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AGENCY REVIEW

DEPARTMENT OF ENVIRONMENTAL PROTECTION DIVISION OF WATER AND WASTE MANAGEMENT

AUDIT OVERVIEW

Reducing the Level of Water Withdrawals That Require
Registration and Reporting May Better Protect the State's Water
Resources

The Division of Water and Waste Management's Website Is
User-Friendly and Transparent



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EXECUTIVE SUMMARY

The Legislative Auditor conducted an evaluation of the Division of Water and Waste Management (DWWM) as part of the Agency Review of the West Virginia Department of Environmental Protection (DEP) authorized pursuant to West Virginia Code §4-10-8. The report contains the following issues:

Report Highlights

Issue 1: Reducing the Level of Water Withdrawals That Require Registration and Reporting May Better Protect the State's Water Resources.

- The Legislative Auditor commends DWWM for taking proactive measures to ensure that water users comply with reporting requirements found in West Virginia Code.
- West Virginia Code requires registration and withdrawal reporting by water users withdrawing 750,000 gallons or more per month. Compared to surrounding states, this is the second highest water-use amount. Requiring small quantity users withdrawing 10,000 gallons or more per day in a month from smaller water resources to register with DWWM and report water withdrawal figures may be beneficial to management of the state's water resources.
- DWWM has developed a Water Withdrawal Guidance Tool to help water users know when it is environmentally prudent to withdraw water from state streams. The Legislature should consider making use of the Water Withdrawal Guidance Tool mandatory and requiring that water users certify that they have performed certain actions to ensure water was withdrawn in an environmentally responsible manner.

Issue 2: The Division of Water and Waste Management's Website Is User-Friendly and Transparent.

- The DWWM website scored well in both user-friendliness and transparency, scoring 14 out of 18 points for user-friendliness and 16 out of 32 points for transparency, resulting in a total score of 30 out of 50 total points, or 60 percent.
- The Legislative Auditor commends the agency for developing a user-friendly and transparent website and recommends making some modest improvements in order to enhance these features.

Recommendations

1. *The Legislative Auditor recommends that DWWM determine the additional administrative cost to the agency and to the industry associated with requiring small quantity users to report withdrawals from small streams. As part of the analysis, the agency would need to determine the number of small streams from which withdrawals would have to be reported, the number of small quantity water users that would have to report withdrawals from these streams, and the number of additional DWWM staff, if any, that would be required to process this additional information.*
2. *The Legislative Auditor recommends that the Legislature consider making use of the Water Withdrawal Guidance Tool mandatory and requiring that water users certify that they have performed certain actions to ensure that water was withdrawn in an environmentally responsible manner.*
3. *The Legislative Auditor recommends that DWWM make modest improvements to its website to increase user-friendliness and transparency.*

ISSUE 1

Reducing the Level of Water Withdrawals That Require Registration and Reporting May Better Protect the State's Water Resources.

Issue Summary

Four of the five surrounding states require the reporting of water withdrawal from streams at significantly lower water-withdrawal levels than West Virginia. The State requires registration and reporting when water withdrawal from streams is 750,000 gallons or more per month. For the purpose of comparison this equates to 25,000 gallons per day, however West Virginia registration requirements are set according to monthly withdrawals, not daily withdrawals. The states of Kentucky, Pennsylvania, and Virginia have reporting requirements at 10,000 gallons per day, and Maryland's reporting requirement is at 5,000 gallons per day. Ohio requires registration for facilities with the capacity to withdraw 100,000 gallons or more per day. In order to obtain water withdrawal information that would improve management of state water resources, it would be beneficial if the registration and reporting requirement were set at a water withdrawal level of 10,000 gallons or more per day. An alternative would be to set the registration and reporting requirement to 10,000 gallons per day for withdrawal from small water resources.

In addition, in order to help water users know when it is environmentally safe to withdraw water from a stream, DWWM developed an interactive Water Withdrawal Guidance Tool. Use of the tool is strictly voluntary. The Legislature should consider making use of the Water Withdrawal Guidance Tool or other guidance tools mandatory and requiring that water users certify that they have performed certain actions to ensure that water was withdrawn in an environmentally responsible manner.

DWWM Takes Proactive Steps to Ensure That Large-Quantity Water Users Meet Registration and Reporting Requirements.

The Water Resources Protection Act (Act), established in West Virginia Code §22-26, requires the DEP Secretary to establish a statewide registration program to monitor large quantity water users beginning in 2006 and to conduct an ongoing survey of surface and groundwater withdrawals by these users. "Large quantity users" are defined as those who withdraw 750,000 or more gallons of water in a calendar month (or 25,000 gallons or more per day). Large quantity users must initially register and report annual water withdraws for three consecutive years

"Large quantity users" are defined as those who withdraw 750,000 or more gallons of water in a calendar month (or 25,000 gallons or more per day). Surrounding states have significantly lower water withdrawal limits for monitoring purposes than West Virginia.

in order to establish a baseline average. Beyond the initial three years, registration is maintained by certifying that the amount withdrawn the previous year varies by no more than ten percent of the users' baseline average or by certifying any change in the average.

Section Six of the Act establishes mandatory compliance by large quantity users with survey and registration requirements and creates civil administrative penalties for noncompliance. DEP has established the procedure for assessing these penalties in West Virginia Code of State Rules §60-6. The Legislative Auditor requested the number of violations to these requirements for the previous three years and found that only one violation had occurred, in response to which DWWM followed procedure to resolve the issue.

DWWM indicates the use of several methods to assist large quantity users in compliance with mandatory registration and reporting. E-mail reminders are sent and, if necessary, follow-up telephone calls are made to ensure users submit the required information. Once withdrawal figures are received and entered into a database, amounts are compared to the previous year. If a large variation is found, the facility is contacted and asked to verify the reported amount. The agency also released a Notice to Report Fracwater Use to every company with a permitted Marcellus Shale well in the state, the Independent Oil and Gas Association of West Virginia, and the West Virginia Oil and Natural Gas Association in March 2011 to help clarify when water use for hydraulic fracturing must be reported. When large quantity water users fail to comply with mandatory registration and reporting, agency staff take necessary action to have erroneous information corrected or to force compliance. Therefore, the Legislative Auditor commends DWWM for taking proactive measures to ensure compliance with the requirements of West Virginia Code §22-26.

DWWM indicates the use of several methods to assist large quantity users in compliance with mandatory registration and reporting. E-mail reminders are sent and, if necessary, follow-up telephone calls are made to ensure users submit the required information.

The Legislative Auditor commends DWWM for taking proactive measures to ensure compliance with the requirements of West Virginia Code §22-26.

Small-Quantity Water Users Are Not Required to Report Water Withdrawal.

Although Emergency Rule 35-8, filed by DEP on August 22, 2011, requires filing of a Water Management Plan with the Office of Oil and Gas by well operators when a horizontal well will require 210,000 gallons or more in a month, this does not alter the 750,000 gallon reporting requirement in place for DWWM. The Legislative Auditor inquired as to whether withdrawals made by small quantity users (those withdrawing less than 750,000 gallons per month) would be a concern in terms of water resource usage and protection. DWWM responded as follows:

Under normal conditions small quantity water use would not be a major concern

in terms of statewide water usage and protection. However, the size of a withdrawal that would cause an environmental or water availability issue is relative to the size of the stream and the watershed that is feeding the stream. Any size withdrawal could be a concern; it would be dependent on the size of the withdrawal and the amount of available water.

... the size of a withdrawal that would cause an environmental or water availability issue is relative to the size of the stream and the watershed that is feeding the stream. Any size withdrawal could be a concern.

Four of the five surrounding states require withdrawal reporting for lower rates than West Virginia. Table 1 below provides these requirements:

Table 1 Water Withdrawal Reporting Requirements in Surrounding States	
Kentucky	Permits are required for withdrawals of 10,000 gallons per day or more, except for domestic, agricultural and steam-powered electrical generating plants withdrawals.
Maryland	Permits are required for all water withdrawals averaging 5,000 gallons per day or more, except domestic and agricultural withdrawals of less than 10,000 per day.
Ohio	Registration is required for any facility with the capacity to withdraw 100,000 gallons or more per day in non-stress areas. If an area is deemed a ground water stress area, any person who withdraws water at a rate greater than the specified threshold for that area must register.
Pennsylvania	Registration is required for withdrawals that exceed an average rate of 10,000 gallons per day in any 30-day period.
Virginia	Reporting of water withdrawal exceeding 1 million gallons in a month is required for crop irrigation and other withdrawals exceeding an average daily withdrawal of 10,000 gallons per day in a month. Permits are required to withdraw 300,000 gallons or more per month from an area that has been declared a Ground Water Management Area.
Sources: State environmental protection agency websites and state codes.	

As Table 1 illustrates, water usage monitoring in surrounding states vary in form and withdrawal levels for reporting. Both Ohio and Pennsylvania require registration, both Kentucky and Maryland require permits, and Virginia requires reporting of withdrawals in most areas and permits for withdrawals in locations that have been deemed Ground Water Management Areas. Virginia, Pennsylvania, and Kentucky all require withdrawal information for non-exempt users who exceed 10,000

Four of the five surrounding states require withdrawal reporting for lower rates than West Virginia.

gallons per day (300,000 gallons per month) while Maryland requires information for withdrawals of 5,000 gallons or more per day. Ohio has the least stringent requirements of the surrounding states in its non-stress areas, requiring information for users able to withdraw 100,000 gallons or more per day. However, if a location is deemed a stress area, it is assigned an area-specific threshold that may be much lower.

In order to better determine water usage and availability as part of a water management strategy, it may be beneficial for DWWM to receive withdrawal information from users who withdraw at a lower rate than 750,000 gallons per month, especially from smaller water sources. However, the administrative costs of lowering the standard should not exceed the benefit. For example, prior to 2007 Maryland did not exempt withdrawals of less than 5,000 gallons per day from its permit requirements. An advisory committee released the following findings regarding the burden of processing very small quantity withdrawal permits:

Current staffing is inadequate to process permits on a timely basis. A review of the appropriation permit data indicates that a significantly large number of permits are issued for very small withdrawals, so small that even their cumulative impact on water sources is minimal at the present time. Exempting these smaller permits (less than 5,000 gpd) could remove an unnecessary regulatory burden from the business community. Exempting smaller permits would also allow staff to re-focus their attention on the review of large permits with potentially more serious impacts, to address compliance issues more effectively, and to review and issue permits in a more timely manner.

Although DWWM has a reporting and registration requirement rather than a water withdrawal permitting system, lowering the water-withdrawal level at which users would have to register and report withdrawal data would increase staff workload. The Water Use Section of DWWM handles the water use survey in addition to multiple other tasks and currently has four staff members. Depending on the level of the increase in workload caused by lowering water use registration and reporting requirements, increasing the number of staff in this section may be necessary. It is currently unknown how many small quantity water users there are in the state. DWWM is not required to track small quantity users and has not chosen to do so voluntarily, so it is not

Virginia, Pennsylvania, and Kentucky all require withdrawal information for non-exempt users who exceed 10,000 gallons per day (300,000 for the month) while Maryland requires information for withdrawals of 5,000 gallons or more per day.

In order to better determine water usage and availability as part of a water management strategy, it may be beneficial for DWWM to receive withdrawal information from users who withdraw at a lower rate than 750,000 gallons per month, especially from smaller water sources.

possible to estimate how much of an increase in administrative workload would result from lowering the rate at which registration and withdrawal reporting are required.

West Virginia Code §22-26-3(a) states:

The waters of the State of West Virginia are hereby claimed as valuable public natural resources held by the state for the use and benefit of its citizens. The state shall manage the quantity of its waters effectively for present and future use and enjoyment and for the protection of the environment. Therefore, it is necessary for the state to determine the nature and extent of its water resources, the quantity of water being withdrawn or otherwise used and the nature of the withdrawals or other uses

Requiring registration and reporting of withdrawal only from smaller water sources that would be more impacted by lower levels of withdrawal could provide information to help protect the water resources without creating an influx of useful but costly information.

In order to obtain water withdrawal information that would improve management of the state's water resources while avoiding an unnecessary administrative burden, it may be beneficial to at least require small quantity users (those withdrawing 10,000 gallons or more of water per day in a month) from smaller water sources to register with DWWM and report water withdrawal figures. Requiring registration and reporting of withdrawal only from smaller water sources that would be more impacted by lower levels of withdrawal could provide information to help protect the water resources without creating an influx of useful but costly information. However, because the number of small quantity users in the state is unknown, it is unclear what the additional administrative burden of this reporting may be. It is important to ensure that the benefit of requiring small quantity water use reporting from small streams outweighs the cost. Therefore, **the Legislative Auditor recommends that DWWM determine the additional administrative costs to the agency and to the industry associated with requiring small quantity users to report withdrawals from small streams. As part of the analysis, the agency would need to determine the number of small streams from which withdrawals would have to be reported, the number of small quantity water users that would have to report withdrawals from these streams, and the number of additional staff, if any, that would be required to process this additional information.**

It is important to ensure that the benefit of requiring small quantity water use reporting from small streams outweighs the cost.

Making Use of the Water Withdrawal Guidance Tool Mandatory Will Enable DWWM to Better Protect and Manage State Water Resources.

In order to help water users know when it is environmentally safe to withdraw water from a stream, DWWM developed the Water Withdrawal Guidance Tool (Withdrawal Tool). The Withdrawal Tool, which is available on the DWWM website, provides an interactive map of the state that allows users to click on the area he/she wishes to make a water withdrawal. Information is then provided regarding which streams in that area, if any, from which water can safely be withdrawn. According to DWWM, the Withdrawal Tool is “*based on percentages of mean annual flow, based on a ten year period, that should afford an appropriate flow to protect the aquatic habitat.*” Water users are expected to use best judgment and common sense in conjunction with recommendations in the Withdrawal Tool by considering factors such as:

- lower flow rates in smaller streams than larger streams,
- lower flow rates near headwaters,
- multiple withdraws from the same stream, and
- impact of the size of the withdrawal to be made

Although conservation of water resources is an important aspect of the public policy of the State as established in West Virginia Code §22-26, use of the Withdrawal Tool by individuals withdrawing water to determine whether withdrawal is environmentally safe is strictly voluntary.

In order to make environmentally safe water withdrawals more likely, **the Legislative Auditor recommends that the Legislature consider making use of the Water Withdrawal Guidance Tool mandatory and requiring that water users certify that they have performed certain actions to ensure that water was withdrawn in an environmentally responsible manner.** Actions to which water users should certify might include the following:

- The user has consulted the tool in selecting the water source.
- To the users’ knowledge, no other users are withdrawing from the same stream.
- The user has used best judgment in determining the amount to withdraw in order not to overdraw the stream.
- The user has made good faith efforts to ensure an environmentally responsible withdrawal.

In order to help water users know when it is environmentally safe to withdraw water from a stream, DWWM developed the Water Withdrawal Guidance Tool.

Water users are expected to use best judgment and common sense in conjunction with recommendations in the Withdrawal Tool.

Use of the Withdrawal Tool by individuals withdrawing water to determine whether withdrawal is environmentally safe is strictly voluntary.

Requiring those who withdraw water from state streams to first consult the Water Withdrawal Guidance Tool and requiring certification by users that certain actions have been taken to ensure environmentally safe water withdrawals will better enable DWWM to protect the state's water resources as required by West Virginia Code.

Conclusion

The Legislative Auditor finds that DWWM is performing its water withdrawal monitoring and guidance duties as currently established in the Water Resources Protection Act well. Proactive measures are taken by the agency to ensure compliance with mandatory registration and reporting by large water users. Also, the Water Withdrawal Guidance Tool developed by DWWM, if utilized by water users, helps prevent overuse of state waters. However, improvements can be made to statute that would better protect the state's water resources. If the benefits of doing so outweigh the costs, requiring small quantity water users to report withdrawals from small streams would enable DWWM to better determine water usage and availability as part of a water management strategy. The Legislature should consider making the use of the Withdrawal Tool mandatory and requiring water users to certify they have performed environmentally safe withdrawals.

Requiring those who withdraw water from state streams to first consult the Water Withdrawal Guidance Tool and requiring certification by users that certain actions have been taken to ensure environmentally safe water withdrawals will better enable DWWM to protect the state's water resources as required by West Virginia Code.

Recommendations:

1. *The Legislative Auditor recommends that DWWM determine the additional administrative cost to the agency and to the industry associated with requiring small quantity users to report withdrawals from small streams. As part of the analysis, the agency would need to determine the number of small streams from which withdrawals would have to be reported, the number of small quantity water users that would have to report withdrawals from these streams, and the number of additional DWWM staff, if any.*
2. *The Legislative Auditor recommends that the Legislature consider making use of the Water Withdrawal Guidance Tool mandatory and requiring that water users certify that they have performed certain actions to ensure that water was withdrawn in an environmentally responsible manner.*

ISSUE 2

The DWWM Website Is User-Friendly and Transparent, Needing Modest Improvements.

Issue Summary

The Legislative Auditor’s Office conducted a literature review on assessments of governmental websites and, using this information, developed a list of attributes that should be incorporated into state agency websites. The most common elements in previous studies were applied to establish a set of criteria used to measure how the DWWM website supports online citizen engagement (see Appendix C). The website checklist had two major components, User-friendliness and Transparency, which were evaluated to create a total score for the agency. As illustrated in Table 2, DWWM integrates 60% of the checklist items within its website, which suggests the need for modest improvements.

The Legislative Auditor’s Office conducted a literature review on assessments of governmental websites and, using this information, developed a list of attributes that should be incorporated into state agency websites.

Table 2 Division of Water and Waste Management Website Evaluation Score			
Substantial Improvement Needed	More Improvement Needed	Modest Improvement Needed	Little or No Improvement Needed
0-25%	26-50%	51-75%	76-100%
		DWWM 60%	

Source: The Legislative Auditor’s review of the DWWM website.

Although some elements of the checklist may not be applicable to certain agencies, the checklist provides an overview of whether or not the agency is capitalizing on the interactive features of the internet and making an effort to become more user-friendly and transparent.

Government websites should be designed with citizens in mind.

DWWM’s Website Scores Well in User-Friendliness and Transparency.

In order for a citizen to actively engage with an agency online, the citizen must first be able to access and comprehend information on the agency’s website; therefore, government websites should be designed with citizens in mind. A user-friendly website is readable and allows a citizen to easily navigate from page to page. Government websites should also be transparent by providing citizens with knowledge of the agency’s operations, and promoting trust and accountability in the agency.

As illustrated in Table 3, the DWWM website is both user-friendly and transparent, needing only modest improvements to address areas that are lacking.

Category	Possible Points	Agency Points	Percentage
User-Friendly	18	14	78
Transparent	32	16	50
Total	50	30	60

Source: Legislative Auditor's review of information provided on DWWM's website.

The DWWM Website Is Well Designed.

The DWWM website is easy to navigate as every page is linked to the agency's homepage and has important items such as a search tool and site map which acts as an index of the entire website. The website also displays a Frequently-Asked-Questions section that allows the user to immediately obtain answers to the most common questions presented to the division. The website could be altered in order to make it more easily understood by the average citizen. In order to be user-friendly, it is recommended that government websites be written on a 6th-7th grade reading level. Although no points are deducted from the agency's Website Evaluation Score for failing to meet this recommendation, the DWWM homepage is rated at a 10th grade reading level, potentially making it difficult to comprehend for the average citizen.

Overall, the DWWM website is designed to allow for active citizen engagement but there are some improvements that could enhance the website.

User-Friendly Considerations

Overall, the DWWM website is designed to allow for active citizen engagement but there are some improvements that could enhance the website. The following are a few attributes that could lead to a more user-friendly website:

- **Foreign Language Accessibility** - A link to translate all webpages into other languages other than English to enhance public knowledge and safety.
- **Online Survey/Poll** – A short survey that pops up allowing users to evaluate the website.
- **RSS Feeds** – Allows subscribers to receive regularly updated work in a standardized format.
- **Open Job Postings** – List available jobs within the DWWM and a link to the Personnel Division website.

The DWWM Website Is Transparent

A website that is transparent will have elements such as email contact information, the location of the agency, the agency's telephone number, public records, the agency's budget, and performance measures. A transparent website will also allow for citizen engagement so that government can make policies in consideration of citizen input. Appendix C demonstrates that DWWM's website has the majority of elements that are necessary for a general understanding of the division. Items such as email contact information, the location and telephone number of the division, a complaint form and a privacy policy enable citizens to adequately communicate with the division.

Transparency Considerations

The following are a few attributes that could be beneficial to DWWM in increasing agency transparency:

- **Administrator(s) Biography** – Biography explaining the professional qualifications and experience of the division director and other division administrators.
- **DWWM Budget** - A link to the annual DWWM budget.
- **Calendar of Events** – Information on events, meetings, etc., ideally with a calendar program.
- **DWWM Organizational Chart**-A pictorial representation such as a hierarchy/organizational chart.
- **FOIA Information** – Information on how to submit a DWWM FOIA request, ideally with an online submission form.
- **DWWM Performance Measures** - A link from the homepage explaining the agencies performance measures.
- **Agency History** – A page explaining how the agency was created, what it has done, and how, if applicable, its mission has changed over time.
- **Website Updates** – A website update status, ideally for every page.

DWWM's website has the majority of elements that are necessary for a general understanding of the division.

Based on the results of this website evaluation, **the Legislative Auditor recommends that DWWM make additional improvements to its website to increase user-friendliness and transparency.**

Conclusion

As internet technology continually improves and becomes more accessible, state agencies are utilizing websites to engage citizens as active participants in the government process. Few studies have focused on state agency websites and those that have use a variety of criteria when reviewing sites. The Legislative Auditor commends DWWM for developing a website that is both user-friendly and transparent. However, the site can benefit from incorporating some features to increase user-friendliness and by providing more information as it relates to transparency. By adding the recommended features, the agency would increase its overall score for website user-friendliness and transparency from 30 to 47 out of 50, for a total score of 94 percent.

Recommendations:

3. *The Legislative Auditor recommends that DWWM make modest improvements to its website to increase user-friendliness and transparency.*

The Legislative Auditor commends DWWM for developing a website that is both user-friendly and transparent. However, the site can benefit from incorporating some features to increase user-friendliness and by providing more information as it relates to transparency.

Appendix A: Transmittal Letter

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John Sylvia
Director

November 2, 2011

June Casto, Chief
West Virginia Department of Environmental Protection
Office of Administration
601 57th Street
Charleston, WV 25304

Dear Ms. Casto:

This is to transmit a draft copy of the Legislative Auditor's review of the Division of Water and Waste Management. This report is scheduled to be presented during the Tuesday, November 15, 2011 interim meeting of the Joint Committee on Government Operations and the Joint Committee on Government Organization. The meeting will take place from 9:00 a.m. to 11:00 a.m. in the House Chamber. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committees may have.

We need your written response by noon on Wednesday, November 9, 2011 in order for it to be included in the final report. We would like to schedule an exit conference to discuss any concerns you may have with the report. Please contact Brian Armentrout at 304.347.4890 by Friday, November 4, 2011 to schedule the conference. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 304.340.3192 by Thursday, November 10, 2011 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

c: Scott Mandirola, Director, Division of Water and Waste Management
Terrie Sangid, Assistant Director, Division of Water and Waste Management

————— *Joint Committee on Government and Finance* —————

Appendix B: Objective, Scope, and Methodology

Objective

The Legislative Auditor conducted an evaluation of the Division of Water and Waste Management (DWWM) as part of the Agency Review of the Department of Environmental Protection required by West Virginia Code §4-10-8. The objective of this review is to examine the user-friendliness and transparency of the DWWM's website, and the effectiveness of DWWM's regulation of water withdrawals.

Scope

The scope of the website evaluation is user-friendliness and transparency demonstrated on the agency website as of August 2011. The scope of the water use regulation issue covers regulations and practices currently in place and instances of noncompliance from 2009-2011.

Methodology

In order to evaluate the effectiveness of DWWM's regulation of water use, the Legislative Auditor reviewed current regulations in West Virginia Code and DWWM Procedural Rules, then corresponded with agency staff and reviewed agency documents to determine the procedures DWWM has in place to carry out these regulations. The Legislative Auditor also reviewed regulations in surrounding states in order to determine how West Virginia's regulation of water use compares to that in other states.

In evaluating DWWM's website, the Legislative Auditor conducted a literature review of government website studies and performed a review of top ranked government websites and groups that rate government websites in order to establish a master list of elements that would increase citizen engagement. The Brookings Institute's 2008 State and Federal E-Government in the United States and the Rutgers University's 2008 E-Governance study helped identify the top ranked states in regards to e-government. The Legislative Auditor identified three states (Indiana, Maine and Massachusetts) that were ranked in the top ten in both studies and reviewed all three states' main portals for trends and common similarities in transparency and open government. The Legislative Auditor also reviewed a 2010 report from the West Virginia Center on Budget and Policy that was useful in identifying a group of core elements from the master list that should be incorporated into every state and local website to increase its transparency and e-governance. It is understood that not every item listed in the master list is to be found in a department or agency website because some of the technology would not be practical or useful. Therefore, the Legislative Auditor is recommending that an agency or department determine if it is progressing in step with the e-government movement that is emphasizing transparency and user-friendliness.

Appendix C: Website Criteria Checklist and Points System, Division of Water and Waste Management

Website Criteria Checklist and Points System Division of Water and Waste Management			
User-Friendly	Description	Total Points Possible	Total Agency Points
Criteria	The ease of navigation from page to page along with the usefulness of the website.	18	14
		Individual Points Possible	Individual Agency Points
Search Tool	The website should contain a search box (1), preferably on every page (1).	2 points	2 points
Help Link	There should be a link that allows users to access a FAQ section (1) and agency contact information (1) on a single page. The link's text does not have to contain the word help, but it should contain language that clearly indicates that the user can find assistance by clicking the link (i.e. "How do I...", "Questions?" or "Need assistance?")	2 points	2 points
Foreign language accessibility	A link to translate all webpages into languages other than English.	1 point	0 points
Content Readability	The website should be written on a 6 th -7 th grade reading level. The Flesch-Kincaid Test is widely used by Federal and State agencies to measure readability.	No points, see narrative	
Site Functionality	The website should use sans serif fonts (1), the website should include buttons to adjust the font size (1), and resizing of text should not distort site graphics or text (1).	3 points	3 points
Site Map	A list of pages contained in a website that can be accessed by web crawlers and users. The Site Map acts as an index of the entire website and a link to the department's entire site should be located on the bottom of every page.	1 point	1 point
Mobile Functionality	The agency's website is available in a mobile version (1) and/or the agency has created mobile applications (apps) (1).	2 points	2 points
Navigation	Every page should be linked to the agency's homepage (1) and should have a navigation bar at the top of every page (1).	2 points	2 points

Website Criteria Checklist and Points System Division of Water and Waste Management			
FAQ Section	A page that lists the agency's most frequent asked questions and responses.	1 point	1 point
Feedback Options	A page where users can voluntarily submit feedback about the website or particular section of the website.	1 point	1 point
Online survey/poll	A short survey that pops up and requests users to evaluate the website.	1 point	0 points
Social Media Links	The website should contain buttons that allow users to post an agency's content to social media pages such as Facebook and Twitter.	1 point	0 points
RSS Feeds	RSS stands for "Really Simple Syndication" and allows subscribers to receive regularly updated work (i.e. blog posts, news stories, audio/video, etc.) in a standardized format. All agency websites should have a RSS link on their websites.	1 point	0 points
Transparency	Description	Total Points Possible	Total Agency Points
Criteria	A website which promotes accountability and provides information for citizens about what the agency is doing. It encourages public participation while also utilizing tools and methods to collaborate across all levels of government.	32	16
		Individual Points Possible	Individual Agency Points
Email	General website contact.	1 point	1 point
Physical Address	General address of state agency.	1 point	1 point
Phone Number	Correct phone number of state agency.	1 point	1 point
Location of Agency Headquarters	The agency's contact page should include an embedded map that shows the agency's location.	1 point	1 point
Administrative officials	Names (1) and contact information (1) of administrative officials.	2 points	2 points
Administrator(s) biography	A biography explaining the administrator(s) professional qualifications and experience.	1 point	0 points

Website Criteria Checklist and Points System Division of Water and Waste Management			
Privacy policy	A clear explanation of the agency/state's online privacy policy.	1 point	1 point
Public Records	<p>The website should contain all applicable public records relating to the agency's function. If the website contains more than one of the following criteria the agency will receive two points:</p> <ul style="list-style-type: none"> • Statutes • Rules and/or regulations • Contracts • Permits/licenses • Audits • Violations/disciplinary actions • Meeting Minutes • Grants 	2 points	2 points
Complaint form	A specific page that contains a form to file a complaint (1), preferably an online form (1).	2 points	2 points
Budget	Budget data is available (1) at the checkbook level (1), ideally in a searchable database (1).	3 points	0 points
Mission statement	The agency's mission statement should be located on the homepage.	1 point	1 point
Calendar of events	Information on events, meetings, etc. (1) ideally imbedded using a calendar program (1).	2 points	0 points
e-Publications	Agency publications should be online (1) and downloadable (1).	2 points	2 points
Agency Organizational Chart	A narrative describing the agency organization (1), preferably in a pictorial representation such as a hierarchy/organizational chart (1).	2 points	1 point
Graphic capabilities	Allows users to access relevant graphics such as maps, diagrams, etc.	1 point	1 point
Audio/video features	Allows users to access and download relevant audio and video content.	1 point	0 points
FOIA information	Information on how to submit a FOIA request (1), ideally with an online submission form (1).	2 points	0 points
Performance measures/outcomes	A page linked to the homepage explaining the agencies performance measures and outcomes.	1 point	0 points

Website Criteria Checklist and Points System Division of Water and Waste Management			
Agency history	The agency's website should include a page explaining how the agency was created, what it has done, and how, if applicable, has its mission changed over time.	1 point	0 points
Website updates	The website should have a website update status on screen (1) and ideally for every page (1).	2 points	0 points
Job Postings/links to Personnel Division website	The agency should have a section on homepage for open job postings (1) and a link to the application page Personnel Division (1).	2 points	0 points

Appendix D: Agency Response



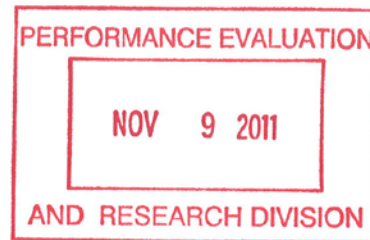
west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0495
Fax: (304) 926-0496

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
dep.wv.gov

November 9, 2011

Mr. John Sylvia
WV Legislature
Performance Evaluation and Research Division
Building 1, Room W-314
Charleston, WV 25305-0610



Dear Mr. Sylvia:

Please consider this our response to the Legislative Auditor's review of the Division of Water and Waste Management.

Issue 1: Reducing the Level of Water Withdrawals that Require Registration and Reporting May Better Protect the State's Water Resources.

- DEP is required to deliver a Water Management Plan to the Legislature in 2013. This Plan would seem to be an appropriate mechanism to make any suggested changes to the current reporting volumes outline in current WV code. The plan is intended to quantify the waters of the state, where and how that water is being used and defining any critical planning areas where water needs may be exceeding water availability. Furthermore it will help identify areas with sufficient water quantity to support additional growth, both commercial and residential. The additional information in this plan will aid in making any decisions associated with adjusting the minimum reporting volumes.
- One additional note, any changes at this point would cause additional costs to be incurred to change the current tracking system that is in place.
- The Auditors suggestion to make the water withdrawal guidance tool mandatory may be a suggestion to be made to Legislature in the Water Management Plan due in 2013. Currently the water withdrawal guidance tool is undergoing further refinements to address water availability in small streams and headwater streams. This is being done through an effort between the DEP and USGS.

Promoting a healthy environment.

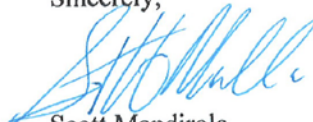
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November 9, 2011

Issue 2: The Division of Water and Waste Management's Website is User-Friendly and Transparent.

- The Division of Water and Waste Management continues to improve their website to ensure it is easy to use and has valuable information for the public. We will take the recommendations of the Legislative Auditor under advisement and make any necessary changes to improve our website.

Thank you for the opportunity to respond to these issues. Please let us know if you have any questions or need additional information.

Sincerely,



Scott Mandirola
Director



WEST VIRGINIA LEGISLATIVE AUDITOR

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