



Report Highlights

Status Update: Regulation and Valuation of Surface Water

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Why We Conducted This Audit

We conducted this review in response to a legislative request on the regulation and valuation of surface water and to provide an update on the implementation of recommendations relevant to surface water that we made in the February 2020 audit report *Louisiana's Management of Water Resources*. In Louisiana, surface water may be used for drinking water, agriculture, and industry, such as in hydraulic fracturing.

What We Found

Overall, we found that Louisiana does not have a statewide water management plan, which would help it better regulate surface water. In addition, The Department of Natural Resources' (DNR) Surface Water Management Program remains voluntary, and DNR should strengthen its management of surface water cooperative endeavor agreements (CEAs). Current state law caps the fair market value of surface water, which does not allow for increases due to market changes and inflation. Specifically, we found the following:

- **Louisiana does not have a statewide water management plan, which would help Louisiana better regulate and value surface water. The lack of a water code in state law and the need for more water use data have delayed the creation of a statewide water management plan.** A comprehensive water management plan is important to help ensure adequate and sustainable water sources, surface and ground, for the citizens of Louisiana; determine what quantity of water Louisiana can sell to companies or other states; and determine how much water is worth.
- **DNR's Surface Water Management Program is voluntary. During fiscal years 2020 through 2021, DNR had 87 active CEAs for surface water withdrawals in place, requesting a total of 1.54 trillion gallons of surface water withdrawals.** For 56 (64.4%) CEAs, the CEAs stipulate cash payment for water withdrawals, while 31 (35.6%) provided economic impact reports in lieu of cash payments. In fiscal years 2020 through 2021, DNR collected \$302,004 in cash payments for surface water use. The approximate value of the water used for the 23 in-lieu CEAs reporting water usage was \$239,168. For 32 CEAs, companies did not report any water usage.

Act 955 of the 2010 Regular Legislative Session defines **running surface water** as "the running waters of the state, including the waters of navigable water bodies and state-owned lakes."

Surface water management is intended to protect the resources and to maintain sustainability, ecological balance, and the environment.

Source: Department of Natural Resources

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What We Found (Cont.)

- **Even if CEAs remain voluntary, DNR needs a more robust surface water regulatory process. Ten percent of the CEAs active during fiscal years 2020 through 2021 contained errors in the total volume of water requested. In addition, DNR has limited staff and funds to administer the program and does not monitor compliance with all terms of the CEAs.** Although surface water CEAs authorize DNR to monitor companies' compliance with CEA requirements, DNR currently relies on self-reported information from entities with CEAs and does not verify the information companies submit.
- **State law caps fair market value at 15 cents per 1,000 gallons, which does not allow for increases based on inflation and market demands. During fiscal years 2020 through 2021, DNR collected \$302,004 from surface water CEAs, which went into the Aquatic Plant Control Fund. The CEA payments made up only 11% of the Aquatic Plant Control Fund revenue and 3.5% of LDWF's overall Aquatic Plant Control Program.** Act 556 of the 2014 Regular Legislative Session capped fair market value based on what the Sabine River Authority (SRA) charged at the time, which was 15 cents per 1,000 gallons. Currently, SRA charges 18 cents per 1,000 gallons for Toledo Bend water for long-term industrial contracts and charges \$1.80 per 1,000 gallons for short-term contracts, which may include hydraulic fracturing. In July 2021, on the Texas side of Toledo Bend, Texas charged \$4.50 per 1,000 gallons for hydraulic fracturing water use.