

## THE PASSAGE OF MISSISSIPPI'S WATER LAWS IN RETROSPECT

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The hardest task in life is to get someone in the middle of a forest to appreciate a tree - but place him in the desert and a tree is a gift from heaven. In past years this situation has existed with ground and surface water in Mississippi. We would pass free flowing wells and open faucet without a moments' thought. Flood control and drainage have been foremost in the minds of our lawmakers. Water quality has been a growing concern due to Federal money and regulations concerning health needs.

In 1956, the State of Mississippi enacted legislation dealing with permitting surface water use due to efforts of some far-sighted people like Sam Thompson and an unusually dry farming season. It wasn't until the late 1970's that certain areas like Tupelo and parts of the Mississippi Delta became alarmed about ground water. The newly created Department of Natural Resources working with a few State dollars and assistance of the Geological Survey confirmed possibilities of ground water problems. The increasing use of ground water for rice, catfish, and other agricultural uses in the Delta coupled with a drop in the level of the aquifer supplying this water prompted an appropriation for the Department of Natural Resources for additional survey of the ground water in this area.

Other areas of concern were developing on the Gulf coast about salt water intrusion, and in the urban areas of Jackson and Natchez. The information was of sufficient significance to the technical people and the private sector groups whose economic future was threatened that it appeared we could have serious problems; therefore, some law on the subject was needed.

In 1982, many meetings were held with the Department of Natural Resources staff, myself representing the Governor's Office, members of the Delta Council, various state agencies, various municipalities and legislators to plan the approach toward establishing the machinery to assist with water management problems.

Governor William Winter requested the Legislature in January of 1983 to establish the Water Management Council, composed of a group of technical public officials, representatives of agencies involved in water management, representatives of local governments, private sector agricultural and industrial representatives and environmental and recreational representatives. The charge to the Council was broad enough to cover virtually every aspect of water management in the State. The Department of Natural Resources was directed to be the support agency for the Council.

The Council was appointed and met following the 1983 session of the Legislature. I was designated by the Governor as Chairman, and we proceeded to establish the game plan. With all the various interests and personalities on the Council, it was necessary and proper to give every interest group in water management an opportunity to be heard before the Council. Open discussion and adequate information were necessary if we were to be successful.

The Council retained the Law Institute at the University of Mississippi to compile Mississippi law on the subject of ground and

surface water. This was to include a listing of all public bodies dealing with water and the role supposed to be played by each body.

The Council heard testimony from other states and regions as to their laws and experiences with water management problems. We were fortunate to have the assistance of persons and organizations working on water management problems such as the Mississippi Water Resources Research Institute and individuals in the Law Institute. This gave the Council some insight on actual situations. Federal and State officials on the Council were a ready source of up-to-date rules, regulations and current problems. The Council went through an educational process as public and private sector interests exchanged information, concerns and personal thoughts.

In the fall of 1984, the Council brought together the language and thoughts of the various interests on the Council into a report and two recommended pieces of legislation.

They were introduced as H.B. 762, and omnibus revision of Mississippi water law and H.B. 149, providing for Regional Water Management Districts. Presentations were made before interested groups and both Houses of the Legislature. Governor Allain supported the legislation in his January speech to the Legislature. Active support was given by Council members, Delta Council, Farm Bureau, cities and water districts. There were anxious moments and minor amendments - but we were successful. We were able to have a thorough explanation for the many questions and concerns. We had a well informed private sector that responded to questions and concerns of the Legislature. I'm sure that as the State moves forward and water management becomes more involved there will be need for changes. The centralized data base and the development of the state-wide water management plan will prove invaluable in making those decisions.

I think it most important that the Policy Statement on Water Resources is inserted in the Mississippi Code, and I would like to read it to you at this time.

51-3-1. It is hereby declared that the general welfare of the people of the State of Mississippi requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable, that the waste or unreasonable use, or unreasonable method of use, of water be prevented, that the conservation of such water be exercised with the view to the reasonable and beneficial use thereof in the interest of the people, and that the public and private funds for the promotion and expansion of the beneficial use of water resources shall be invested to the end that the best interests and welfare of the people are served.

It is the policy of the Legislature that conjunctive use of groundwater and surface water shall be encouraged for the reasonable and beneficial use of all water resources of the state. The policies, regulations and public laws of the State of Mississippi shall be interpreted and administered so that,

to the fullest extent possible, the ground and surface water resources within the state shall be integrated in their use, storage, allocation and management.

All water, whether occurring on the surface of the ground or underneath the surface of the ground, is hereby declared to be among the basic resources of this state to therefore belong to the people of this state and is subject to regulation in accordance with the provisions of this chapter. The control and development and use of water for all beneficial purposes shall be in the state, which, in the exercise of its police powers, shall take such measures to effectively and efficiently manage,

protect and utilize the water resources of Mississippi.

To sum up, successful legislation comes with an apparent need for the legislation and a knowledge of the legislative process. It is particularly helpful when you have economic interests that become convinced of the necessity of regulation. Controversial matters, openly considered with adequate debate, often result in reasonable decisions.

The presence of trained and knowledgeable employees in government, working together with the private sector interests, can produce practical steps toward solving a problem. It was *time* to address the question of water management -- and it *was* addressed in a proper manner.