



A Report of the
Georgia Water Coalition

September 12, 2002



GEORGIA
WATER
COALITION



Effective water management that is fair to all users and supports sustainable growth must begin with the principle that water is a public resource.

This time honored concept has a long history, dating back to the Justinian Code in Rome, which said: “By the law of nature, flowing water is the common property of all men.” The idea that water is held in common by the people, subject to reasonable use by others, is inherent in Georgia’s common-law system of riparian rights, as reaffirmed in our statutes that give the state authority to manage surface and ground waters in the public interest. It is essential for Georgia’s leaders to continue and clarify this tradition of managing water as a public resource within our regulated riparian system.

Once taken for granted, Georgia’s abundant fresh water supplies have been under increasing demand from the state’s fast-growing population. Counties and cities want clean drinking water. Farmers want water for irrigation. Some industries use water as a chemical feedstock or as a heat sink. While power companies want a steady flow of water through their dams to generate baseload electricity, the lakeshore residents want to keep the lakes full for recreation. During periods of drought, these upstream demands strain the state’s watersheds and also result in a lack of fresh water in the coastal estuaries, giving rise to negative health effects in marine life and consequent harm to the coastal economy.

Smart water management is key to sustainable growth, allowing both economic development and conservation to exist side by side. With that concept in mind, the Georgia Water Coalition (the Coalition) was organized to make recommendations concerning the implementation of a comprehensive water policy for the State of Georgia. The Coalition’s goal is to find a sustainable solution to Georgia’s water crisis that addresses the needs of agriculture and business and contributes to public health, while maintaining the integrity of Georgia’s natural systems.

The following four principles define the framework of the Coalition's work and its recommendations:

- 1.** That the surface and ground waters of the state continue to be a public resource managed in the public interest and in a sustainable manner by the State to protect natural systems and meet human and economic needs,
- 2.** That water management must be guided by a comprehensive state water management plan, developed by a lead agency with a dedicated planning staff, in coordination with other agencies and with the participation of all interested citizens,
- 3.** That effective water management requires regional water planning, based on watersheds, river basins and aquifers, that is tied to implementation including an adaptive management process,
- 4.** That regulation of interbasin transfers must be strengthened to reflect scientific knowledge, respect natural systems, and protect the basins of origin and receipt.



The Georgia Wildlife Federation, The Georgia Conservancy, the Upper Chattahoochee Riverkeeper, and the Southern Environmental Law Center are the founding members of the Coalition. Over the past four months, 40 organizations have officially joined the Coalition's efforts. This diverse group of individuals includes members of the environmental community, college professors, well drillers, forest landowners, farmers, industrialists, sportsmen, and community activists.

While the Coalition has looked at an array of water issues, members quickly agreed that the overarching need is to maintain water as a public resource in Georgia. Without that, any recommendations with regard to conservation, biodiversity, groundwater, or enforcement become much more difficult to implement.

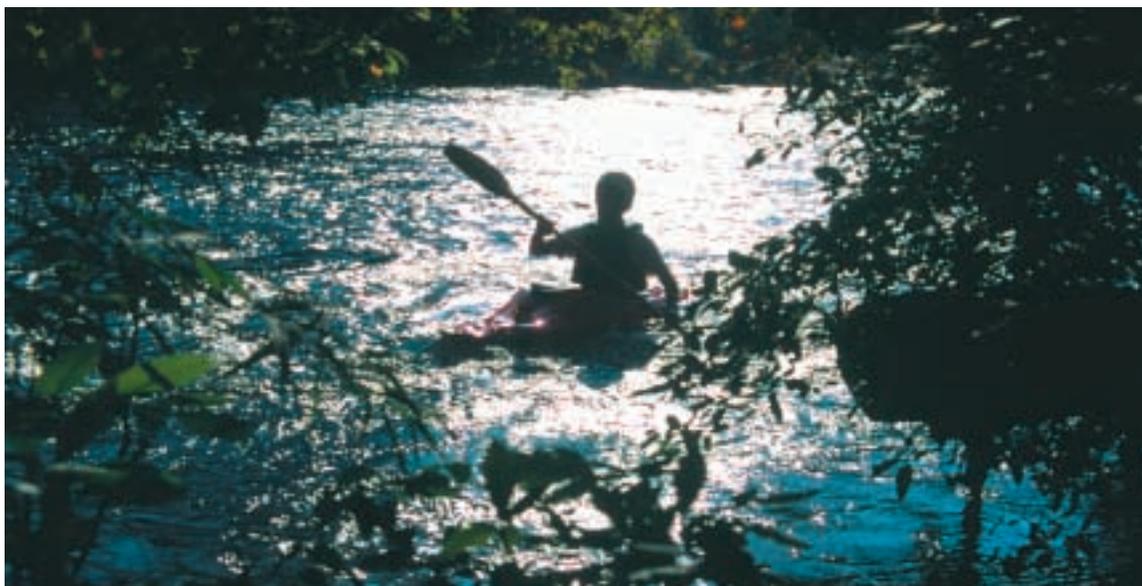
During the five all-day sessions that took place over the summer, participants hammered out the details of the Coalition's recommendations for a new statewide water management policy for Georgia. These recommendations were expanded and refined over a three-month period. At the final meeting, the Coalition examined the recommendations, addressed gaps and duplications, and arrived at consensus. The Coalition agreed that their recommendations should be refined into a final report, to be submitted initially to the Governor and later to the General Assembly.

The recommendations in this report are supported by a full consensus of the Coalition, and it is urged that they be implemented by the Governor or included in his legislative program. The Coalition views the following recommendations as essential components of the foundation for water policy and management in Georgia for the next 100 years.

Recommendations of the Georgia Water Coalition

Part A: Joint Comprehensive Water Plan Study Committee

The Coalition appreciates and applauds the work of the Joint Comprehensive Water Plan Study Committee. The Coalition fully supports statewide comprehensive planning and regional planning based on watersheds and, where appropriate, aquifers. To provide the framework at the state level, however, it is not necessary to create any new decision-making authorities. The only missing pieces are a mechanism for coordination among state agencies and additional staff with expertise in science and planning. Furthermore, to respect watersheds and watershed-based planning, it is essential to empower the residents of each river basin in the planning process and to regulate interbasin transfers strictly. It is also necessary to avoid marketing water through trading of withdrawal permits, which will result in water being transported out of the watershed and out of the state. The Coalition believes that recommendations 1-10 provide better alternatives on these points but, otherwise, supports the recommendations of the Joint Study Committee.



Recommendation 1:

Affirm that water is a public resource.

- ▶ Legislation for water planning and management must be based on the affirmation that water is a public resource.

Recommended by the Water Rights Working Group of the Joint Comprehensive Water Plan Study Committee:

“The waters of the State are a public resource managed by the State in the public interest and subject to the State’s sovereign power to plan, regulate, and control the withdrawal and use of those waters, under law, in order to protect the public health, safety, and welfare. Georgia manages water resources in a sustainable manner to support the State’s economy, to protect natural systems by maintaining a safe yield and to enhance the quality of life for all citizens.”

“‘Water as a public resource’ means that surface and ground waters lying within or forming a part of the boundaries of the state are so essential to the common good that they must be managed in the public interest, subject to reasonable use by persons pursuant to usufructory rights.”

“The ‘public interest’ is any interest in the waters of the State or in water usage within the State shared by the people of the State as a whole and capable of protection or regulation by law, as informed by the policies and mandates of Georgia water law.”

“‘Sustainable manner’ means the use, development and protection of water resources at a rate and in a way that enables people to meet their current needs without jeopardizing the ability of future generations to meet their needs.”

“The ‘safe yield’ of a water source is the amount of water available for withdrawal without impairing the long-term use of the water source, including the maintenance of the biological, chemical, and physical integrity of the source.”

Recommendation 2:

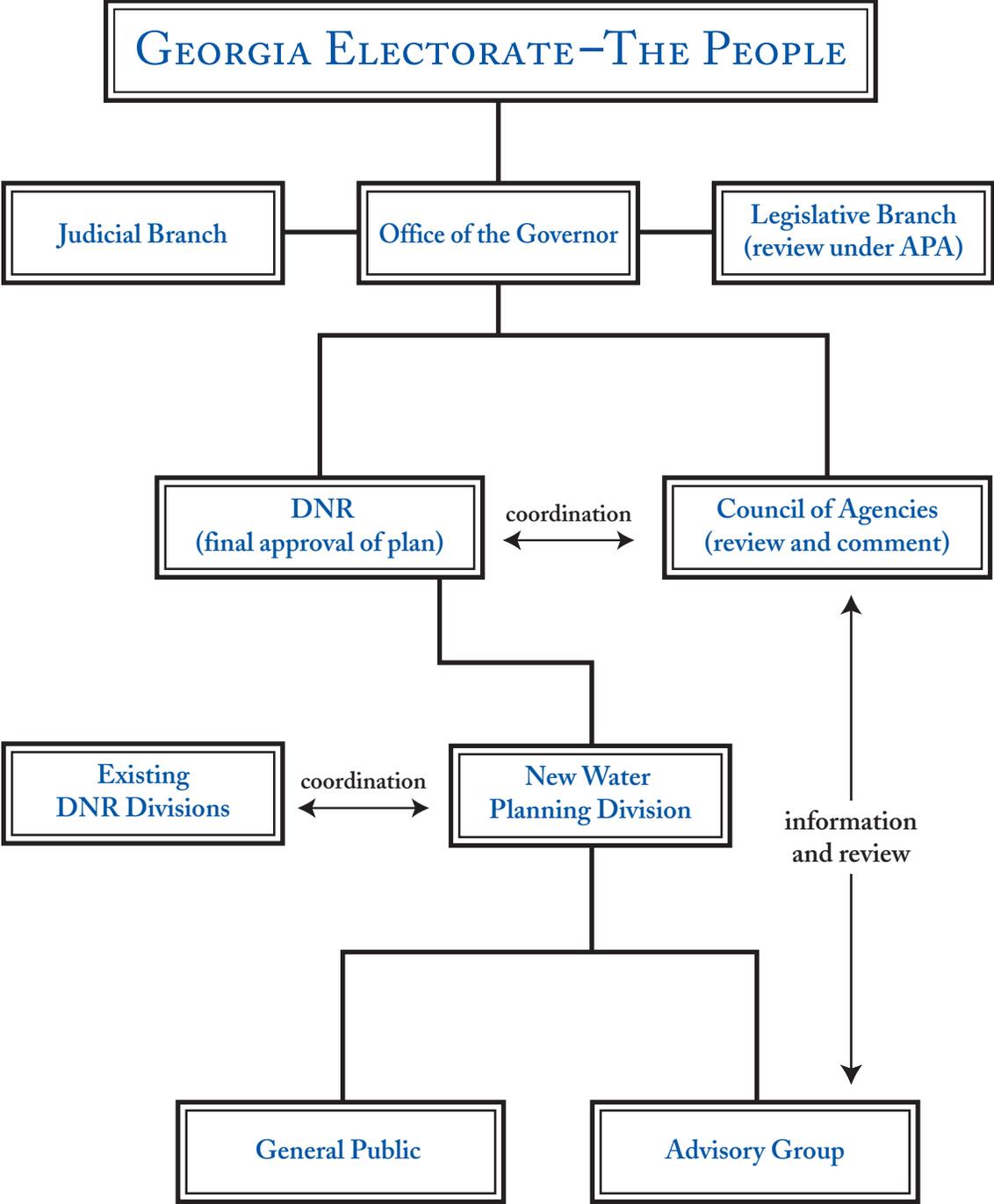
Adopt the seven principles considered by the Joint Study Committee.

- ▶ Apply the seven guiding principles for a regulated riparian system recommended by the Water Rights Working Group of the Joint Study Committee.

The seven principles are as follows:

1. “Georgia should continue to regulate large withdrawals under the Regulated Riparian doctrine.”
2. “All water withdrawals should be subject to the 'reasonable use' standard.”
3. “All persons withdrawing water should have an interest in [the] land before obtaining a permit.”
4. “Georgia's water programs should manage water resources in an integrated system that recognizes the physical realities of water to include the interrelationship of surface and ground water and water quality and quantity.”
5. “Georgia should allocate its water resources while maintaining a safe yield.”
6. “The State should maintain minimum flows and levels in all water sources as necessary to protect the appropriate biological, chemical and physical integrity of water sources by reserving such waters from allocation and by authorizing additional protections of the waters of the State.”
7. “The State should conserve the waters of the State through suitable policies promoting water conservation, efficiency and reuse and by encouraging private efforts to conserve and to avoid waste.”

Framework for Water Planning at the State Level



Recommendation 3:

Continue to leave the final authority with the Board of Natural Resources.

- ▶ Leave final administrative authority for water planning and management with the Board of Natural Resources, subject to legislative and judicial oversight under existing terms of the Administrative Procedure Act.

Recommendation 4:

Create a new Water Planning Division within the Department of Natural Resources.

- ▶ Provide a dedicated staff with responsibility to develop the Comprehensive State Water Plan (the State Plan) in a new Water Planning Division within the Georgia Department of Natural Resources. Emphasize expertise in science and planning in staffing the new division.

Recommendation 5:

Create a Water Planning Council of Agencies.

- ▶ To ensure coordination in the development of the State Plan, create a council of appropriate state agencies that reports to the Governor's Office. Authorize the council to review and comment on the Plan and its revisions to the Board of Natural Resources and the Governor.

Recommendation 6:

Create a Water Resources Advisory Group.

- ▶ Create an advisory group to the Water Planning Division and the council, to be composed of technical experts from state and federal water-related agencies, academic institutions, private organizations, and other stakeholders. Assure geographically broad and user-balanced stakeholder representation on the advisory group.

Recommendation 7:

Ensure a meaningful public review.

- ▶ Require that the Water Planning Division and council provide meaningful opportunities for the public to review and comment on drafts of the State Plan, revisions and annual reviews.

Recommendation 8:

Adopt guidelines for regional planning and management statewide.

- ▶ Regional planning and management of the state's water resources should be based on the state's 14 major river basin watersheds and the water supply aquifers recharged by those systems. Local, watershed, and aquifer regional planning must be based on minimum standards that are encouraged by clear incentives. The plans are to be developed by river basin and aquifer planning councils that have broad and balanced memberships and that provide for extensive public participation.



Recommendation 9:

Establish strict guidelines for interbasin transfers.

- ▶ Prohibit interbasin transfers as presumptively unreasonable uses except as provided by state law under the following circumstances:
 - Grandfather existing interbasin transfers, limiting the volume of the transfer to an amount equal to the current wastewater discharge permit.
 - Prohibit “wheeling” or “leapfrogging” that would extend grandfathered transfers beyond existing geographical limits.
 - In new or expanded water and wastewater systems, non-consumptive use should be returned to the basin of origin.
 - Allow new interbasin transfers only for temporary emergencies, to be defined by law and declared by the Governor.
 - Allow a new transfer only if the applicant is in full compliance with state and regional water management plans, including requirements for water conservation.
 - Include conditions in a new permit to protect the basins of origin and receipt.

Recommendation 10:

Standardize the criteria for all water withdrawal permits.

- ▶ Amend the Groundwater Use Act and the Water Quality Control Act to authorize the Director of the Environmental Protection Division to grant or deny applications for agricultural permits under the same standards applicable to applicants for permits for other uses.



Part B: Additional Recommendations by the Georgia Water Coalition Not Addressed by the Joint Comprehensive Water Plan Study Committee.

The Coalition worked on a range of issues not addressed by the Joint Study Committee that we believe are critical to the development of comprehensive water planning and management in Georgia. The following recommendations, outlined by conceptual statements, emerged from the work of the Coalition.





Meeting human needs for water must include a commitment to minimizing impacts on the resources and respecting the integrity of rivers, aquifers, and native ecosystems.

Recommendation 11:

Maintain natural seasonal flow patterns for streams.

- ▶ Maintain natural seasonal flow patterns for streams impacted by runoff, withdrawal, returns, or reservoir releases. Commit resources necessary to move from an Interim Instream Flow Policy to a Final Policy within the next three years that will be used in permitting reservoirs, water withdrawals, and for other purposes.

Recommendation 12:

Protect groundwater resources and aquifer recharge areas.

- ▶ Protect groundwater resources, including significant recharge areas, concentrated recharge areas, aquifers, and all sites of permitted activity, by enforcing and enhancing applicable laws and regulations.

Recommendation 13:

Organize water districts to reflect natural boundaries of watersheds.

- ▶ Water planning and management districts should reflect natural boundaries by incorporating river basins from their headwaters to their confluence.

Recommendation 14:

Require comprehensive watershed plans.

- ▶ Each district shall have on-going master planning that lays out what each watershed can sustain. Local actions shall be consistent with state and regional water plans and guidelines. Apply uniform, enforceable standards for all plans.

Recommendation 15:

Develop and implement a comprehensive plan for headwaters protection.

- ▶ Headwaters protection is vital in Georgia since all rivers begin within state boundaries.



Water conservation and the efficient use of existing water supplies must always be treated as the highest priority in planning to meet human and ecosystem needs.

Recommendation 16:

Aggressively assess water conservation as a supply source.

- ▶ In all plans, aggressively assess water conservation as a supply source, prior to considering other options, including, but not limited to, new impoundments, interbasin transfers, reuse of treated water, collection and use of gray water, and rainwater harvesting. The moratorium on aquifer storage and recovery (ASR) should continue indefinitely. Require, by executive order, that state agencies become models for conservation and efficient use of water supply.

Recommendation 17:

Consider the construction of reservoirs and dams as a last resort.

- ▶ Reservoirs and dams impact the riverine system “by altering physical and chemical processes, disrupting biological communities, and interrupting longitudinal and lateral connections in the river-floodplain system.” (“Reservoirs in Georgia: Meeting water supply needs while minimizing impacts.” University of Georgia River Basin Science and Policy Center. May 2002)

Recommendation 18:

Maximize conservation using permit requirements.

- ▶ Conservation plans should be included as enforceable provisions of new or expanded permits. Require all permitted users to maintain a reportable record of their use of groundwater. No new permits or any modification of existing permits should be issued until the impact on the resource is known. All revocable portions of existing permits should be suspended to achieve conservation of the resource. Enforce all conservation provisions in permits.

Recommendation 19:

Establish science-based guidelines and best management practices.

- ▶ Create a working group, perhaps within the advisory group to the new Water Planning Division, dedicated to establishing, reviewing, and maintaining science-based guidelines and best management practices for local/regional water conservation and supply planning.



The public must be provided with opportunity for meaningful participation in the water planning process at the state, regional, and local levels. Policy makers must be provided with comprehensive information so they can make the wisest choices when planning and implementing water policies.

Recommendation 20:

Develop baseline data to support water management decisions.

- ▶ Develop consistent, high quality, scientifically-based baseline data to support water management decisions. Georgia's existing water quality and quantity monitoring programs are inadequate to support comprehensive water planning and management.

Recommendation 21:

Inform citizens about potential health effects.

- ▶ Provide better information about substances in water that affect the health of citizens. "Report cards" issued by water utilities should be enhanced to educate citizens about potential health effects of regulated and unregulated substances. Water suppliers should inform users on a timely basis when problems arise.



All users shall be guided by appropriate incentives and disincentives that will lead them to act responsibly.

Recommendation 22:

Create and provide economic and regulatory incentives.

- ▶ Provide financial incentives to an entity that implements low impact designs, such as innovative stormwater management and phased development. Responsible managers should be rewarded. Repeat violators should be notified with reports and citations, and mandated to attend a certification program.





The State must enforce the provisions that are enacted to protect water resources, and the legislature must appropriate sufficient funding to support planning, enforcement, research, and policymaking regarding water.

Recommendation 23:

Increase enforcement of the Erosion and Sedimentation laws and regulations.

- ▶ Provide thorough and rigorous enforcement of laws relating to Erosion and Sedimentation (E&S). Enforcement should include more use of ‘stop work orders.’ The number of enforcers should be increased. Exemptions and/or variances relating to E&S should be reduced significantly and have sunset dates. When Exemptions and/or variances are granted, the project should have more effective Best Management Practices and a higher user fee. The State should adopt the federal Phase II Stormwater Regulations, and reform Georgia’s erosion control programs to correct deficiencies identified in the State Auditor’s 2001 Performance Audit.



Recommendation 24:

Provide adequate funding for enforcement positions.

- ▶ Adequate funding for enforcement positions in the Environmental Protection Division should be included in the budget proposed by the Governor. There should be new sources of funding equivalent to the cost of adequate enforcement, including permit fees and penalties.





All plans, regulations, and administrative procedures must be regularly and fully evaluated.

Recommendation 25:

Evaluate EPD for ways to make enforcement more effective.

- ▶ Conduct an audit of the permitting programs administered by the Environmental Protection Division to identify where enforcement can be improved. Policy-makers and permit writers should be administered separately. Given the increasing demands posed by environmental issues and budget constraints, EPD should continue its cost-effective redeployment of staff into regional or district offices as a way of increasing environmental protection at the local level, providing technical assistance, and enforcing environmental laws.



