WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1964

ENROLLED

HOUSE BILL No. 2

(By Mr. Kylor and Mr. England)

PASSED February 5, 1964

In Effect July 1, 1964

FILED IN THE OFFICE OF
JOE F. BURDETT
SECRETARY OF STATE
THIS DATE 2-11-64
ENROLLED

House Bill No. 2
(By Mr. Myles and Mr. England)

[Passed February 5, 1964; in effect July 1, 1964.]

AN ACT to repeal article five, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article five; to amend and reenact sections two and three, article nine, chapter sixteen of said code; to amend and reenact section seven, article one and section four, article seven of chapter twenty of said code; and to further amend said chapter twenty by adding thereto a new article, designated article five-a; said new article five of said chapter twenty relating generally to water resources and the regulation and control thereof and providing criminal offenses and penalties; said sections two and three, article nine of said chapter sixteen relating to the throwing or placing of dead
animals, or parts thereof, putrid, nauseous or offensive substances hazardous to public health, garbage, slop, spoiled meat, or the contents of privy vaults, septic tanks or cesspools in or near certain waters or on or near certain public places, or the permitting of the same so to remain and providing criminal offenses and penalties; said section seven, article one of said chapter twenty relating to additional powers, duties, services and responsibilities of the director of the department of natural resources; said section four, article seven of said chapter twenty relating to the powers and duties of conservation officers; and said new article five-a of said chapter twenty relating to the rights, obligations and procedures pertaining to water pollution control, providing for the adoption of a water pollution control act and providing civil and criminal offenses and penalties.

Be it enacted by the Legislature of West Virginia:

That article five, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and a new article five enacted in lieu thereof; that sections two and three, article nine, chapter sixteen of said
code be amended and reenacted; and that section seven, article one and section four, article seven of chapter twenty of said code be amended and reenacted; and that chapter twenty of said code be further amended by adding thereto a new article, designated article five-a, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

Article 9. Offenses Generally.

Section 2. Throwing Dead Animals or Offensive Substances into Waters Used for Domestic Purposes; Penalty;

Jurisdiction of Justices; Exception.—Any person who knowingly and wilfully shall throw, or cause to be thrown, any dead animal, carcass or part thereof, or any putrid, nauseous or offensive substances hazardous to public health, into any well, cistern, spring, brook or branch of running water, which is used for domestic purposes, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period not to exceed six months, or, in the discretion of the court, by both such fine and imprisonment, and, moreover, shall be liable to the party injured in a civil action for damages.
16 Justices of the peace shall have concurrent jurisdiction
17 with the circuit, criminal and intermediate courts of the
18 state for the enforcement of the criminal penalties of this
19 section.

**Sec. 3. Depositing Dead Animals or Offensive Sub-
stances in or near Waters or on or near Roads or on Pub-
lic Grounds; Penalties; Failure to Bury or Destroy Offen-
sive Substances after Conviction; Successive Offenses;
Jurisdiction of Justices; Exception.—**Any person who
shall place, cast, discharge, or deposit the carcass of any
dead animal, or part thereof, or garbage, or slop, or
spoiled meat, or putrid organic substances hazardous to
public health, or the contents of privy vaults, or septic
tanks, or cesspools, into any river, creek or other stream,
or upon the surface of any land adjacent to such river,
creek or other stream in such a location that high water
or normal drainage conditions will cause such offensive
material to be washed, drained or cast into the river, creek
or other stream; or any person who shall place, cast, dis-
charge, or deposit such offensive material upon the sur-
face of any public road, street, alley, city or town lot, pub-
lic ground, market space, or common, or upon the surface
of any land within one hundred yards of a public street or
road; or any person, who, being the owner, lessee or occu-
pant of any such city or town lot, public ground, market
space, common, or land within one hundred yards of a
public street or road, shall knowingly permit any of the
offensive materials hereinbefore named to remain thereon,
to the annoyance of any of the citizens of this state, or
shall neglect or refuse to remove or abate the nuisance oc-
casioned thereby, within twenty-four hours after such
person has knowledge of the existence of such nuisance
upon any of the above-described premises owned, leased,
or occupied by him, or within twenty-four hours of serv-
ice of notice thereof in writing from the health officer
of the county, or the mayor or health officer of the mu-
unicipal corporation, as the case may be, in which any
such nuisance exists, shall be guilty of a misdemeanor,
and, upon conviction thereof, shall be punished by a
fine of not less than twenty dollars nor more than five
hundred dollars.

Upon a conviction for any such offense, the person
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39 convicted shall, within twenty-four hours after such
40 conviction, bury or cause to be buried at least three feet
41 under the ground, or destroy or cause to be destroyed
42 by fire or as otherwise directed by the health officer
43 within whose jurisdiction the offense may have occurred,
44 any of the offensive materials or substances hereinbefore
45 named which the person so convicted has placed or know-
46 ingly permitted to remain upon such city or town lot,
47 public ground, market space, common, or land, contrary
48 to the provisions of this section, and his failure to do so
49 shall constitute a misdemeanor and a second offense
50 against the provisions of this section. The continued
51 failure or refusal of such convicted person to bury or
52 destroy such offensive materials and substances as pro-
53 vided herein shall constitute a separate, distinct and
54 additional offense for each successive twenty-four hour
55 period of such failure and refusal. Any person convicted
56 of any offense described in this paragraph shall be pun-
57 ished by a fine of not less than twenty dollars nor more
58 than five hundred dollars.
59 justices of the peace shall have concurrent jurisdiction
with the circuit, criminal and intermediate courts of the
state for the enforcement of the criminal penalties of this
section.

CHAPTER 20. NATURAL RESOURCES.

Article 1. Organization and Administration.

Section 7. Additional Powers, Duties and Services of
Director.—In addition to all other powers, duties and re-
sponsibilities granted and assigned to the director in this
chapter and elsewhere by law, the director is hereby au-
thorized and empowered to:

(1) With the advice of the commission, prepare and
administer, through the various divisions created by this
chapter, a long-range comprehensive program for the
conservation of the natural resources of the state which
best effectuates the purpose of this chapter and which
makes adequate provisions for the natural resources laws
of the state;

(2) Sign and execute in the name of the state by the
“Department of Natural Resources” any contract or agree-
ment with the federal government or its departments or
agencies, subdivisions of the state, corporations, associa-
tions, partnerships or individuals;
(3) Conduct research in improved conservation methods and disseminate information to the residents of the state;

(4) Conduct a continuous study and investigation of the habits of wildlife, and for purposes of control and protection to classify by regulation the various species into such categories as may be established as necessary;

(5) Prescribe the locality in which and the manner and method by which the various species of wildlife may be taken, or chased, unless otherwise specified by this chapter;

(6) Fix by regulation the open seasons and the bag, creel, size, age, weight and sex limits with respect to wildlife in this state;

(7) Hold at least six meetings each year at such times and at such points within the state, as in the discretion of the director may appear to be necessary and proper for the purpose of giving interested persons in the various sections of the state an opportunity to be heard concerning open seasons for their respective areas, before such seasons and bag limits are fixed;
(8) Suspend open hunting seasons upon any or all wildlife in any or all counties of the state with the prior approval of the governor in case of an emergency such as a drought, forest fire hazard or epizootic of disease among wildlife. The suspension shall continue during the existence of the emergency and until rescinded by the director. Suspension, or reopening after such suspension, of open seasons may be made upon twenty-four hours' notice by delivery of a copy of the order of suspension or reopening to the wire press agencies at the state capitol;

(9) Supervise the fiscal affairs and responsibilities of the department;

(10) Designate such localities as he shall determine to be necessary and desirable for the perpetuation of any species of wildlife;

(11) Enter private lands to make surveys or inspections for conservation purposes, to investigate for violations of provisions of this chapter, to serve and execute warrants and processes, to make arrests and to otherwise effectively enforce the provisions of this chapter;

(12) Acquire for the state in the name of the "Depart-
permit of Natural Resources” by purchase, condemnation,
lease or agreement, or accept or reject for the state, in
the name of the department of natural resources, gifts,
donations, contributions, bequests or devises of money,
security or property, both real and personal, and any
interest in such property, including lands and waters,
which he deems suitable for the following purposes:

(a) For state forests for the purpose of growing timber,

demonstrating forestry, furnishing or protecting water-
sheds or providing public recreation;

(b) For state parks or recreation areas for the purpose
of preserving scenic, esthetic, scientific, cultural, archaeo-
logical or historical values or natural wonders, or pro-
viding public recreation;

(c) For public hunting, trapping, or fishing grounds or
waters for the purpose of providing areas in which the
public may hunt, trap or fish, as permitted by the pro-
visions of this chapter, and the rules and regulations
issued hereunder;

(d) For fish hatcheries, game farms, wildlife research
areas and feeding stations;
(e) For the extension and consolidation of lands or waters suitable for the above purposes by exchange of other lands or waters under his supervision;

(f) For such other purposes as may be necessary to carry out the provisions of this chapter;

(13) Capture, propagate, transport, sell or exchange any species of wildlife as may be necessary to carry out the provisions of this chapter;

(14) Exercise the powers granted by this chapter for the protection of forests, and regulate fires and smoking in the woods or in their proximity at such times and in such localities as may be necessary to reduce the danger of forest fires;

(15) Cooperate with departments and agencies of state, local and federal governments in the conservation of natural resources and the beautification of the state;

(16) Report to the governor each year all information relative to the operation and functions of his department and he shall make such other reports and recommendations as may be required by the governor, including an annual financial report covering all receipts and disburse-
ments of the department for each fiscal year, and he shall deliver such report to the governor on or before the first day of December next after the end of the fiscal year so covered. A copy of such report shall be delivered to each house of the Legislature when convened in January next following;

(17) Keep a complete and accurate record of all proceedings, record and file all bonds and contracts taken or entered into, and assume responsibility for the custody and preservation of all papers and documents pertaining to his office, except as otherwise provided by law;

(18) Offer and pay, in his discretion, rewards for information respecting the violation, or for the apprehension and conviction of any violators, of any of the provisions of this chapter;

(19) Require such reports as he may deem to be necessary from any person issued a license or permit under the provisions of this chapter, but no person shall be required to disclose secret processes or confidential data of competitive significance;

(20) Purchase as provided by law all equipment necessary for the conduct of his department;
(21) Conduct and encourage research designed to further new and more extensive uses of the natural resources of this state and to publicize the findings of such research;
(22) Encourage and cooperate with other public and private organizations or groups in their efforts to publicize the attractions of the state;
(23) Accept and expend, without the necessity of appropriation by the Legislature, any gift or grant of money made to the department for any and all purposes specified in this chapter, and he shall account for and report on all such receipts and expenditures to the governor;
(24) Cooperate with the state historian and other appropriate state agencies in conducting research with reference to the establishment of state parks and monuments of historic, scenic and recreational value, and to take such steps as may be necessary in establishing such monuments or parks as he deems advisable.
(25) Maintain in his office at all times, properly indexed by subject matter, and also in chronological sequence, all rules and regulations made or issued under the authority of this chapter. Such records shall be avail-
able for public inspection on all business days during the business hours of working days as prescribed by the state board of public works.

(26) Delegate the powers and duties of his office, except the power to execute contracts, to appointees and employees of the department, who shall act under the direction and supervision of the director and for whose acts he shall be responsible;

(27) Conduct schools, institutes and other educational programs, apart from or in cooperation with other governmental agencies, for instruction and training in all phases of the natural resources program of the state; and

(28) Promulgate rules and regulations, in accordance with the provisions of chapter twenty-nine-a of this code, to implement and make effective the powers and duties vested in him by the provisions of this chapter and take such other steps as may be necessary in his discretion for the proper and effective enforcement of the provisions of this chapter: Provided, That all rules and regulations relating to articles five and five-a of this chapter shall be promulgated by the water resources board.
Article 5. Water Resources.


Section 1. Water Resources Board and Division of Water Resources; Duties and Functions.—The water resources board shall have within its jurisdiction and supervision the Ohio river valley water sanitation commission from the state of West Virginia and the interstate commission on the Potomac river basin from the state of West Virginia. The division of water resources, created and established in article one of this chapter, shall have within its jurisdiction and supervision the administration and enforcement of all laws relating to slack-water dams, stream and water areas beautification, and the conservation, development, protection, enjoyment and use of the water resources of the state consistent with the provisions of this chapter. The chief of the division shall be primarily responsible for the execution and administration of the provisions of this article and article five-a as an integral part of the natural resources program of the state and shall organize and staff his division so as to accomplish these ends in an orderly, efficient and economical
The division chief shall give consideration to other functions and services of the department and, wherever practicable, shall coordinate the plans and programs of his division with the functions and services of other divisions, offices and activities of the department, and other departments and agencies of state government.

Sec. 2. Definitions.—Unless the context in which used clearly requires a different meaning, as used in this article:

(a) “Director” shall mean the director of the department of natural resources;

(b) “Board” shall mean the state water resources board;

(c) “Chief” shall mean the chief of the division of water resources of the department of natural resources;

(d) “Person,” “persons” or “applicant” shall mean any public or private corporation, institution, association, firm or company organized or existing under the laws of this or any other state or country; the state of West Virginia; governmental agency; political subdivision; county court; municipal corporation; industry; sanitary district; public
service district; drainage district; soil conservation district; watershed improvement district; partnership; trust; estate; person or individual; group of persons or individuals acting individually or as a group; or any other legal entity whatever;

(e) "Water resources," "water" or "waters" shall mean any and all water on or beneath the surface of the ground, whether percolating, standing, diffused or flowing, wholly or partially within this state, or bordering this state and within its jurisdiction, and shall include, without limiting the generality of the foregoing, natural or artificial lakes, rivers, streams, creeks, branches, brooks, ponds (except farm ponds, industrial settling basins and ponds and waste treatment facilities), impounding reservoirs, springs, wells and watercourses;

(f) "Code" shall mean the code of West Virginia, one thousand nine hundred thirty-one, as amended.

Sec. 3. Water Resources Board Created; Composition and Organization of Board; Others to Assist Board and Division.—The state water resources board heretofore created and established as successor to the state water
commission and the state water resources commission is hereby abolished. A new state water resources board is hereby created and established as a public corporation. As such the board may sue and be sued, plead and be impleaded, contract and be contracted with, and shall have and use a common seal. The board shall be composed of five members who shall be appointed by the governor with the advice and consent of the senate. One member shall be truly representative of the manufacturing industry of the state; one member shall be truly representative of the mining industry of the state; and three members shall be truly representative of the public at large. The members of the board shall be appointed for overlapping terms of five years, except that the original appointments shall be for terms of one, two, three, four and five years, respectively. Any member whose term expires may be reappointed by the governor. At its organizational meeting, one member of the board shall be selected chairman to serve as chairman at the will and pleasure of the members of the board. Members of the board shall, before performing any duty, take and sub-
scribe to the oath required by article four, section five of
the Constitution of West Virginia. Members of the board
may be removed only for the same causes and in like
manner as elective state officers. Any vacancy in the
office of a member of the board shall be filled by appoint-
ment by the governor for the unexpired term of the mem-
ber whose office shall be vacant. Each vacancy occurring
in the office of a member of the board shall be filled by
appointment within sixty days after such vacancy occurs.
Each member of the board shall, out of moneys appro-
priated for such purposes, be paid as compensation for
attending meetings of the board and for necessary travel
to and from such meetings forty dollars per day. In addi-
tion to such compensation, each member of the board shall
be reimbursed, out of moneys appropriated for such pur-
poses, all sums which he necessarily shall expend in the
discharge of his duties as a member of such board. The
director of the division of sanitary engineering of the state
department of health shall perform such services as the
board and the chief of the division of water resources
may request of him in connection with the discharge of
their duties, and he shall be reimbursed, out of moneys appropriated for such purposes, all sums which he necessarily shall expend in the performance of such services.

Nothing contained in this article or in article five-a of this chapter, however, shall be construed to limit or interfere with the power of the state department of health to select, employ and direct the director of the division of sanitary engineering of said department, or any employee thereof who in any way may perform any services for the board or the division of water resources. The college of engineering at West Virginia University, under the direction of the dean thereof, shall, insofar as it can, without interfering with its usual and regular activities, aid and assist the board and the division of water resources in the study and research of questions connected with water pollution and the control and reduction thereof in accordance with the provisions of article five-a of this chapter. The dean of the college of engineering shall be reimbursed, out of moneys appropriated for such purposes, all sums which he necessarily shall expend in the performance of any services he may render to the board and the division under the provisions hereof.
A majority of the board shall constitute a quorum for the transaction of business. The board shall meet at such times and places as it may determine and shall meet on call of the chairman. It shall be the duty of the chairman to call a meeting of the board on the written request of three members thereof. The board shall keep an accurate record of all of its proceedings and maintain such board records and make certificates thereof or therefrom as may be required by law. The board shall employ a secretary and necessary clerical assistance.

Sec. 4. Functions, Services and Reports of Chief of the Division of Water Resources.—The chief of the division of water resources shall make surveys and investigations of the water resources of the state and, as soon as practicable, shall inventory the water resources of the state and to the extent practicable shall divide the state into watershed drainage areas in making this inventory. The chief shall investigate and study the problems of agriculture, industry, conservation, health, water pollution, domestic and commercial uses and allied matters as they relate to the water resources of the state, and shall make
and formulate comprehensive plans and recommendations for the further development, improvement, protection, preservation, regulation and use of such water resources, giving proper consideration to the hydrologic cycle in which water moves. Annually, not later than the first of November, he shall prepare and publish a full report on his work as to the collection and evaluation of the information which has been obtained in accordance with the requirements of this section and shall include in this report the plans and recommendations which have been formulated pursuant to the requirements of this section. The report shall include his reasons for such plans and recommendations, as well as any changes in the law which are deemed desirable to effectuate such plans and recommendations. Such report shall be made available to the public at a reasonable price to be determined by the chief and the director.

The chief may request, and, upon his request, shall be entitled to receive from any agency of the state or any political subdivision thereof, or from any other person who engages in a commercial use or controls any of the
water resources of the state, such necessary information
and data as will assist him in obtaining a complete picture
of the water resources of the state and the existing con-
trol and commercial use thereof. The chief shall reim-
burse such agencies, political subdivisions and other per-
sons for any expenses, which would not otherwise have
been incurred, in making such information and data
available to him.

Sec. 5. General Powers and Duties of Chief of Division
of Water Resources and Water Resources Board with Re-
spect to Water Resources.—(a) In addition to all other
powers and duties of the chief of the department's di-
vision of water resources, as prescribed in this article or
elsewhere by law, the chief, under the supervision of
the director, shall have and may exercise the following
powers and authority and shall perform the following
duties:

(1) To conduct, or contract for the conducting of,
scientific investigations, experiments and research, and
to collect data, concerning the water resources of the
state; and
(2) To advise all users of water resources as to the availability of water resources and the most practicable method of water diversion, use, development and conservation.

(b) In addition to all other powers and duties of the water resources board, as prescribed in this article or elsewhere by law, the board shall have and may exercise the following powers and authority and shall perform the following duties:

(1) To enter into compacts and agreements concerning this state's share of waters in watercourses where a portion of such waters is contained within the territorial limits of this state or of a neighboring state or states, subject to the approval of the Legislature;

(2) To cooperate with federal officers and agencies, other state agencies and officers, interstate agencies, and other interested persons in the conservation, improvement and development of water resources, and to this end, the board may receive moneys from such agencies, officers and persons on behalf of the state: Provided, That the board shall pay all moneys so received into a
special fund hereby created in the state treasury, which
fund shall be expended under the direction of the board
solely for the purpose or purposes for which the grant,
gift or contribution shall have been made; and
(3) To promulgate rules and regulations, in accordance
with the provisions of chapter twenty-nine-a of this code,
to implement and make effective the powers, duties and
responsibilities vested in the board and the chief by the
provisions of this article and otherwise by law.
(c) The board, any member thereof and the chief, and
their duly authorized representatives shall have the
power and authority to enter at all reasonable times upon
any private or public property for the purpose of making
surveys, examinations, investigations and studies needed
in the gathering of facts concerning the water resources
of the state and their use, subject to responsibility for any
damage to the property entered. Upon entering, and
before making any survey, examination, investigation
and study, such person shall immediately present himself
to the occupant of the property. Upon entering property
used in any manufacturing, mining or other commercial
enterprise, or by any municipality or governmental
agency or subdivision, and before making any survey,
examination, investigation and study, such person shall
immediately present himself to the person in charge of
the operation, and if he is not available, to a managerial
employee. All persons shall cooperate fully with the
person entering such property for such purposes. Upon
refusal of the person owning or controlling such property
to permit such entrance or the making of such surveys,
examinations, investigations and studies, the board or the
chief may apply to the circuit court of the county in which
such property is located, or to the judge thereof in va-
cation, for an order permitting such entrance or the mak-
ing of such surveys, examinations, investigations and stud-
ies; and jurisdiction is hereby conferred upon such court
to enter such order upon a showing that the relief asked
is necessary for the proper enforcement of this article:
Provided, however, That a dwelling occupied for residen-
tial purposes shall not be entered without a search warrant.
(d) The board is hereby authorized to hire one or more
individuals to serve as hearing examiners on a full or
part time basis. Such individuals may be attorneys at law admitted to practice before any circuit court of this state. All such hearing examiners shall be individuals authorized to take depositions under the laws of this state.

**Part II. Slack-Water Dams.**

**Sec. 6. Location and Construction of Slack-Water Dams.**

The state road commissioner, in constructing public highways, bridges and culverts, as provided by law, and any municipal corporation constructing or improving public streets, viaducts, bridges and culverts, either severally or jointly, upon request of the director of the department of natural resources and with the approval of the state road commissioner, may construct and maintain slack-water dams in connection with such public highways, streets, bridges, culverts or viaducts so as to create reservoirs, ponds, water parks, basins, lakes or other incidental works to conserve the water supply of the state.

**Sec. 7. Dam Construction Initiated; Approval by Public Authority; Costs; Plans.**—The director may request the public authority in charge of the construction of state
highways, highway bridges and culverts or municipal streets, viaducts, bridges and culverts to construct slack-
water dams in connection with the construction of any such public highway, street, bridge, viaduct, or culvert whenever, in his opinion, the construction of such dams is desirable and feasible for the economical creation and construction of reservoirs, ponds, water parks, basins, lakes or other incidental works for the conservation of the water supply of the state.

The public authority in charge of such construction may approve such request when, in its opinion, the construction of such dams will not unnecessarily delay or hinder the construction of the public highway, street, bridge, viaduct or culvert, and will not interfere with the value or use of such highway, street, bridge, viaduct or culvert for highway purposes.

If such request is approved, the director, in cooperation with the state road commissioner and the public authority participating in the project, shall make a survey and prepare plans, specifications and estimates for the construction of such dams, reservoirs, ponds, water parks,
basins, lakes or other incidental works in connection therewith.

Upon approval of the plans and specifications and the determination to proceed with the project, the director shall enter into an agreement with the public authority on the distribution of the cost and expense of the construction of such dams and incidental works in connection therewith. The portion of the cost to be paid by the department shall be paid from any funds appropriated for or paid into the department and available for such purpose. No public authority shall proceed with the construction of such a project until there is full compliance with the other requirements of law relative to the construction of dams and the director shall have satisfied the public authority that sufficient funds are available for the completion of the dam.

Such dams shall be constructed under and subject to any and all laws governing the construction of state, county or municipal highways, streets, viaducts, bridges or culverts. Any public authority undertaking construction pursuant to this article shall proceed in the same
manner as provided for the construction of public highways or street improvements.

Nothing herein contained shall require the public authority so concerned to delay or postpone construction of the principal public improvement, although approval of the combined project may have been given.

Sec. 8. Requests to Director for Dam Construction; Costs; Procedure.—Any department or division of the state government, any county, municipal corporation, park board, district, organization, club, corporation or private person may petition the director for the construction of dams and reservoir projects in connection with the construction of any public highway, bridge, culvert, street or viaduct.

Upon receipt of such a petition and its approval by the director, the director shall proceed as authorized by section seven of this article. If the public authority in charge of the construction of such public highway, street, bridge, viaduct or culvert approves the request, then the director shall enter into an agreement with the public authority and those petitioning for the construction of
such dam or reservoir on the apportionment of the cost
and expense of construction. The cost and expense of
such dam project shall include the cost of clearing and
grubbing and the cost of property and the damages inci-
dental thereto. Such agreement shall also contain pro-
visions for the proper maintenance and repair of such
projects after completion, and shall apportion the reve-
ue derived therefrom between the department, the
public authority and the petitioner or petitioners.

Sec. 9. Payment of Dam Costs; Deficiencies and Re-

funds.—In all cases in which there is a petition for the
construction of a slack-water dam and reservoir project,
the director, as a condition precedent to the construction
of such project, shall require the petitioner or petitioners
to pay his or their share of the cost and expense of such
project into the hands of the treasurer of the state to be
kept in a separate account for each such project and to
be disbursed upon the order of the director.

If the estimated cost paid into the state treasury is
found to be insufficient, the deficiency shall be made up
by the parties bearing the cost before any further work
is done. If the deficiency is not made up within sixty
days after notice to such parties, the cost paid in, less
the amount of expense incurred by the director and the
cooperating public authorities, shall be refunded to the
donor. After completion of the work, any amount re-
main ing in the state treasury to the credit of the project
shall likewise be refunded.

Sec. 10. Contracts for Dam Construction.—In the con-
struction of slack-water dams, reservoirs and other in-
cidental works, the state road commissioner and the pub-
lic authority of a municipality shall proceed as provided
by law and shall enter into contracts as provided by law.

Sec. 11. Dam Supervision, Maintenance and Manage-
ment.—The director shall have the supervision, care and
control of all slack-water dams, reservoirs, ponds, water
parks, basins, lakes or other incidental works constructed
pursuant to Part II (slack-water dams) of this article
and shall maintain and keep them in repair. The cost of
such maintenance and repair shall be paid from any funds
appropriated to the department for that purpose or paid
into the state treasury as agreed upon with the public
or contracting authorities cooperating in the construction
of such projects.

Such projects may also be maintained by any depart-
ment or division of state government or other public
authorities leasing or operating the projects, through
agreements made with said director. All rentals derived
from the lease of such projects shall be used by said
director in the maintenance or repair of all such projects.
The costs and expenses of the reconstruction of any such
projects shall be allocated, unless otherwise agreed, on
the same basis and in the same proportion as the costs
and expenses of the original project were allocated
among the contracting parties: Provided, That the state
road commission shall not be required to contribute any
portion of the cost of maintaining or repairing any slack-
water dam, reservoir, pond, water park, basin, lake or
other incidental work when the maintenance of the road,
bridge, or culvert would not have required such expendi-
ture had it not been for the installation of such slack-
water dam project or projects.

Sec. 12. Titles to and Leases of Lands; Management and
Funds.—The title to or lease of any such lands, waters or
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3 riparian rights shall be taken by the department, subject
4 to the approval of the governor and the attorney general,
5 in the name of the state. The rentals required by any
6 such lease and the purchase price of any such lands,
7 waters or riparian rights, as well as the department's
8 share of the costs and expenses of constructing any such
9 slack-water dams, reservoirs, ponds, water parks, basins,
10 lakes or other incidental works on such lands, may be
11 paid for from any funds appropriated for the use of or
12 paid into the department and available for such purpose.
13 To effectuate the purposes of the sections of this article
14 dealing with slack-water dams, the director may accept
15 contributions to such funds from individuals, associa-
16 tions, clubs, organizations and corporations.

Sec. 13. Future Plans for Road and Other Construction;
2 Coordination.—Upon request by the director, the state
3 road commissioner or other public authority shall advise
4 the director of any planned or contemplated construction
5 of new public highways, bridges, culverts, viaducts, or
6 streets; and thereupon, it shall become the duty of the
7 director to coordinate the plans of the department, if any,
with the state road commission or other public authority
to the end that any such slack-water dam project shall
not cause a delay in or interfere with the construction of
the principal project, and to the end that such additional
project shall, in all respects, be in conformity with recog-
nized road construction standards and practices.

Part III. Husbandry of Water Areas.

Sec. 14. Water Areas Beautification; Investigations;

Enforcement.—The division of water resources shall be
responsible for the department's program and practices
in the husbandry of rivers, streams, creeks, branches,
brooks, lakes, industrial settling basins and ponds, waste
treatment facilities, and other water areas (except farm
ponds) and the lands immediately adjacent thereto.
The chief of the division shall make such investi-
gations and surveys, conduct such schools and public
meetings and take such other steps as may be expedient
in the conservation, beautification, improvement and use
of all such water areas of the state. He shall cooperate
with the department's chief law enforcement officer in
enforcing the provisions of law prohibiting the disposal
of litter in, along and near such water areas.
Sec. 15. Litter along Streams, etc.; Violations; Evidence; Penalties; Exception.—It shall be unlawful to place, deposit, dump or throw, or cause to be placed, deposited, dumped or thrown, any litter, garbage, refuse, trash, cans, bottles, papers, ashes, carcass of any dead animal or any part thereof, offal or any other offensive or unsightly matter into any river, stream, creek, branch, brook, lake or pond, or upon the surface of any land within one hundred yards thereof, or in such location that high water or normal drainage conditions will cause any such materials or substances to be washed into any river, stream, creek, branch, brook, lake or pond. No portion of this section shall be construed to restrict an owner, renter or lessee in the use of his own private property or rented or leased property or to prohibit the disposal of any industrial and other wastes into waters of this state in a manner consistent with the provisions of article five-a of this chapter. But if any owner, renter or lessee, private or otherwise, knowingly permits any such materials or substances to be placed, deposited, dumped or thrown in such location that high water or
normal drainage conditions will cause any such mater-
ials or substances to wash into any river, stream, creek, 
branch, brook, lake or pond, it shall be deemed prima 
facie evidence that such owner, renter or lessee intended 
to violate the provisions of this section.

In addition to enforcement by the director, the chief 
of the division of water resources, and the department’s 
chief law enforcement officer, the provisions of this sec-
tion may be enforced by all other proper law enforce-
ment agencies.

Any person violating any provision of this section shall 
be guilty of a misdemeanor, and, upon conviction thereof, 
shall be punished by a fine of not less than twenty dollars 
or more than five hundred dollars, or by imprisonment 
in the county jail for a period not to exceed six months, 
or, in the discretion of the court, by both such fine and 
imprisonment.

Part IV. Severability.

Sec. 16. Severability of Provisions.—If any provision of 
this article or the application thereof to any person or 
circumstance is held invalid, such invalidity shall not
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4 affect other provisions or applications of the article which
5 can be given effect without the invalid provision or its
6 application, and to this end the provisions of this article
7 are declared to be severable.

Article 5-A. Water Pollution Control Act.

Part I. General Provisions and Public Policy.

Section 1. Declaration of Policy.—It is declared to be
2 the public policy of the state of West Virginia to maintain
3 reasonable standards of purity and quality of the waters
4 of the state consistent with (1) public health and public
5 enjoyment thereof; (2) the propagation and protection of
6 animal, bird, fish, aquatic and plant life; and (3) the at-
7 traction, development, maintenance and expansion of
8 mining, manufacturing and other business and industry,
9 and to that end to encourage by voluntary cooperation,
10 and to require when necessary, the use of available, rea-
11 sonable, practicable and economically feasible methods to
12 control and reduce the pollution of the waters of the state
13 of West Virginia.

Sec. 2. Definitions.—Unless the context in which used
2 clearly requires a different meaning, as used in this ar-
3 ticle:
(a) "Director" shall mean the director of the department of natural resources;

(b) "Board" shall mean the state water resources board;

c) "Chief" shall mean the chief of the division of water resources of the department of natural resources;

d) "Person," "persons" or "applicant" shall mean any public or private corporation, institution, association, firm or company organized or existing under the laws of this or any other state or country; state of West Virginia; governmental agency; political subdivision; county court; municipal corporation; industry; sanitary district; public service district; drainage district; soil conservation district; watershed improvement district; partnership; trust; estate; person or individual; group of persons or individuals acting individually or as a group; or any other legal entity whatever;

(e) "Water resources," "water" or "waters" shall mean any and all water on or beneath the surface of the ground, whether percolating, standing, diffused or flowing, wholly or partially within this state, or bordering this state and
within its jurisdiction, and shall include, without limiting
the generality of the foregoing, natural or artificial lakes,
rivers, streams, creeks, branches, brooks, ponds (except
farm ponds, industrial settling basins and ponds and water
treatment facilities), impounding reservoirs, springs,
wells and watercourses;
(f) “Pollution” shall mean the discharge or deposit,
directly or indirectly, of sewage, industrial wastes, or
other wastes, of whatever kind or character, in or near
any waters of the state, in such condition, manner or
quantity, as to (1) contaminate or substantially contribute
to the contamination of any of such waters, or (2) alter
or substantially contribute to the alteration of the physi-
cal, chemical or biological properties of any of such
waters, if such contamination or alteration, or the result-
ing contamination or alteration where a person only con-
tributes thereto, is to such an extent as to make any of
such waters (i) directly or indirectly detrimental to the
public health, or (ii) directly or indirectly and unreason-
ably detrimental to existing animal, bird, fish, aquatic
or plant life, or (iii) unreasonably unsuitable for present
or future domestic, commercial, industrial, agricultural, recreational or other legitimate uses: Provided, That sewage, industrial wastes, or other wastes shall not include animal or commercial fertilizer used or stored for use in agriculture, horticulture or industry;

(g) "Sewage" shall mean water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present;

(h) "Industrial wastes" shall mean any liquid, gaseous, solid or other waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade or business, or from the development, processing or recovery of any natural resources; and the admixture with such industrial wastes of sewage, or other wastes, as hereinafter defined, shall also be considered "industrial wastes" within the meaning of this article;

(i) "Other wastes" shall mean garbage, refuse, decayed wood, sawdust, shavings, bark, and other wood debris and residues, sand, lime, cinders, ashes, offal, night soil, silt, oil, tar, dye stuffs, acids, chemicals, and all other materials
and substances not sewage or industrial wastes which may cause or might reasonably be expected to cause or to contribute to the pollution of any of the waters of the state;

(j) "Establishment" shall mean an industrial establishment, mill, factory, tannery, paper or pulp mill, mine, colliery, breaker or mineral processing operation, quarry, refinery, and each and every industry or plant or works in the operation of which industrial wastes, or other wastes are produced;

(k) "Sewer system" shall mean pipe lines or conduits, pumping stations, and force mains, and all other constructions, facilities, devices and appliances appurtenant thereto, used for collecting or conducting sewage, industrial wastes, or other wastes to a point of disposal or treatment;

(l) "Treatment works" shall mean any plant, facility, means, system, disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, diversion ditch above or below the surface of the ground, settling tank or pond, incinerator, area devoted to sanitary landfills, or other works not specifically men-
tioned herein, installed for the purpose of treating, neutralizing, stabilizing, holding or disposing of sewage, industrial wastes, or other wastes and/or for the purpose of regulating or controlling the quantity and rate of flow thereof;

(m) “Disposal system” shall mean a system for disposing of sewage, industrial wastes, or other wastes, and shall be construed to include sewer systems and treatment works;

(n) “Outlet” shall mean the terminus of a sewer system or the point of emergence of any water-carried sewage, industrial wastes, or other wastes, or the effluent therefrom, into any of the waters of this state;

(o) “Activity” or “activities” shall mean any activity or activities for which a permit is required by the provisions of section five of this article; and

(p) “Code” shall mean the code of West Virginia, one thousand nine hundred thirty-one, as amended.

Part II. Chief of Division of Water Resources and Water Resources Board.

Sec. 3. General Powers and Duties of Chief of Division of Water Resources and Water Resources Board with Re-
spect to Water Pollution.—(a) In addition to all other
powers and duties of the chief of the department’s division
of water resources, as prescribed in this article or else-
where by law, the chief, under the supervision of the di-
rector, shall have and may exercise the following powers
and authority and shall perform the following duties:

(1) To encourage voluntary cooperation by all persons
in controlling and reducing the pollution of the waters
of this state, and to advise, consult and cooperate with all
persons, all agencies of this state, the federal government
or other states, and with interstate agencies in the further-
ance of the purposes of this article;

(2) To encourage the formulation and execution of
plans by cooperative groups or associations of municipal
corporations, industries, and other users of waters of the
state, who, jointly or severally, are or may be the source
of pollution of the same waters, for the control and reduc-
tion of pollution;

(3) To encourage, participate in, or conduct or cause
to be conducted studies, scientific or other investigations,
research, experiments and demonstrations relating to
(4) To study and investigate all problems concerning water flow, water pollution and the control and reduction of such pollution, and to make reports and recommendations with respect thereto;

(5) To collect and disseminate information relating to water pollution and the control and reduction thereof;

(6) To develop a public education and promotion program to aid and assist in publicizing the need and securing support for pollution control and abatement;

(7) To sample ground and surface water with sufficient frequency to ascertain the standards of purity or quality from time to time of the waters of the state;

(8) To develop programs for the control and reduction of the pollution of the waters of the state; and

(9) To exercise general supervision over the administration and enforcement of the provisions of this article, and all orders issued pursuant to the provisions of this article.
(b) In addition to all other powers and duties of the water resources board, as prescribed in this article or elsewhere by law, the board shall have and may exercise the following powers and authority and shall perform the following duties:

(1) To cooperate with federal officers and agencies, other state agencies and officers, interstate agencies, and other interested persons in the control and reduction of water pollution, and to this end, and for the purpose of studies, scientific or other investigations, research, experiments and demonstrations pertaining thereto, the board may receive moneys from such agencies, officers and persons on behalf of the state: Provided, That the board shall pay all moneys so received into a special fund hereby created in the state treasury, which fund shall be expended under the direction of the board solely for the purpose or purposes for which the grant, gift or contribution shall have been made;

(2) To cooperate with any interstate agencies for the purpose of formulating, for submission to the Legislature, interstate compacts and agreements relating to the control and reduction of water pollution;
(3) To promulgate rules and regulations, in accordance with the provisions of chapter twenty-nine-a of this code, to implement and make effective the powers, duties and responsibilities vested in the board and the chief by the provisions of this article and otherwise by law: Provided, That all such rules and regulations shall be consistent with the declaration of public policy set forth in section one of this article;

(4) In cooperation with the college of engineering at West Virginia University, to conduct studies, scientific or other investigations, research, experiments and demonstrations in an effort to discover economical and practical methods for the elimination, disposal, control and treatment of sewage, industrial wastes, and other wastes, and the control and reduction of water pollution, and to this end, the board may cooperate with any public or private agency and receive therefrom, on behalf of the state and for deposit in the state treasury, any moneys which such agency may contribute as its part of the expenses thereof, and all gifts, donations or contributions received as aforesaid may be expended according to the requirements or
directions of the donor or contributor without the necessity of an appropriation therefor, except that an accounting thereof shall be made in the fiscal reports of the board.

(c) The board is hereby authorized to hire one or more individuals to serve as hearing examiners on a full or part time basis. Such individuals may be attorneys at law admitted to practice before any circuit court of this state. All such hearing examiners shall be individuals authorized to take depositions under the laws of this state.

(d) The board, any member thereof and the chief, and their duly authorized representatives, shall have the power and authority to make investigations, inspections and inquiries concerning compliance with the provisions of this article, any order made and entered in accordance with the provisions of this article, any rule or regulation promulgated by the board, and with the terms and conditions of any permit issued in accordance with the provisions of section seven of this article. In order to make such investigations, inspections and inquiries, the board, any member thereof and the chief, and their duly authorized representatives, shall have the power and authority
to enter at all reasonable times upon any private or public property, subject to responsibility for any damage to the property entered. Upon entering, and before making any investigation, inspection and inquiry, such person shall immediately present himself to the occupant of the property. Upon entering property used in any manufacturing, mining or other commercial enterprise, or by any municipality or governmental agency or subdivision, and before making any investigation, inspection and inquiry, such person shall immediately present himself to the person in charge of the operation, and if he is not available, to a managerial employee. All persons shall cooperate fully with the person entering such property for such purposes. Upon refusal of the person owning or controlling such property to permit such entrance or the making of such inspections, investigations and inquiries, the board or the chief may apply to the circuit court of the county in which such property is located, or to the judge thereof in vacation, for an order permitting such entrance and the making of such inspections, investigations and inquiries; and jurisdiction is hereby conferred upon such
court to enter such order upon a showing that the relief asked is necessary for the proper enforcement of this article: Provided, however, That a dwelling occupied for residential purposes shall not be entered without a search warrant.

(e) The board is hereby authorized and empowered to investigate and ascertain the need and factual bases for the establishment of public service districts as a means of controlling and reducing pollution from unincorporated communities and areas of the state, and to present reports and recommendations thereon to the county court or courts of the areas concerned, together with a request that such county court or courts create a public service district or districts, as therein shown to be needed and required and as provided in article thirteen-a, chapter sixteen of this code.

Sec. 4. Cooperation with Other Governments and Agencies.—The board is hereby designated as the water pollution control agency for this state for all purposes of the Federal Water Pollution Control Act, Public Law 660, 84th Congress (70 Stat. 498), approved July ninth,
one thousand nine hundred fifty-six, as amended by Public Law 87-88, 87th Congress (75 Stat. 204), approved July twentieth, one thousand nine hundred sixty-one, and subsequent amendatory provisions thereof, all hereinafter called the "federal act," and is hereby authorized to take all action necessary or appropriate to secure to this state the benefits of said act. In carrying out the purposes of this section, the board, in addition to any other action which may be necessary or appropriate, is hereby authorized to cooperate with the surgeon general of the United States public health service, other agencies of the federal government, other states, interstate agencies and other interested parties in all matters relating to water pollution, including the development of programs for controlling and reducing water pollution and improving the sanitary conditions of waters; to apply for and receive, on behalf of this state, funds made available to the board under the aforesaid federal act by any agency of the federal government, on condition that all moneys received from any federal agency as herein provided shall be paid into the state treasury and shall be expended,
under the direction of the board, solely for the purpose or purposes for which the grant or grants shall have been made; to approve projects for which application for loans or grants under the federal act is made by any municipality (including any city, town, district or other public body created by or pursuant to the laws of this state and having jurisdiction over the disposal of sewage, industrial wastes, or other wastes) or agency of this state or by any interstate agency; and to participate through its authorized representatives in proceedings under the federal act to recommend measures for the abatement of water pollution originating in this state. The governor is hereby authorized, in his discretion, to give consent on behalf of this state to requests by the secretary of the United States department of health, education and welfare to the attorney general of the United States for the bringing of actions for the abatement of such pollution. Whenever a federal law requires the approval or recommendation of a state agency or any political subdivision of the state in any matter relating to the water resources of the state, the board, subject to approval of
the Legislature, is hereby designated as the sole agency
to give the approval or recommendation required by the
federal law, unless the federal law specifically requires
the approval or recommendation of some other state agen-
cy or political subdivision of the state.

Part III. Permits.

Sec. 5. When Permits Required.—(a) It shall be un-
lawful for any person, until the department's permit
therefor has been granted, to:

(1) Extend, modify or add to any industrial or com-
mercial establishment so as to result in or effect any sub-
stantial change in the kind, characteristics and rate of
flow of the sewage, industrial wastes, or other wastes or
the effluent therefrom, into the waters of this state;

(2) Make, cause or permit to be made any new outlet,
or substantially enlarge or add to the load of any exist-
ing outlet, emerging into the waters of this state, whether
operated by gravity flow or pump, or a combination there-
of, including, without limiting the generality of the fore-
going, outlets for mine water drainage, plant drainage,
institution drainage and commercial and industrial es-
tablishment drainage of whatever kind or character;
(3) Acquire, construct, install or operate a new disposal system for the direct or indirect discharge or deposit of sewage, industrial wastes, or other wastes or the effluent therefrom, into the waters of this state; or

(4) Substantially extend, modify or add to a new or existing disposal system for the direct or indirect discharge or deposit of sewage, industrial wastes, or other wastes or the effluent therefrom, into the waters of this state;

if any such activity will cause a material pollution of the waters of the state.

(b) Where a person has a number of outlets emerging into the waters of this state in close proximity to one another, such outlets may be treated as a unit for the purposes of this section, and only one permit issued for all of such outlets.

(c) Unless such permit was obtained and remains in full force and effect, it shall also be unlawful for any person to operate or use such extension or modification of, or addition to, such industrial or commercial establishment, or to operate or use such new outlet or such existing out-
let with such enlarged or additional load, or to operate
or use such new disposal system, or to operate or use such
extension or modification of, or addition to, such new or
existing disposal system.

Sec. 6. Application for Permit; Form of Application;

Information Required; Fees.—The chief shall prescribe
a form of application for all permits for any activity spe-
cified in section five of this article relating other than
solely to sewage. The director of the division of sanitary
engineering of the state department of health, in coop-
eration with the chief, shall prescribe a form of applica-
tion for all permits for any activity relating solely to
sewage. All applications for permits for any activity re-
lating other than solely to sewage shall be submitted to
the division of water resources, and those applications for
permits for any activity relating solely to sewage shall
be submitted to the division of sanitary engineering of the
state department of health. All applications shall be
on the prescribed form. An applicant shall furnish all
information reasonably required by any such form, in-
cluding without limiting the generality of the forego-
ing, a plan of maintenance and proposed method of operation of the activity or activities: Provided, That, notwithstanding anything in this article to the contrary, where the activity is an integral part of a secret operating process, the required information shall be limited solely to data which will show the kind, characteristics, amount and rate of flow of sewage, industrial wastes, or other wastes or the effluent therefrom into the waters of the state. Until all such required information is furnished, an application shall not be considered a complete application.

A permit fee of ten dollars shall accompany the application when filed with the division of water resources or the division of sanitary engineering, as the case may be. The permit fee shall be deposited in the state treasury to the credit of the state general fund.

Sec. 7. Procedure Concerning Permits Required by Section Five; Procedure as to Permits Incident to Remedial Action; Transfer of Permits.—(a) The director of the division of sanitary engineering shall promptly make his determination concerning the health aspects of any
proposed activity relating solely to sewage. If the plans
and specifications of the proposed activity are in accord
with all reasonable requirements of the department of
health, the director of the division of sanitary engineer-
ing shall approve the application and issue the depart-
ment of health's certificate or permit therefor. If the ap-
plication is approved, the director of the division of san-
itary engineering shall promptly forward his department's
certificate or permit, together with the application and
the information and data submitted therewith, to the di-
vision of water resources for the action of the chief there-
of. Any denial of the application by the director of the
division of sanitary engineering shall be governed by the
provisions of chapter sixteen of this code and not by the
provisions of this article.

(b) The chief and his duly authorized representatives
shall conduct such investigation as is deemed necessary
and proper in order to determine whether any such ap-
plication should be granted or denied.

(c) The department's permit shall be issued upon such
reasonable terms and conditions as the chief may direct
if (1) the certificate or permit of the department of health
was issued (in those cases where the director of the di-
vision of sanitary engineering was required to act as
aforesaid) and/or (2) the application, together with all
supporting information and data and other evidence, es-
tablishes that any and all discharges or deposits of sew-
age, industrial wastes, or other wastes or the effluent
therefrom resulting from such proposed activity will be
treated and/or the quantity and rate of flow thereof reg-
ulated or controlled to the fullest extent reasonably, eco-
nomically and practicably feasible in view of modern
technology and scientific methods for the treatment, reg-
ulation or control of sewage, industrial wastes, or other
wastes or the effluent therefrom.

(d) An application for a permit incident to remedial
action in accordance with the provisions of section eleven
of this article shall be processed and decided as any other
application for a permit to acquire, construct, install or
operate a new disposal system, or to extend, modify or
add to a new or existing disposal system.

(e) An application for any such permit shall be acted
upon by the chief (and by the director of the division of
sanitary engineering of the state department of health
in those cases in which such director is by this section
required to act) and the department's permit (and the
certificate or permit of the department of health where
the proposed activity relates solely to sewage) delivered
or mailed, or a copy of any order of the chief denying any
such application mailed as hereinafter specified, as the
case may be, to the applicant by the chief within forty-
five days after the date upon which such complete ap-
plication was received from the applicant by the division
of sanitary engineering or within thirty days after the
date upon which such complete application was received
from the applicant by the division of water resources.
Every effort shall be made by the division of sanitary
engineering and the division of water resources to ex-
pedite all applications.

(f) When it is established that an application for a
permit should be denied, the chief shall make and enter
an order to that effect, which order shall specify the rea-
sons for such denial, and shall cause a copy of such order
to be served on the applicant by registered or certified mail. The chief shall also cause a notice to be served with the copy of such order, which notice shall advise the applicant of his right to appeal to the board by filing a notice of appeal, on the form prescribed by the board for such purpose, with the board, in accordance with the provisions of section fifteen of this article, within thirty days after the date upon which the applicant received the copy of such order. However, an applicant may alter the plans and specifications for the proposed activity and submit a new application for any such permit, in which event the procedure hereinbefore outlined with respect to an original application shall apply.

(g) Upon the sale of property which includes an activity for which the department's permit was granted, the permit shall be transferable to the new owner, but the transfer shall not become effective until it is made in the records of the division of water resources.

Sec. 8. Orders to Compel Compliance with Permits.—After issuance of the department's permit for any such activity, the chief and his duly authorized representatives
may make field inspections of the work on the activity, and, after completion thereof, may inspect the completed activity, and, from time to time, may inspect the maintenance and operation of such activity.

To compel compliance with the terms and conditions of the department's permit for any such activity and with the plans and specifications therefor and the plan of maintenance and method of operation thereof, the chief is hereby authorized after reasonable notice to make and enter an order revoking or suspending such permit and directing the person to whom such permit was issued to stop or suspend any and all work on such activity or, if completed, to stop or suspend all discharges or deposits of sewage, industrial wastes, or other wastes or the effluent therefrom resulting from such activity, until such time as the deficiencies specified in such order are fully and completely corrected and there is full compliance with the terms and conditions of such permit, and with the plans and specifications for such activity and the plan of maintenance and method of operation thereof. The chief by such order may also direct such person to take
affirmative action to correct the deficiencies specified in such order so there will be full compliance with the terms and conditions of such permit and with the plans and specifications therefor, and the plan of maintenance and method of operation thereof.

The chief shall cause a copy of any such order to be served by registered or certified mail or by a conservation officer or other law enforcement officer upon the person to whom any such permit was issued. The chief shall also cause a notice to be served with the copy of such order, which notice shall advise such person of his right to appeal to the board by filing a notice of appeal, on the form prescribed by the board for such purpose, with the board, in accordance with the provisions of section fifteen of this article, within thirty days after the date upon which such person received the copy of such order.

All permits for the discharge of sewage, industrial wastes, or other wastes into any waters of the state issued by the water resources board prior to the effective date of this act and which have not been revoked prior to the effective date of this act shall be enforced under the
terms and provisions of this act, and shall remain valid until revoked or suspended in accordance with the terms and provisions of this act.

Part IV. Pollution Abatement and Control.

Sec. 9. Information Required.—Any and all persons directly or indirectly discharging or depositing sewage, industrial wastes, or other wastes or the effluent therefrom, into or near any waters of the state shall file with the division of water resources such information as the chief thereof may reasonably require on forms prescribed by him for such purpose, including but not limited to data as to the kind, characteristics, amount and rate of flow of such discharge or deposit.

Sec. 10. Orders of Chief to Stop or Prevent Discharges or Deposits or Take Remedial Action.—If the chief, on the basis of investigations, inspections and inquiries, determines that any person is causing the pollution of any of the waters of the state, or does on occasions cause pollution by not regulating and controlling the quantity and rate of flow of sewage, industrial wastes, or other wastes or the effluent therefrom, or otherwise, and that the same
should be controlled or reduced, considering the public
policy set forth in section one of this article, existing
permits, the amount and effect of such pollution, the
practicality and physical and economic feasibility of con-
trolling or reducing such pollution, the health and wel-
fare of the public and other present and future uses of
the waters in question, he shall make and enter an order
directing such person in the alternative to either (1)
stop or prevent such discharges or deposits of sewage,
industrial wastes, or other wastes or the effluent there-
from determined to be causing such pollution, or (2)
take remedial action by acquiring, constructing or in-
stalling, and using and operating a new disposal system,
or extending, modifying or adding to an existing disposal
system so as to control or reduce such pollution, by treat-
ing and/or regulating or controlling the quantity and rate
of flow of any and all discharges or deposits of sewage,
industrial wastes, or other wastes or the effluent there-
from to the fullest extent reasonably, economically and
practically feasible in view of modern technology and
scientific methods for the treatment, regulation or con-
trol of sewage, industrial wastes, or other wastes or the
effluent therefrom and with regard for the rights and in-
terests of all persons concerned. The chief shall fix a
reasonable time in such order by which any and all such
discharges or deposits must stop or be prevented or any
such remedial action must be completed. Such order shall
also direct such person to apply forthwith for a permit
in accordance with the provisions of sections five, six and
seven of this article, in the event such person elects to
comply with such order by taking such remedial action.
The order shall contain the findings of fact upon which
the chief determined to make and enter such order.
The chief shall cause a copy of any such order to be
served by registered or certified mail or by a conserva-
tion officer or other law enforcement officer upon such
person. The chief shall also cause a notice to be served
with the copy of such order, which notice shall advise
such person of his right to appeal to the board by filing
a notice of appeal, on the form prescribed by the board
for such purpose, with the board, in accordance with the
provisions of section fifteen of this article, within thirty
51 days after the date upon which such person received the
52 copy of such order.
53 In the sole discretion of the chief, he may postpone
54 issuing any such order if he feels such pollution can best
55 be controlled or reduced by cooperative efforts with the
56 person or persons responsible therefor.

Sec. 11. Compliance by Stopping or Preventing Dis-
2 charges or Deposits or by Taking Remedial Action; Per-
3 mits.—Any person upon whom any such final order of
4 the chief, or the board in accordance with the provisions
5 of section fifteen of this article, has been served shall
6 comply therewith by immediately stopping or preventing
7 any and all discharges or deposits of sewage, industrial
8 wastes, or other wastes or the effluent therefrom, deter-
9 mined to be causing such pollution, or by taking remedial
10 action as set forth in section ten of this article.
11 If such person elects to comply with any such final order
12 by taking remedial action, he shall forthwith apply for
13 a permit under and in accordance with the provisions of
14 sections five, six and seven of this article. No such reme-
15 dial action shall be taken until a permit therefor has been
16 issued.
Sec. 12. Duty to Proceed with Remedial Action Promptly upon Receipt of Permit; Progress Reports Required;

Finances and Funds.—When such person elects to comply with such final order by taking remedial action, such person shall, within thirty days after receipt of such permit, take or begin appropriate steps or proceedings to carry out such remedial action. In any such case it shall be the duty of each individual offender, each member of a partnership, each member of the governing body of a municipal corporation and each member of the board of directors or other governing body of a private corporation, association or other legal entity whatever, upon receipt of such permit by such individual, partnership, municipal corporation, private corporation, association or other legal entity whatever, to see that appropriate steps or proceedings to comply with such order are taken or begun within thirty days after such receipt. The chief may require progress reports, not oftener than once a month, setting forth the steps taken, the proceedings started and the progress made toward completion of such remedial action. All such remedial action shall be diligently prosecuted to completion.
Failure of the governing body of a municipal corporation, or the board of directors or other governing body of any private corporation, association or other legal entity whatever, to provide for the financing and carrying out of such remedial action, as may be necessary to comply with said order, by appropriate ordinance or resolution within such thirty-day period, shall constitute failure to take or begin appropriate steps or proceedings to comply with such order. If such person be a municipal corporation, the cost of all such remedial action as may be necessary to comply with said order shall be paid out of funds on hand available for such purpose, or out of the general funds of such municipal corporation, not otherwise appropriated, and if there be not sufficient funds on hand or unappropriated, then the necessary funds shall be raised by the issuance of bonds, any direct general obligation bond issue to be subject to the approval of the state sinking fund commission and the attorney general of the state of West Virginia.

If the estimated cost of the remedial action to be taken by a municipal corporation to comply with such final
order is such that any bond issue necessary to finance such action would not raise the total outstanding bonded indebtedness of such municipal corporation in excess of the constitutional limit imposed upon such indebtedness by the constitution of this state, then and in that event the necessary bonds may be issued as a direct obligation of such municipal corporation, and retired by a general tax levy to be levied against all property within the limit of such municipal corporation listed and assessed for taxation. If the amount of such bonds necessary to be issued would raise the total outstanding bonded indebtedness of such municipal corporation above said constitutional limitation on such indebtedness, or if such municipal corporation by its governing body shall decide against the issuance of direct obligation bonds, then such municipal corporation shall issue revenue bonds and provide for the retirement thereof in the same manner and subject to the same conditions as provided for the issuance and retirement of bonds in chapter twenty-five, acts of the Legislature, first extraordinary session, one thousand three hundred thirty-three, and any amendment thereof: Pro-
That the provisions of section six of the above-mentioned act, allowing objections to be filed with the governing body, and providing that a written protest of thirty percent or more of the owners of real estate shall require a four-fifths vote of the governing body for the issuance of said revenue bonds, shall not apply to bond issues proposed by any municipal corporation to comply with a final order made and entered under the authority of this article, and such objections and submission of written protest shall not be authorized, nor shall the same, if made or had, operate to justify or excuse failure to comply with such final order.

The funds made available by the issuance of either direct obligation bonds or revenue bonds, as herein provided, shall constitute a "sanitary fund," and shall be used for no other purpose than for carrying out such final order; no public money so raised shall be expended by any municipal corporation for any purpose enumerated in this article, unless such expenditure and the amount thereof have been approved by the board. The acquisition, construction or installation, use and operation, repair, modi-
86 fication, alteration, extension, equipment, custody and
87 maintenance of any disposal system by any municipal
88 corporation, as herein provided, and the rights, powers
89 and duties with respect thereto, of such municipal cor-
90 poration and the respective officers and departments
91 thereof, whether the same shall be financed by the issu-
92 ance of revenue or direct obligation bonds, shall be gov-
93 erned by the provisions of said chapter twenty-five, acts
94 of the Legislature, first extraordinary session, one thou-
95 sand nine hundred thirty-three, and any amendments
96 thereof.

**Sec. 13. Time Extensions.**—The chief shall have the
2 authority, in his sole discretion, to extend the time fixed
3 in any final order made and entered by him, or the board
4 in accordance with the provisions of section fifteen of
5 this article, within which any person electing to comply
6 with such order by taking remedial action must complete
7 such action, upon written petition filed with him prior to
8 the time fixed in such order, when it shall appear that a
9 good faith effort to comply with said order is being made,
10 and that it shall be impossible for such person to com-
plete such remedial action within the time so fixed:

Provided, That when it shall appear from such petition
that due to wartime or other governmental restrictions
with respect to labor or material, or both, such compli-
ance with any such order would be impossible or would
place an undue burden upon such person, the chief shall
stay execution of any such order until such time as it may
satisfactorily appear that such wartime or other restric-
tions no longer exist. The chief may grant as many such
extensions as he finds to be warranted by the facts and
circumstances involved in any particular case.

Sec. 14. Control by State as to Pollution; Continuing

Jurisdiction.—No right to continue existing pollution of
any of the waters of the state shall exist nor shall such
right be or be deemed to have been acquired by virtue
of past or future pollution by any person. The right and
control of the state in and over all waters of the state are
hereby expressly reserved and reaffirmed. It is recognized
that with the passage of time, additional efforts may have
to be made by all persons toward control and reduction
of the pollution of the waters of the state, irrespective of
the fact that such persons may have previously complied
with all orders of the chief or board. However, it is also
recognized that there should be continuity and stability
respecting pollution control measures taken in cooperation
with, and with the approval of, the chief, or pursuant to orders of the chief or board. Therefore, and notwithstanding any provision in this section to the contrary, where a person is complying with the terms and conditions of a permit granted pursuant to the provisions of section seven of this article or where a person has completed remedial action pursuant to an order of the chief or board, additional efforts may not be required until such time as there has been a substantial and material change in the facts and circumstances of the situation to which the permit or remedial action pertains.

Part V. Appeal and Review Procedures.

Sec. 15. Appeal to Water Resources Board.—(a) Any person adversely affected by an order made and entered by the chief in accordance with the provisions of this article, or aggrieved by failure or refusal of the chief to act within the time required by section seven of this
section on an application for a permit or aggrieved by the

provisions of this article, may appeal to the water resources

board for an order vacating or modifying such order, or

for such order, action or terms and conditions as the chief

should have entered, taken or imposed. The person so

appealing shall be known as the appellant and the chief

shall be known as the appellee.

(b) Such appeal shall be perfected by filing a notice

of appeal, on the form prescribed by the board for such

purpose, with the board within thirty days after the date

upon which the appellant received the copy of such order,

or received such permit, as the case may be. The filing

of the notice of appeal shall stay or suspend execution of

any order appealed from. The notice of appeal shall set

forth the order or terms and conditions complained of and

the grounds upon which the appeal is based. A copy of

the notice of appeal shall be filed by the board with the

chief within three days after the notice of appeal is filed

with the board.

(c) Within seven days after receipt of his copy of the

notice of appeal, the chief shall prepare and certify to
the board a complete record of the proceedings out of
which the appeal arises, including all documents and cor-
respondence in the chief’s file relating to the matter in
question. With the consent of the board and upon such
terms and conditions as the board may prescribe, any
persons affected by any such activity or by such alleged
pollution may by petition intervene as a party appellant
or appellee. The board shall hear the appeal de novo, and
evidence may be offered on behalf of the appellant and
appellee, and, with the consent of the board, by any in-
tervenors.

(d) All of the pertinent provisions of article five, chap-
ter twenty-nine-a of this code shall apply to and govern
the hearing on appeal authorized by this section and the
administrative procedures in connection with and follow-
ing such hearing, with like effect as if the provisions of
said article five were set forth in extenso in this section,
with the following modifications or exceptions:

(1) Unless the board directs otherwise, the appeal
hearing shall be held in the city of Charleston, Kanawha
county, West Virginia; and
(2) In accordance with the provisions of section one, article five of said chapter twenty-nine-a, all of the testimony at any such hearing shall be recorded by stenographic notes and characters or by mechanical means. Such reported testimony shall in every appeal hearing under this article be transcribed.

(e) Any such appeal hearing shall be conducted by a quorum of the board, but the parties may by stipulation agree to take evidence before a hearing examiner employed by the board. Upon request of any party to the appeal, the evidence taken before a hearing examiner shall be taken in the county in which the activity is proposed to take place, or in which the activity is situate or would be situate upon completion thereof, or in which the pollution is alleged to have occurred or to be taking place, as the case may be. For the purpose of conducting such appeal hearing, any member of the board and the secretary thereof shall have the power and authority to issue subpoenas and subpoenas duces tecum in the name of the board, in accordance with the provisions of section one, article five, chapter twenty-nine-a of this code. All
subpoenas and subpoenas duces tecum shall be issued and
served within the time and for the fees and shall be en-
forced, as specified in section one, article five of said chap-
ter twenty-nine-a, and all of the said section one provi-
sions dealing with subpoenas and subpoenas duces tecum
shall apply to subpoenas and subpoenas duces tecum is-
sued for the purpose of an appeal hearing hereunder.

(f) Any such hearing shall be held within twenty days
after the date upon which the board received the timely
notice of appeal, unless there is a postponement or con-
tinuance. The board may postpone or continue any hear-
ing upon its own motion, or upon application of the ap-
pellant, the appellee or any intervenors for good cause
shown. The chief shall be represented at any such hear-
ing by the attorney general or his assistants. At any such
hearing the appellant and any intervenor may represent
himself or be represented by an attorney at law admitted
to practice before any circuit court of this state.

(g) After such hearing and consideration of all of the
testimony, evidence and record in the case, the board
shall make and enter an order affirming, modifying or
vacating the order of the chief, or shall make and enter
such order as the chief should have entered, or shall make
and enter an order approving or modifying the terms and
conditions of any permit issued. In determining its course
of action, the board shall take into consideration the fac-
tors which the chief had to consider in making his order,
and fixing the terms and conditions of such permit, as set
forth in sections seven, eight or ten of this article, as the
case may be.

(h) Such order shall be accompanied by findings of
fact and conclusions of law as specified in section three,
article five, chapter twenty-nine-a of this code, and a copy
of such order and accompanying findings and conclusions
shall be served upon the appellant, and any intervenors,
and their attorneys of record, if any, and upon the ap-
pellee in person or by registered or certified mail.

(i) The board shall also cause a notice to be served
with the copy of such order, which notice shall advise the
appellant, the appellee and any intervenors of their right
to judicial review, in accordance with the provisions of
section sixteen of this article. The order of the board shall
be final unless vacated or modified upon judicial review thereof in accordance with the provisions of section sixteen of this article.

Sec. 16. Judicial Review.—(a) Any person or the chief adversely affected by a final order made and entered by the board after such appeal hearing, held in accordance with the provisions of section fifteen of this article, is entitled to judicial review thereof. All of the pertinent provisions of section four, article five, chapter twenty-nine-a of this code shall apply to and govern such review with like effect as if the provisions of said section four were set forth in extenso in this section, with the following modifications or exceptions:

(1) As to cases involving an order denying an application for a permit, or approving or modifying the terms and conditions of a permit, the petition shall be filed, within the time specified in said section four, in the circuit court of the county in which such extension or modification of, or addition to, such industrial or commercial establishment, or such new outlet or the enlargement of, or addition to, the load of an existing outlet, or such ac-
quisition, construction, installation or operation of a new disposal system or the extension or modification of, or addition to, a new or existing disposal system, is proposed to take place;

(2) As to cases involving an order revoking or suspending a permit and directing any and all work on any such activity to stop or suspending such work, or directing all discharges or deposits of sewage, industrial wastes, or other wastes or the effluent therefrom resulting from any such activity to stop or suspending such discharges or deposits, or directing that affirmative action be taken to correct alleged and specified deficiencies concerning any such activity, the petition shall be filed, within the time specified in said section four, in the circuit court of the county in which such extension or modification of, or addition to, such industrial or commercial establishment, or such new outlet or the enlargement of, or addition to, the load of an existing outlet, or such acquisition, construction, installation or operation of a new disposal system or the extension or modification of, or addition to, a new or existing disposal system, is situate or would be situate upon completion thereof; and
(3) As to cases involving an order directing that any
and all discharges or deposits of sewage, industrial wastes,
or other wastes or the effluent therefrom determined to
be causing pollution be stopped or prevented or else that
remedial action be taken, the petition shall be filed, within
the time specified in said section four, in the circuit court
of the county in which the pollution is alleged to have oc-
curred or to be taking place.
(b) The judgment of the circuit court shall be final
unless reversed, vacated or modified on appeal to the su-
preme court of appeals in accordance with the provisions
of section one, article six, chapter twenty-nine-a of this
code, except that notwithstanding the provisions of said
section one the petition seeking such review must be filed
with said supreme court of appeals within ninety days
from the date of entry of the judgment of the circuit court.
(c) Legal counsel and services for the chief in all
appeal proceedings in the circuit courts and in the su-
preme court of appeals of this state shall be provided by
the attorney general or his assistants and in appeal pro-
ceedings in the circuit courts by the prosecuting attorneys
of the several counties as well, all without additional compensation, or the board or chief, with the written approval of the attorney general may employ special counsel to represent the board or chief in a particular proceeding.

Part VI. Actions.

Sec. 17. Actions to Abate Nuisances; Injunctive Relief.

(a) Whether any violation of the provisions of this article or any final order of the chief or the board shall result in prosecution or conviction or not, any such violation shall be deemed a nuisance which may be abated upon application by the chief to the circuit court of the county in which such nuisance or any part thereof shall exist, or to the judge thereof in vacation. Upon application by the chief, the circuit courts of this state may by mandatory or prohibitive injunction compel compliance with all final orders of such chief or board. Any application for an injunction to compel compliance with any final order of the chief or board shall be made to the circuit court of the county in which the activity to which the order relates is proposed to take place, or in which
the activity to which the order relates is situate or would be situate upon completion thereof, or in which the pollution to which the order relates is alleged to have occurred or to be taking place, as the case may be, or to the judge thereof in vacation. Upon application by the chief to the circuit court of the county in which a municipal corporation is located, or in which any person resides or does business, or to the judge thereof in vacation, such court may by injunction require the performance of any duty imposed upon such municipal corporation or person by the provisions of this article. The court may issue a temporary injunction in any case pending a decision on the merits of any application filed.

In cases of aggravated pollution where irreparable damage will result from any delay incident to the administrative procedures set forth in this act, the chief, with the consent of the director, may forthwith apply to the circuit court of the county in which the pollution is taking place for a temporary injunction. Such court may issue a temporary injunction pending final disposition of the case by the chief or the board, in the event an appeal is taken to the board.
The judgment of the circuit court upon any application permitted by the provisions of this section shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals. Any such appeal shall be sought in the manner provided by law for appeals from circuit courts in other civil cases, except that the petition seeking such review must be filed with said supreme court of appeals within ninety days from the date of entry of the judgment of the circuit court.

The chief shall be represented in all such proceedings by the attorney general or his assistants and in such proceedings in the circuit courts by the prosecuting attorneys of the several counties as well, all without additional compensation.

Sec. 18. Priority of Actions.—All applications under section seventeen of this article and all proceedings for judicial review under section sixteen of this article shall take priority on the docket of the circuit court in which pending, and shall take precedence over all other civil cases. Where such applications and proceedings for judicial review are pending in the same court at the same
time, such applications shall take priority on the docket and shall take precedence over proceedings for judicial review.

Part VII. Violations and Penalties.

Sec. 19. Violations; Criminal Penalties.—Any person who fails or refuses to discharge any duty imposed upon him by this article or by any final order of the chief or board, or who fails or refuses to apply for and obtain a permit as required by the provisions of this article, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished for a first offense by a fine of not less than twenty-five dollars nor more than one hundred dollars, and for a second offense by a fine of not less than two hundred dollars nor more than five hundred dollars, and for a third and each subsequent offense by a fine of not less than five hundred dollars nor more than one thousand dollars or by imprisonment for a period not to exceed six months, or in the discretion of the court by both such fine and imprisonment.

Sec. 19-a. Civil Liability.—If any loss of game fish or aquatic life results from a person's failure or
refusal to discharge any duty imposed upon him by this article, the West Virginia department of natural resources shall have a cause of action on behalf of the state of West Virginia to recover from such person or persons causing such loss a sum equal to the cost of replacing such game fish or aquatic life.

Sec. 20. Exceptions as to Criminal Liabilities.—The criminal liabilities imposed by section nineteen of this article shall not be construed to include any violation resulting from accident or caused by an act of God, war, strike, riot or other catastrophe as to which negligence or wilful misconduct on the part of such person was not the proximate cause.

Part VIII. Short Title; Construction and Severability.

Sec. 21. Short Title.—This article may be known and cited as the “Water Pollution Control Act.”

Sec. 22. Article for Benefit of State Only.—The provisions of this article inure solely to and are for the benefit of the people generally of the state of West Virginia, and this article is not intended to in any way create new, or enlarge existing rights of riparian owners or others. A
final order of the chief or the board, the effect of which is to find that pollution exists, or that any person is causing pollution, or any other final order, or any violation of any of the provisions of this article shall give rise to no presumptions of law or findings of fact inuring to or for the benefit of persons other than the state of West Virginia.

Sec. 23. Conflicting Provisions; Department of Health.

In the event of any inconsistency or conflict between any provision of this article and any provision of this chapter, the provisions of this article shall control. This article shall under no circumstances be construed as limiting or repealing the powers, authority or duties of the state department of health or the director thereof as provided in chapter sixteen of this code or otherwise by law.

Sec. 24. Severability of Provisions.—If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or its
application, and to this end the provisions of this article
are declared to be severable.

Article 7. Law Enforcement, Procedures and Penalties.

Section 4. Powers and Duties of Conservation Officers.

—Conservation officers and all other persons authorized
to enforce the provisions of this chapter shall be under
the supervision and direction of the director in the per-
formance of their duties as herein provided. The au-
thority, powers and duties of the conservation officers
shall be state-wide and they shall have authority to:

(1) Arrest on sight, without warrant or other court
process, any person or persons detected by them in the
violation of any of the provisions of this chapter, but no
such arrests shall be made where any form of adminis-
trative procedure is prescribed by this chapter for the
enforcement of any of the particular provisions contained
herein;

(2) Carry such arms and weapons as may be prescribed
by the director in the course and performance of their
duties, upon giving the bond required by the provisions
of section five, article seven, chapter sixty-one of this
19 code, but no license or other authorization shall be re-
20 quired of such officers for this privilege;
21
22 (3) Search and examine, in the manner provided by
23 law, any boat, vehicle, automobile, conveyance, express
24 or railroad car, fish box, fish bucket or creel, game bag or
25 game coat, or any other place in which hunting and fish-
26 ing paraphernalia, wild animals, wild birds, fish, am-
27 phibians or other forms of aquatic life could be concealed,
28 packed or conveyed whenever they have reason to be-
29 lieve that they would thereby secure or discover evidence
30 of the violation of any provision of this chapter;
31 (4) Execute and serve any search warrant, notice or
32 any process of law issued under the authority of this
33 chapter or any law relating to wildlife, forests, and all
34 other natural resources, by a justice of the peace or any
35 court having jurisdiction thereof, or copies of orders made
36 and entered by the chief of the division of water re-
37 sources, or, without fee, any subpoena or subpoena duces
38 tecum issued in accordance with the provisions of article
39 five-a of this chapter, in the same manner, with the same
40 authority, and with the same legal effect, as any constable
or sheriff can serve or execute such warrant, notice or process;

(5) Require the operator of any motor vehicle or other conveyance, on or about the public highways or roadways, or in or near the fields and streams of this state, to stop for the purpose of allowing such officers to conduct game-kill surveys;

(6) Summon aid in making arrests or seizures or in executing any warrants, notices or processes, and they shall have the same rights and powers as sheriffs have in their respective counties in so doing;

(7) Enter private lands or waters within the state while engaged in the performance of their official duties hereunder: Provided, That in connection with all surveys, examinations, inspections, inquiries, investigations and studies needed in the gathering of facts concerning water resources and their use or the pollution thereof under article five or article five-a of this chapter, such conservation officers and all other persons authorized to enforce the provisions of this chapter, shall act pursuant to and under the direction of the chief of the division of water
resources or the state water resources board, and such
officers and other persons shall be subject to the provisions
of subparagraph (c) of section five, article five, and sub-
paragraph (d) of section three, article five-a of this chap-
ter; and
(8) Do all things necessary to carry into effect the pro-
visions of this chapter.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect July 1, 1964.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within this the 11th day of February, 1964.

Governor