WATER LAW AND ITS RELATIONSHIP TO ENVIRONMENTAL QUALITY:
A BIBLIOGRAPHY OF SOURCE MATERIAL

by

George E. Radosevich, David R. Allardice, Gustav A. Swanson, and Kenneth R. Koebel

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Colorado State University
Fort Collins, Colorado

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George E. Radosevich,
David R. Allardice,
Gustav A. Swanson,
and
Kenneth R. Koebe1

Environmental Resources Center
Colorado State University
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PREFACE

In September, 1971, the Office of Water Resources Research awarded the principal investigators Drs. G. A. Swanson and G. E. Radosevich a research project entitled, Water Law and Its Relationship to the Environment, with particular reference to fish and wildlife habitat and recreation and aesthetics. During the preliminary stages of project organization and program conceptualization, it was realized that materials on the subject—both legal-institutional and those dealing with natural resources—were difficult to identify readily due to numerous reporting systems and insensitivity to the topic previously. To facilitate data acquisition and insure identification of "most relevant" materials, questionnaires were sent to water resource and fish and wildlife agencies in each state and at the federal level. The responses varied from a genuine and much appreciated effort to provide material or information to silence. In addition, several scheduled trips to various state agencies produced gratifying insight and data on the subject.

Many contributors expressed an interest in becoming informed of available laws and related materials. In response to these requests, the research team has prepared a bibliography of source data. The references cited are largely those supplied by the state agencies which responded to our request, but others which have come to my attention are also included.

Persons receiving the bibliography will doubtless detect omissions or corrections needed, and they are urged to communicate them to the authors at Colorado State University, to be included in a supplementary Volume II, to be issued when our project is completed.

George G. Radosevich
Department of Economics

Gustav A. Swanson
Department of Fishery and Wildlife
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Gustav A. Swanson 3
Kenneth R. Koebel 4

Introduction and Outline of Bibliography

Volume I contains a partial bibliography of legal, institutional and related source materials on the subject of water law in relationship to environmental quality and of related discussions of the natural resource aspects of water resources. These resource publications, often based upon research or inventories, form in general the background for, or the need for, the laws and regulations. The topic has been narrowed to specific emphasis on fish and wildlife habitat and recreational and aesthetic aspects. In the traditional sense of water law, only quantity characteristics of water are covered. This project and bibliography have also confined the field of examination to water quantity considerations. Water quality and pollution control are already extensively investigated in completed and ongoing research and bibliographies.

To facilitate identification of relevant source material in Volume I, the methodological approach has been to divide the sources into these broad categories:

I. State materials (pp. 101-105)

   Legal relating to water (as described below).
   Primary sources.
   Secondary sources.
   Legal relating to fish and wildlife.
   Primary sources.
   Secondary sources.
   Legal relating to general.
   Primary sources.
   Secondary sources.
   Natural resources reports.
II. Interstate or regional materials, with the same breakdown. (106-115)

III. Federal, with the same breakdown. (119-126)

Customary classification and listing of legal data sources have been utilized to rank the citations. This system is to organize according to degree of authority of the source -- primary (constitution, statutes, compacts, treaties, case law, rules and regulations and legislated policies) -- secondary (reports, texts, journal articles, miscellaneous).

The sources contained in the bibliography are not annotated. However, their inclusion is based upon an examination of the source and determination of its relevancy to the topic. For this reason, obscure and seemingly unrelated titles appear but are included due to their contents. Officials in states which are considering modifications in the legal protection which they afford to such aspects of environmental quality as fishery, recreational, or esthetic values will no doubt be interested in seeing what has been published in other states.

1/Assistant Professor of Environmental Law and Economics, Department of Economics, Colorado State University.
2/Graduate Research Assistant, Department of Economics, Colorado State University.
3/Head, Fishery and Wildlife Biology Department, Colorado State University.
4/Graduate Research Assistant, Fishery and Wildlife Biology Department, Colorado State University.
CONTENTS OF SECTION I - STATE MATERIALS

ALABAMA .............................................. 1
ALASKA .................................................. 3
ARIZONA ............................................... 4
ARKANSAS ............................................ 5
CALIFORNIA ........................................... 7
COLORADO ............................................... 13
CONNECTICUT ......................................... 17
DELAWARE ............................................. 22
FLORIDA ............................................... 23
GEORGIA ............................................... 25
HAWAII ................................................ 26
IDAHO .................................................... 27
ILLINOIS ............................................... 29
INDIANA ............................................... 31
IOWA .................................................... 33
KANSAS ................................................ 35
KENTUCKY ............................................. 36
LOUISIANA ............................................. 37
MAINE ................................................... 39
MARYLAND ............................................. 43
MASSACHUSETTS ....................................... 45
MICHIGAN .............................................. 47
MINNESOTA .......................................... 48
MISSISSIPPI .......................................... 50
MISSOURI .............................................. 52
MONTANA ............................................... 54
NEBRASKA ............................................. 57
NEVADA ............................................... 59
NEW HAMPSHIRE ...................................... 61
NEW JERSEY .......................................... 64
NEW MEXICO .......................................... 66
NEW YORK ............................................ 68
NORTH CAROLINA .................................... 70
NORTH DAKOTA ....................................... 72
OHIO ..................................................... 73
OKLAHOMA ............................................. 74
OREGON ............................................... 75
PENNSYLVANIA ....................................... 79
RHODE ISLAND ....................................... 81
SOUTH CAROLINA ..................................... 82
SOUTH DAKOTA ....................................... 84
TENNESSEE .......................................... 85
TEXAS ................................................... 87
UTAH .................................................... 89
VERMONT .............................................. 91
VIRGINIA ............................................. 93
WASHINGTON ........................................ 95
WEST VIRGINIA ....................................... 97
WISCONSIN .......................................... 99
WYOMING ............................................. 103
ALABAMA

Legal: water

Primary:

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Water Resources Research Institute and Environmental Improvement Authorities Act, Code of Alabama, Recompiled 1958, Sec. 7-266 through 7-269 and 8-270 through 8-287.

Secondary:

Industrial Use and Community Supplies of Water in Alabama: Economic and Legal Aspects, Donald R. Street, et. al., School of Business, Auburn University in cooperation with the Water Resources Institute, January 1970, 11 pp.

Legal: fish and wildlife

Primary:


Natural Resources:


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ALASKA

Legal: water

Primary:

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Primary:


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Legal: general

Primary:

Primary:


Legal: fish and wildlife

Primary:

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Legal: general

Primary:


Natural Resources:


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ARKANSAS

Legal: water

Primary:


Pollution of Streams, Chapter 8, Fish and Game, Title 47, Arkansas Statutes Annotated, 1947, 1956 Replacement, 47-801 through 47-813.


Water Districts Regions, Arkansas Statutes Annotated, 1947, 1956 Replacement, 21-1401 through 21-1415; "Water Districts Regional", Chapter 14; Title 21, "Water Drainage and Levee Districts".


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Legal: fish and wildlife

Primary:

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Legal: general

Secondary:

Natural Resources:

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CALIFORNIA

Legal: water

Primary:


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Secondary:

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Secondary (continued)


Legal: general

Primary:


Secondary:


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Legal: water

Primary:

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Legal: water

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Legal: fish and wildlife

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Legal: fish and wildlife

Primary (continued)


Legal: general

Secondary:


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COLORADO (continued)

Natural Resources (continued)

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Legal: water

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Rivers and Streams, Connecticut General Statutes Annotated, Revision of 1958, 15-1 Through 15-26, "Rivers and Streams"; Title 15, "Navigation and Aeronautics".


Secondary:


Legal: fish and wildlife

Primary:


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Legal: general

Primary:


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Primary:


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Memorandum of Understanding for Interagency Coordination Between the Connecticut Highway Department and the Board of Fisheries and Game of the Connecticut Department of Agriculture and Natural Resources, December 13, 1963.


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Primary:


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Primary:

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Erosion Control and Water Pollution, Delaware Department of Highways and Transportation, Section 107.20.

Permit Granted to Delaware Department of Highways and Transportation to dredge from the Delaware River to Obtain Special Fill for Use in the Construction of the Portion of Delaware Interstate 495 Across Cherry Island in Wilmington, Delaware Department of Highways and Transportation, SL 107/1971, March, 1971, 3 pp.
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Legal: water

Primary:

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Secondary:


Legal: fish and wildlife

Primary:

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Legal: general

Primary:

Aquatic Preserves Resolution, State of Florida, Board of Trustees of the Internal Improvement Trust Fund, November 24, 1969, 5 pp.


Secondary:


Natural Resources:


GEORGIA

Legal: water

Primary:

Reasonable Use of Waters, Code of Georgia Annotated, 1969, 105-1407, Requiring All Users to Make a "Reasonable Use" of Waters.


Secondary:


Legal: fish and wildlife

Primary:

State of Georgia Wildlife Laws, Robert S. Baker, Coordinator of Law Enforcement State Game and Fish Commission, Georgia Game and Fish Commission, April, 1966, 76 pp.

Legal: general

Secondary:

Legal: water

Primary:

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Legal: fish and wildlife

Primary:

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Legal: water

Primary:


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Legal: fish and wildlife

Primary:


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Legal: general

Primary:

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ILLINOIS

Legal: water

Primary:


Secondary:


Legal: fish and wildlife

Primary:

Illinois Article X - Regulations Pertaining to the Utilization of State Owned Lands and Waters Managed by the Department of Conservation as Public Waterfowl Management Areas, 5 pp.


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Legal: general

Secondary:

ILLINOIS (continued)

Legal: general (continued)

Secondary:


Natural Resources:


INDIANA

Legal: water

Primary:


Secondary:

Indian Water Law and Suggestions for Action, G. Graham Waite, Professor of Law, Consultant to the Committee, A Report to the Indiana Water Resources Study Committee, Department of Natural Resources, State of Indiana, 1968, 262 pp.


Legal: fish and wildlife

Primary:

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Legal: general

Primary:


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IOWA

Legal: water

Primary:

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Legal Aspects of the Small Watershed Program in Iowa, Charles Campbell, et. al., Agricultural Law Center, University of Iowa, Iowa City, Monograph No. 6, September, 1965, 45 pp.


Legal: fish and wildlife

Primary:

Fish and Game Conservation, Iowa Code Annotated, 1949, Chapter 109, "Fish and Game Conservation".

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Secondary:


Legal: general

Primary:


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Legal: general (continued)

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Water Recreational AREas, Iowa Code Annotated, 1949, 11.59 Through 111.78, "Water Recreational Areas (New); (1972 Supplement).

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A Decade of Experience Under the Iowa Water Permit System, N. William Hines, Colloquium of Lae, Agricultural Law Center, University of Iowa, Iowa City, Monograph No. 9, September, 1966, 99 pp.


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Kansas Fish and Game Laws, Creation, Organization and Authority of Forestry, Fish and Game Commission and Department, Revised, (mimeo), June, 1971, 75 pp.
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Legal: water

Primary:

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Secondary:


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Primary:

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Legal: fish and wildlife

Primary:


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Legal: general

Primary:

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Louisiana Constitution, Article XV, Section I – Drainage and Reclamation of Marsh Swamp and Overflow Lands.

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Water Problems in the Southeastern States, Louisiana Legislative Council, Baton Rouge, Research Study No. 11, (Revision of Research Study No. 5), December, 1957, 110 pp.

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Legal: water

Primary:

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Secondary:


Legal: fish and wildlife

Primary:

Legal: fish and wildlife (continued)

Primary:

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Legal: general

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MARYLAND

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Primary:

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Legal: general

Primary:


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Legal: water

Primary:

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Legal: general

Primary:


MASSACHUSETTS (continued)

Legal: general (continued)

Primary:

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Legal: water

Primary:


Legal: general

Primary:


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MINNESOTA

Legal: water

Primary:

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Secondary:


Legal: fish and wildlife

Primary:

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Legal: general

Primary:

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Primary:


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Primary:


Legal: fish and wildlife

Primary:

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Legal: general

Primary:

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MISSOURI

Legal: water

Primary:


Secondary:


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Legal: fish and wildlife

Primary:

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Legal: general

Primary:


Secondary:

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Legal: water

Primary:

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Secondary:


Legal: fish and wildlife

Primary:

Legal: fish and wildlife (continued)

Primary:

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Legal: general

Secondary:


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Legal: water

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Primary:

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Natural Resources:


NEBRASKA (Natural Resources continued)


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Legal: water

Primary:

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Secondary:


Legal: fish and wildlife

Primary:

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Primary:

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Legal: water

Primary:


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Secondary:


Legal: fish and wildlife

Primary:


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NEW HAMPSHIRE  (continued)

Legal: fish and wildlife (continued)

Primary:

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Legal: general

Primary:


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Legal: water

Primary:

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Primary:

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Primary:

NEW JERSEY (continued)

Legal: general (continued)

Primary:


Natural Resources:

NEW MEXICO

Legal: water

Primary:

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Secondary:


Legal: general

Primary:

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Legal: water

Primary:


Secondary:


Legal: fish and wildlife

Primary:

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Legal: general

Primary:


Natural Resources:


NORTH CAROLINA

Legal: water

Primary:


Secondary:


Legal: fish and wildlife

Primary:


Secondary:


Legal: general

Primary:

Environment, General Statutes of North Carolina, Chapter 113A, "Pollution Control and Environment."
Legal: general (continued)

Primary:


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Natural Resources:


NORTH DAKOTA

Legal: water

Secondary:

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Primary:

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Legal: water

Primary:


Secondary:

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Legal: fish and wildlife

Primary:

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Legal: general

Primary:


Natural Resources:

OKLAHOMA

Legal: water

Primary:

Waters and Water Rights, Oklahoma Statutes Annotated, 1970, Title 82, "Waters and Water Rights."

Secondary:


Legal: fish and wildlife

Primary:

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Natural Resources:


Legal: water

Primary:

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Legal: fish and wildlife

Primary:

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OREGON (continued)

Legal: fish and wildlife (continued)

Primary:

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Protection of Fish Oregon Revised Statutes, 1971, 538.150, "Protection of Fish," Chapter 538, "Withdrawal of Certain Waters from Appropriation".

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Legal: general

Primary:

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Legal: general (continued)

Primary:


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PENNSYLVANIA

Legal: water

Primary:


Secondary:


Legal: fish and wildlife

Primary:

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Legal: general

Primary:


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Natural Resources:


RHODE ISLAND

Legal: water

Primary:


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Legal: fish and wildlife

Primary:


Legal: general

Primary:


Secondary:

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Legal: water

Secondary:


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Legal: fish and wildlife

Primary:


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Protection of Game, Code of Laws of South Carolina Annotated, 1962, Title 20, "Fish, Game, etc.", Chapter 5, "Protection of Game."

Legal: general

Primary:


Secondary:

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SOUTH CAROLINA (Continued)

Natural Resources:


SOUTH DAKOTA

Legal: water

Primary:

Beneficial Use, South Dakota's Compiled Laws, 1967, 46-1-6, Beneficial Use Defined as Reasonable, Useful and Beneficial to Appropriation Consistent with Public Interest; Title 46, "Waters and Water Rights".

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Legal: fish and wildlife

Primary:

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Legal: general

Primary:


Natural Resources:

TENNESSEE

Legal: water

Primary:


Secondary:


Legal: fish and wildlife

Primary:


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TENNESSEE (continued)

Natural Resources:


TEXAS

Legal: water

Primary:

Water Appropriation, Vernon's Texas Code Annotated, 1972, 5.023 (6), Water May be Stored or Diverted for Pleasure; 5.023, "Purposed for Which Water May be Appropriated".


Secondary:


Legal: fish and wildlife

Primary:


Legal: general

Primary:

Game Preserves, Vernon's Texas Code Annotated, 1972, 5.023 (10), Game Preserves; 5.023, "Purposes for Which Water May be Appropriated".

Recreation and Pleasure, Vernon's Texas Code Annotated, 1972, 5.023 (7), Recreation and Pleasure; 5.023, "Purposes for Which Water May be Appropriated".

Natural Resources:

A Report to the Governor and to the 62nd Legislature by the Texas Water Resources Study Committee, Texas Water Resources Study Committee, Austin, 1970, 78 pp.
TEXAS  (Natural Resources continued)


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Legal:  water

Primary:


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Secondary:


Legal:  fish and wildlife

Primary:

Fish and Game, Utah Code Annotated, 1953, 23-3-5 and 23-3-6, Pollution of Fish Habitat a Misdemeanor; Title 23, "Fish and Game"; Chapter 3, "Fishing, Angling, and Fish Ponds".

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Legal:  general

Primary:

Limitation on Appropriation, Utah Code Annotated, 1953, 73-3-8, Applications for Appropriation Rejected if They Affect Recreation, Environment or Natural Streams; Title 73, "Water and Irrigation," Chapter 3, " Appropriation."

Stream Alteration, Utah Code Annotated, 1953, 73-3-29, Natural Stream Relocation or Alteration Unlawful Except for Emergencies, Title 73, "Water and Irrigation;" Chapter 3, " Appropriation."
Legal: general (continued)

Primary:

Recreational Uses of Naturally Flowing Streams, 1971 General Session, H. B. No. 79; An Act Amending Section 73-3-8, Utah Code Annotated 1953, As Amended by Chapter 137, Laws of Utah 1959, and Enacting Section 73-3-29, Utah Code Annotated 1953, Relating to the Protection of Public Recreation and Natural Stream Environment; Providing the State Engineer with Control Over Relocation, Alteration or Change of Natural Streams, Their Channels, Beds or Banks; and Protecting the Division of Water Rights Against Cost Incurred by Applicant Seeking to Relocate, Alter or Change a Natural Stream; Messrs. Judd, et. al., 1971, 3 pp.


Natural Resources:


Legal: water

Primary:

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Legal: fish and wildlife

Primary:

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Legal: general

Primary:


Conservation, Vermont Statutes Annotated, 1972, 10-1-6301, Title 10, "Conservation and Development."

Private Preserves, Vermont Statutes Annotated, Title 10, Sections 5201-5211a, Supplement, 1968.
VERMONT (continued)

Legal: general (continued)

Primary:

Lands Lying Under Public Waters, Vermont Statutes Annotated, Title 29, Chapter 11, (Undated), 3 pp.

Natural Resources:

VIRGINIA

Legal: water

Primary:


Secondary:


Legal: fish and wildlife

Primary:


Fish, Oysters and Shell Fish, Virginia Annotated Code, Sections 28.1-143 Through 28.1-159, 1969.

Game, Inland Fisheries and Days (State and County Fishing Licenses), Virginia Annotated Code, Sections 29-57 Through 29-60, 29-77.1, 1969.

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Legal: general

Primary:

Recreational Use of Wetlands, Code of Virginia, 1950, 62.1-13.5(3) (c), Recreational Use of Wetlands, Title 62.1, "Waters of the State, Ports, and Harbors."


Secondary:

Protection of Virginia's Wetlands, Report of the Wetlands Study Commission to the Governor and the General Assembly of Virginia; Commonwealth of Virginia, Department of Purchases and Supply, Richmond, 1972, 4 pp.
VIRGINIA (continued)

Natural Resources:


WASHINGTON

Legal: water

Primary:


Water Quality Standards (Interstate), Chapter 373-12; Washington Administrative Code 372-12-010 Through 372-12-160; Dispositions of Sections Formerly Codified in This Chapter, 30 pp.

Water Resources Act of 1971, Chapter 90.54, July 1, 1971.


Secondary:


Legal: fish and wildlife

Primary:

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Natural Resources:


WEST VIRGINIA

Legal: water

Primary:


Secondary:


Legal: fish and wildlife

Primary:


Legal: general

Primary:


Natural Streams Preservation Act, West Virginia Annotated Code, Article 5B, Sections 20-5B-1 Through 20-5B-17.
WEST VIRGINIA (continued)

Natural Resources:

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Memorandum of Agreement with the Department of Natural Resources, State Road Commission of West Virginia, Charleston, November 12, 1969, 5 pp.

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Protection of Streams, Lakes and Reservoirs; State Road Commission of West Virginia, Departmental Directive DD-54-1, Supersedes DD-54, October 21, 1966, 1 p.


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WISCONSIN

Legal: water

Primary:


Navigable Water Protection Law, Wisconsin Statutes Annotated, 1957, 144.26 "Navigable Water Protection Law."


Water Rights, Wisconsin Statutes Annotated, 1957, 144.01 Through 144.57 "Water, Ice, Sewage and Refuse."

Secondary:


Legal: fish and wildlife

Primary:

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Legal: general

Primary:

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Powers of Commission (Recreation and Water Pollution Control), Wisconsin Annotated Statutes, Section 27-05, 1964, As Amended, Supplement, 1971.

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Wisconsin Administrative Code: Rules of the Department of Natural Resources, Wisconsin Division of Environmental Protection, Madison, 150 pp.


Legal: general (continued)

Primary:

Wolf River Preservation, Wisconsin Statutes Annotated, 1957, 30.251 "Wolf River Preservation."

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