*Welcome to LLA Reports, a podcast produced by the Louisiana Legislative Auditor’s office. This podcast is intended to be an oral representation of the written report it highlights and is primarily for the use of the Louisiana Legislature.*

This is Kristen Jacobs. I’m a senior auditor with LLA Performance Audit Services. This episode of LLA Reports focuses on our new report titled “Status Update: Regulation and Valuation of Surface Water.”

The purpose of this performance audit was to provide information on Louisiana’s progress in regulating and valuing surface water resources based on recommendations we made in a February 2020 report.

That performance audit found that, since 1956, multiple studies have recommended the state develop a comprehensive water management plan; however, Louisiana has not done so.

In addition, because of the numerous aquifers and associated surface water basins experiencing water declines, and other states seeking to obtain water from Louisiana, the state needs to know how much water is necessary for long-term sustainability so it can determine how much Louisiana needs for its own use and how much water can be made available for purchase.

In our new report, we found that Louisiana still does not have a statewide water management plan, which would help it better regulate and value surface water, and that the delay in developing a plan has been caused in part by the lack of a water code in state law and the need for more water use data.

Additionally, the Department of Natural Resources’ – or DNR’s – Surface Water Management Program, which was established as a result of Act 955 of the 2010 Regular Legislative Session, is voluntary. During fiscal years 2020 through 2021, DNR had 87 active cooperative endeavor agreements – or CEAs – in place for surface water withdrawals that totaled 1.54 trillion gallons.

For 56 – or 64.4 percent – of the CEAs, cash payment was required for water withdrawals, while 31 – or 35.6 percent – permitted the submission of economic impact reports in lieu of cash payments.

We found that DNR needs a more robust surface water regulatory process, even if the CEAs remain voluntary. For instance, 10 percent of the CEAs active during fiscal years 2020 through 2021 contained errors in the total volume of water requested. Additionally, DNR has limited staff and funds to administer the program and does not monitor compliance with all terms of the CEAs.

We also found that state law caps fair market value for surface water 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 dollars from surface water CEAs, which went into the Aquatic Plant Control Fund.

Act 556 of the 2014 Regular Legislative Session capped the water’s fair market value based on what the Sabine River Authority charged at the time, which was 15 cents per 1,000 gallons. Currently, the authority charges 18 cents per 1,000 gallons for Toledo Bend water for long-term industrial contracts and $1.80 per 1,000 gallons for short-term contracts, which may include hydraulic fracturing.

In contrast, on the Texas side of Toledo Bend, Texas charged $4.50 per 1,000 gallons in July 2021 for hydraulic fracturing water use.

As a result of our audit, we developed five matters for legislative consideration and two recommendations.

We suggested the Legislature designate a person or entity to develop a comprehensive water resource management plan as well as adopt key pieces of the anticipated new water code or of the Regulated Riparian Model Water Code before the entire water code proposal is finished.

In addition, we suggested the Legislature make surface water CEAs mandatory or require another process, such as permitting, for entities that wish to use a certain amount of surface water. We also suggested the Legislature specify a minimum amount of surface water withdrawals that are subject to a mandatory process, such as CEAs or permits.

We suggested as well that the Legislature allocate funds for DNR to administer the Surface Water Management Program, which could include allowing the agency to retain a percentage of the revenue it collects or place all funds collected into the State General Fund and allocate funding through the appropriations process.

We recommended that DNR improve its process for approving surface water CEAs to ensure the agreements do not include errors and improve its monitoring of compliance with the terms of the CEAs.

As a part of its response, which is included in the report as Appendix A, DNR agreed with both of our recommendations.

*We hope you found this podcast informative, and that you’ll follow future episodes of LLA Reports.*

*This podcast was created as part of the audit report just discussed and is intended primarily for the use of the Louisiana Legislature. Both the full report and the podcast can be found on the LLA’s website at* [*www.lla.la.gov*](http://www.lla.la.gov)*.*

*Thank you for listening.*