

## **The Legal Regime of Water Resources in Alabama**

Water will be the natural resources issue of the 21st century. No place is this more apparent than in Alabama where economic growth is inextricably linked to availability of water, power and transportation, and where water quantity and quality are currently the focus of considerable political attention. Although Alabama has a surplus of water resources at the present time, continued population growth, drought and economic development will increase the demand on supplies. Long-term management of Alabama's water resources requires a holistic approach and recognition of the interconnectedness of water quantity and quality. Management of water resources is holistic when it is done on a drainage basin or watershed basis and within a functional legal regime.

What is the function of water law? To prevent conflict. To protect aquatic ecosystems. To encourage the beneficial use of water and prevent waste. Alabama's current legal regime for water resources consists of: (1) common law riparian rights, (2) statutes- the Alabama Water Resources Act of 1993, (3) local legislation, and (4) the Alabama Permanent Joint Legislative Committee on Water Policy and Management (SJR28) created in 2008. This legal regime is often described as a "regulated riparian" system.

In the hydropolicy literature, sustainable water development (SWD) is a concept recognized in international water law that focuses on linking all aspects of water resources management into a comprehensive plan within a legal regime. SWD includes five specific elements: (1) the right to use water, (2) the protection of water resources and prevention of water degradation, (3) the maintenance of water flow, (4) an ecosystem related approach, and (5) the procedural elements to achieve sustainable development-environmental impact assessment, stakeholder participation and access to information. Within such a legal framework emphasis can be placed on integrated watershed management, comprehensive permitting, water resources conservation and management, conjunctive management of surface water and groundwater, instream flows, regulation of interbasin transfers, protection of areas of origin, crisis management, strategic counseling, creative dispute resolution and enhanced relations with stakeholders and community groups. This holistic approach can provide any forward-thinking state government with constructive resolution of emerging environmental challenges at the intersection of law and policy.

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