conference" to extend the discussion on water resources management and help to develop a consensus on

issues. The conference would be an opportunity to discuss legislative and regulatory proposals for managing Pennsylvania's water resources.

That last recommendation has already occurred, in part.

A conference (or informational meeting) was held April 8 and 9 in the state Capitol Building and was attended by almost 80 people.

Speakers included Dr. Ronald North, director of the Institute of Natural Resources, University of Georgia; George William Sherk, a lawyer from Washington D.C. well-versed on existing water rights laws.

Also speaking were Ray Jay Davis, a professor of law at Brigham Young University Law School in Utah; and Richard Ilamann, with the Center for Governmental Responsibilities, of the College of Law, University of Florida.

Panel discussions were held both days.

The first day's panel discussion focused on state water resources management programs and was conducted by panel members Robert Miller, deputy director for the Maryland Water Resources Administration; Richard F. Weeks, deputy executive director for administration and police of the Virginia State Water Control Board; and also, Jim Japs, with the Minnesota Water Allocation Program, part of the Minnesota Department of Natural Resources.

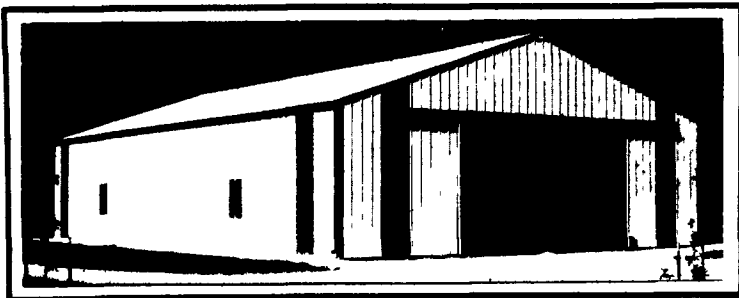
The second panel discussion focused on water use in Pennsylvania.

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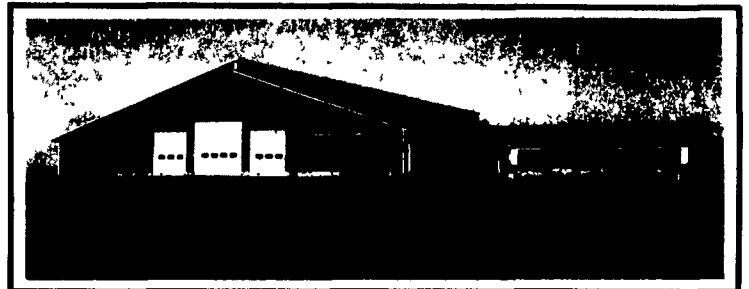
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