

mud/direct or reverse rotary drilling, sonic drilling, driving water well casing, and boring with earth augers to obtain groundwater.

(b) All of the following provisions apply to water well construction.

(1) Wells shall be constructed according to the requirements of Table 2.

(2) A well shall be constructed to maintain existing natural protection against contamination of aquifers and other geologic materials penetrated during well drilling and installation.

(3) A well shall be constructed to preclude and prevent entry of all known sources of contamination into the well.

(4) A well shall have a minimum casing length extending from one foot above finished grade to nineteen feet below finished grade upon completion of well drilling, with the following exceptions:

(i) The required total length of casing may exceed twenty feet depending upon geologic conditions and shall be in accord with the standards for the construction of wells listed in Table 2; and

(ii) Where the only viable source of groundwater available is from a shallow aquifer where the well must be completed at a depth less than nineteen feet below grade, the Department or local health department having jurisdiction may allow use of well casing of less than twenty feet total length along with such additional measures as needed, including but not limited to increased separation distances per Table 1, Note 1, to ensure provision of potable water.

(5) If a well is located in a well house, the floor of the well house shall be at least six inches above grade and the permanent casing shall extend at least six inches above the floor.

(6) Upon completion of well drilling and until such time as the well is equipped with a pump, the top of the casing shall be secured with a watertight and vermin proof well cap.

(16) Where bedrock is present within 19 feet of the ground surface, an oversized borehole shall be drilled and the permanent casing in the oversized borehole shall be sealed with grout to a minimum depth of 19 feet below grade, or five feet into the competent bedrock, whichever is deeper.

(17) Annular space between the well casing and borehole shall be grouted in accordance with Table 2. Where inner and outer well casings are used, the annular space between these casings shall be sealed with grout.

(18) An artesian well that overflows at land surface shall be constructed, equipped, and operated to provide for controlling the rate of discharges to conserve groundwater and to prevent the loss of artesian head by minimizing uncontrolled continuous waste discharges. Discharges to waste pipe, where installed, shall not be directly connected to a sewer or other source of contamination and shall be equipped with an air gap or backflow prevention device. Discharge pipes shall be properly screened to prevent entry of vermin.

(19) Wells completed in unconsolidated material or at the unconsolidated-consolidated material interface shall be screened if necessary and sufficiently developed to produce sand-free water and to minimize the entrance of fine materials into the well.

(20) Lead packers, lead plugs, or lead wool shall not be used as a well component.

(21) No solder containing more than 0.2 percent lead shall be used in making joints and fittings in any drinking water supply system or any water user's water lines.

(22) Wells shall be developed by air lift, bailing, surging, jetting, hydrofracturing and/or chemical treatment until sand free. Rock cuttings produced during water well drilling and well development shall be cleaned out of the well. As a final stage, the well may be pumped to

aquifer. A physical connection between a water supply that is in compliance with the requirements of these rules and another water supply that is not in compliance with the requirements of these rules is prohibited unless acceptable cross connection control is provided.

(29) All drilling fluids used for drilling operations shall be of food grade quality or NSF or UL approved or shall be water that complies with paragraph 5-B.3(b)(23) of this Appendix.

Section 5-B.4 Well Yield and Water Flow.

(a) The purpose of the water well yield test is to provide evidence that a water well will produce a sustainable flow rate for an extended period of time and to quantify that flow rate. Before being put into use, new and redeveloped wells shall be tested for well yield. The yield test for water well flow rates shall meet the following performance requirements:

(1) water well yield tests shall be performed for a period of time adequate to quantify well yield.

(2) water level and flow rate observations shall be made and recorded, at a minimum, before the start of the yield test, immediately upon the cessation of water withdrawal, and periodically during drawdown, and recovery periods. Frequency of measurements shall be made as necessary for the test method.

(3) water discharged during a yield test shall be discharged in a manner that avoids short circuiting of the water back into the aquifer.

(4) for wells that have been subjected to hydrofracturing the yield test shall not commence until redevelopment has been completed and, as a minimum, until the volume of water pumped/discharged into the aquifer has been removed from the well.

(5) the well yield determined for new wells shall be recorded on the Well Completion Report form submitted for that well to the New

(3) for facilities planned for well water use of less than 500 gallons per day, pumping, bailing or air lift test methods may be used.

(4) the well yield of a flowing artesian well may be determined by direct flow measurement if the artesian flow rate equals or exceeds the desired water use rate.

Section 5-B.5 Water Well Pumps: Construction, Installation, Repair and Maintenance.

All of the following provisions apply to water well pumps, construction, installation, repair, and maintenance:

(a) All water supply system equipment shall be easily accessible for maintenance or repair.

(b) A pump shall be installed so that there are no unprotected openings into the interior of the pump or the well casing.

(c) Drop pipe shall be: a continuous unspliced length, except where spliced and adequately joined to accommodate use of a check valve or where spliced and adequately joined to support a depth extension on an existing well pump, of plastic pipe approved for use with drinking water with a minimum working pressure of 160 pounds per square inch containing a label or imprint indicating compliance with NSF or UL; or threaded and coupled schedule 80 or heavier PVC pipe containing a label or imprint indicating compliance with NSF or UL; or threaded and coupled galvanized steel, stainless steel or copper pipe. In addition, drop pipe should be sufficiently sized and installed to accommodate potential working stresses considering well depth, pumping level, pump size, and pump setting.

(d) A hand pump shall have a closed, downward facing, screened spout and a sealed pump rod packing assembly. A weep hole shall be installed in a hand pump discharge riser pipe below the frost line to protect the riser pipe and pump head from freezing.

Table 1**Required Minimum Separation Distances to Protect Water Wells From Contamination**

Contaminant Source	Distance (Feet)¹
Chemical storage sites not protected from the elements (e.g., salt and sand/salt storage) ²	300
Landfill waste disposal area, or hazardous or radiological waste disposal area ²	300
Land surface application or subsurface injection of effluent or digested sludge from a Municipal or public wastewater treatment facility	200
Land surface application or subsurface injection of septage waste	200
Land surface spreading or subsurface injection of liquid or solid manure ³	200
Storage Areas for Manure piles ⁴	200
Barnyard, silo, barn gutters and animal pens ^{5,6}	100
Cesspools (i.e. pits with no septic tank pretreatment)	200
Wastewater treatment absorption systems located in coarse gravel or in the Direct path of drainage to a well	200
Fertilizer and/or pesticide mixing and/or clean up areas	150
Seepage pit (following septic tank) ⁵	150
Underground single walled chemical or petroleum storage vessels	150

Notes for Table 1:

¹ The listed water well separation distances from contaminant sources shall be increased by 50% whenever aquifer water enters the water well at less than 50 feet below grade. If a 50% increase in separation distances can not be achieved, then the greatest possible increase in separation distance shall be provided with such additional measures as needed to prevent contamination. See also Note 6 to Table 2.

² Water wells shall not be located in a direct line of flow from these items, nor in any contaminant plume created by these items, except with such additional measures (e.g., sentinel groundwater monitoring, hydraulic containment, source water treatment) as needed to prevent contamination.

³ Based upon on-site evaluations of agricultural properties done per agricultural environmental management (AEM) or comprehensive nutrient management plan (CNMP) programs by a certified nutrient management planner or soil and water conservation district (SWCD) official, water wells may be located a minimum of 100 feet from areas subject to land spreading of manure.

⁴ Water wells may be located 100 feet from temporary (30 days or less) manure piles/staging areas that are controlled to preclude contamination of surface or groundwater or 100 feet from otherwise managed manure piles that are controlled pursuant to regulation in a manner that prevents contamination of surface or groundwater.

⁵ When these contamination sources are located in coarse gravel or are located updrift and in the direct path of drainage to a water well, the water well shall be located at least 200 feet away from the closest part of these sources.

⁶ Animal pen does not include small pet shelters or kennels housing 3 or fewer adult pets.

Table 2. Standards for Well Casing, Grouting, Diameter, and Screens

Water-bearing Formation	Overlying Material	Minimum Casing Length or Depth ¹	Oversize Drillhole For Grout, Diameter ¹	Casing and Grout Placement ¹	Well Diameter		
					Cased Portion	Uncased Portion	Well Screen Diameter ² (where applicable)
1. Sand or gravel	Unconsolidated caving material; sand or sand and gravel	19' minimum; but 5' below pumping level ³	None required	Grouting not required.	2" minimum	Does not apply	2" minimum
2. Sand or gravel	Clay, hardpan, till, silt, or similar material to depth of more than 15'	5' below pumping level ³	Casing size plus 2" if pressure placement of grout is used, Casing size plus 4" if gravity placement of grout is used. ^{4,5,6}	Upper drillhole shall be kept at least one-third filled with clay slurry while driving permanent casing; after casing is in the permanent position, annular space shall be filled with grout. ⁵	2" minimum	Does not apply	2" minimum
3. Sand or gravel	Clay, hardpan, till, silt, or similar material containing layers of sand or gravel within 15' of ground surface.	5' below pumping level ⁴	Casing size plus 2" if pressure placement of grout is used, Casing size plus 4" if gravity placement of grout is used. ^{4,5,6}	Annular space around casing shall be filled with grout.	2" minimum	Does not apply	2" minimum

Notes for Table 2:

¹ In the case of a flowing artesian well, attempts should be made to install and seal the well in a manner that protects the artesian aquifer, prevents erosion of overlying geologic materials, and confines the flow to within the well casing, giving due consideration to practicality, cost, and safety.

² These diameters shall also be applicable in circumstances where the use of perforated casing is deemed practicable. Well points commonly designated on the trade as 1 1/4" pipe shall be considered as being 2" nominal diameter well screens for purposes of these regulations.

³ As used in this table, the term "pumping level" shall refer to the lowest elevation of the water in a well during pumping, determined to the best knowledge of the water well contractor taking into consideration usual seasonal fluctuations and drawdown.

⁴ Pressure placement includes methods of grout placement using pumps and tremie tubes or using grout displacement through the casing, or otherwise from the bottom up around the casing, with one or more drillable plugs. When pressure placement is used with a borehole diameter of only 2" greater than the casing diameter, casing shall be assembled without couplings unless installed per the "Casing and Grout Placement" technique described on Line "2" of this Table. Gravity placement includes any method that relies on gravity to draw grout, either dry or as a slurry, down into the annular space between the casing and borehole or between an inner casing and outer casing.

⁵ For wells constructed by cable tool, hollow rod, jetting, or other drilling method where the permanent casing is driven, and where neither temporary casing nor an oversize borehole are used, dry driven grout methods using granular bentonite may be used. These methods use continuous feeding of granular bentonite into a starter hole or continuous mounding around the casing as the casing is driven. Collar flared joints

DRAFT

Ms. Jody Allen, PE
Allen Engineering
11397A LPGA Drive
Corning, 14830

18 January 2006

Dear Jody:

Ref: Your letters/memos of 11, 23 and 30th November, 2005 and 12th December 2005

I was able to get my committee together for a meeting on the topics you have raised, both in the referenced memos and your comments at the last KWIC meeting held in the Penn Yan Village chambers on 28th November.

Let me try to deal with the salient features of our responses to the points you have raised:

1) CONVENTIONAL, LOCAL WAIVERED AND SPECIFIC WAIVERED SYSTEMS:

As the State Health code requires licensed professional drawings/submittals on these systems, we hope the current plan of having the professional arrange with the KWIC manager for a site evaluation to determine whether the site will be compatible for a conventional or local waived system. Once the determination is made, the design professional may proceed in a conventional design or use one of the KWIC 4 local waivers and make the submittals directly to the KWIC manager. In the event there is too great a slope or the separation distances cannot be made, the design professional may submit directly to DoH in either Hornell or Geneva, which will co-ordinate with the KWIC manager for the final approval for the permit. THIS IS NOT NEW INFORMATION TO YOU, BUT I WANT TO RE-AFFIRM OUR POLICY OF HAVING THE KWIC MANAGER PRESENT FOR ALL INITIAL SITE/SOIL EVALUATIONS. I will deal with scheduling in a later portion of this letter.

2) YOUR WORK WITH DOH FOR LOCAL WAIVERS FOR OTHER STEUBEN COUNTY MUNICIPALITIES:

I have your correspondence with Mr. Klasius and applaud your efforts to create a system in other parts of Steuben County that will function like the 4 local waivers administered by the KWIC manager. Of course, the local waivers KWIC has are completely available for design professionals to use at no fee for the generic drawings (see the attached fee schedule for other communities and Schuyler County) and they will usually cover all site conditions in the Keuka Watershed with the exception of slope and distance.

3) DEMARCATION OF WORK BY KWIC/DESIGN PROFESSIONALS

At our meeting yesterday the Committee agreed to take to the Commissioners' meeting on the 23rd January in the Milo Town Hall a change in KWIC policies and procedures w/r to replacement systems. As you know KWIC currently does not do the design work on new construction. We have discovered that about half of the permits issued by KWIC are for replacement systems and we are now proposing that KWIC no longer provide this service, but leave it to design professionals after the site evaluation. If this measure is approved by the Commissioners, it will approximately double the amount of waste water design work available to design professionals and free up the KWIC manager for more timely site evaluations and inspection activity with his local watershed inspectors. Repairs involving the tank are still left to the local inspectors and repairs beyond the tank (requiring design professionals) may still be done by KWIC using our contract design professional. This does not eliminate the other design professionals if the homeowner/contractor wishes to employ them for repairs, permitted by KWIC.

4) SCHEDULING/AVAILABILITY OF THE KWIC MANAGER:

As a result of the possible re-assignment of replacement system work, the KWIC manager should be far more flexible in site evaluation scheduling and this should benefit all involved in the waste water system under consideration. I must say that you may not have been completely accurate in your

comment in the 23rd November letter w/r to Mr. Bauter's presence for a soil evaluation, as he claims he was not contacted. In any event, a timely call will get a site evaluation by Mr. Bauter or his designated alternate in the event he is not available in a timely fashion.

5) PROFESSIONAL FEES:

I have you fee schedule delineated in your 12th December letter and cannot comment on the amounts you have chosen to charge your clients---that is certainly your business and I do not feel you are at any disadvantage w/r to Mr. Osgood's contractual relationship with KWIC, especially with the proposed change in replacement system design. Many of the Engineers working within the KWIC system charge on the basis of time and materials, but that is your choice entirely.

6) APPLICATION PROCESS:

We certainly understand the confusion surrounding the process in getting a permit for the construction of a waste water system in the KWIC territory. The commissioners have agonized over this process as it applies to the homeowner, who is not used to the process and gets easily confused. We always encourage the homeowner to hire a professional for the permitting process and will continue to do so.

Jody,

I hope these comments have answered your questions satisfactorily and that we are in the process of streamlining the waste water permitting./construction process to enable the homeowner and design professional to experience far less confusion and frustration in the future.

Thank you for your concerns and involvement in these KWIC matters of mutual concern.

William A. Weber, Vice Chairman KWIC

PULTENEY

William A. Weber
Town Supervisor
PO Box 214
Pulteney, NY 14874

Phone: 607-868-4222
Fax: 607-868-4010
Cell: 607-738-1547

KEUKA LAKE

MEMO TO THE PULTENEY TOWN BOARD

CC: Town clerk
Atty for the Town
Assessor
Code Enforcement Officer
Chrm. Board of Assessment Review
Chrm. ZBA
Planning Board
Director, Real property Services, Steuben Cty

25 march, 2008

Ref: Dept. of Health—INDIVIDUAL WATER SUPPLY WELLS---FACT SHEET #5

All,

Please see the attached fact sheet and especially note the SURFACE WATER section.

I interpret this to mean Keuka lake cannot be used by homeowners as a drinking water supply for new construction or any situation where a building permit is required. Further, banks will probably no longer consider mortgages on Lake properties which are not connected to the public water supply, which is all the Lake Road South of the Waterfront Restaurant.

Besides the bureaucratic lunacy of these regulations, think of the impact on property values, assessments and the question as to whether this represents a "taking" of property by the Government.

We will discuss at the 9th April Board mtg and I look forward to your advice on how to combat this totally unreasonably approach to Public Health by the State Government.

Bill Weber, Supervisor

encl

PULTENEY BRIDGE
BATH, ENGLAND





INDIVIDUAL WATER SUPPLY WELLS - FACT SHEET #5

SUSCEPTIBLE WATER SOURCES

(Well Points, Dug Wells, Springs, Shore Wells, Surface Water and Cisterns)

Individual water supplies (IWS) need to provide adequate quantities of water fit for consumption and intended uses. IWS are required to be in compliance with the New York State Residential Code and 10NYCRR Appendix 5-B "Standards for Water Wells", installed by a certified NYS Department of Environmental Conservation (DEC) registered water well contractor, and have groundwater as the water source. A drilled well, located and constructed according to these criteria, should routinely be the water supply option selected. Other water sources which are susceptible to contamination from pathogens, spills, etc. and the effects from drought may be considered only as a last resort with proper protective measures and approval by County or State health department officials through issuance of a specific waiver pursuant to Part 75 of the State Health Department's Administrative Rules and Regulations or via a county sanitary code waiver provision.

SPECIFIC INFORMATION FOR SUSCEPTIBLE WATER SOURCE TYPES

The following types of water sources typically utilize shallow groundwater sources or surface water bodies. Surface waters are vulnerable to contamination and shallow groundwater sources are also at significant risk to contamination. These water sources have distinguishing construction characteristics which do not comply with Appendix 5-B requirements and would require a specific waiver if utilized:

Well Points

A well point (or "driven point") is a special type of well installed using a drive point with a built-in screen fastened to the end of a small diameter pipe (usually 1-1/4 to 2 inches) and without a protective outer casing. Well points are installed by pounding, driving or excavating down to the water table. These wells are usually constructed in shallow aquifers with sandy soils, within 10 to 30 feet of the ground surface.

Dug Wells

A dug well is constructed by making a large diameter excavation into a shallow aquifer, typically by hand digging or backhoe and shoring the excavation with large diameter concrete rings. Due to the construction limitations of this type of excavation dug wells are typically less than 15 feet deep.

Springs

Springs occur where an aquifer discharges naturally at or near the ground surface, and are broadly classified as either rock or earth springs. It is often difficult to determine the true source of a spring (that is, whether it truly has the natural protection against contamination that a groundwater aquifer typically has.) Even if the source is a good aquifer, it is difficult to develop a collection device (e.g., "spring box") that reliably protects against entry of contaminants under all weather conditions. (The term "spring box" varies, and, depending on its construction, would be equivalent to, and treated the same, as either a spring, well point or shore well.) Increased yield and turbidity during rain events are indications of the source being under the direct influence of surface water.

Shore Wells

"Shore wells" (also known as "infiltration galleries" or "cassion wells") are shallow wells influenced by surface water and are installed near a waterbody in a shallow aquifer that is directly connected to surface water. Shore wells can also be shallow subsurface devices adjacent to a water body, installed to collect water through a covered stone-filled trench or similar arrangement that drains surface water to a "storage" well or tank. Soils surrounding shore wells provide minimal filtration. The health risks of these water sources can be similar to those of surface water sources.

Surface Water

Water from rivers, lakes, ponds and streams contain bacteria, parasites (e.g. giardia and cryptosporidium), viruses and possibly other contaminants not typically found in groundwater. Water from these sources need to have extensive treatment, monitoring and maintenance to be suitable for drinking. Private homeowners typically don't have the equipment, expertise and training to reliably provide acceptable quality drinking water. Surface water should not be used as a water source and is not eligible for approval via specific waivers or Building Permits issued pursuant to the Residential Code.

Cisterns

Cisterns collect rainwater from a roof into a tank typically located in the basement or under ground. Due to dust, dirt, and bird droppings washed off the roof, cisterns are susceptible to contamination similar to surface water. Weathered or deteriorated roof materials may contaminate cisterns with asbestos, lead and loose nails. Cisterns should not be used as a water source and are not eligible for approvals via specific waivers or Building Permits issued pursuant to the Residential Code.

REPLACEMENT WATER SUPPLIES

When a new water source is needed to replace an existing inadequate onsite water source the use of susceptible sources as described above is discouraged. A properly installed drilled well must be considered first before considering the use of a susceptible source. As a last resort, the use of susceptible sources can be considered under the following conditions:

Well Points, Dug Wells and Springs

Where shallow ground water aquifers exist, well points, dug wells and springs can be allowed if these are installed according to Appendix 5-B, by a certified NYS DEC registered water well contractor and with issuance of a specific waiver or county sanitary code approval as needed. Installation of appropriate treatment should be considered. For springs an engineering report, which may include a hydrogeologic study, should be provided to assure that the water source is satisfactory.

Shore Wells

In cases where satisfactory groundwater cannot be developed according to Appendix 5-B standards, a specific waiver or approvals via county sanitary code can be requested for development of a shore well or infiltration gallery. All such requests need to demonstrate unsatisfactory availability of groundwater via an engineering report or other evidence (such as a hydrogeologic study) deemed acceptable by the approval authority. Since shore wells and infiltration galleries provide minimal natural filtration, all requests need to include proposed design, treatment (including filtration and a disinfection system) and an operation, maintenance and monitoring plan (including regular water testing; see NYS DOH Fact Sheet #3, "Recommended Residential Water Quality Testing") equivalent to that required for surface water, by a professional engineer. After health department approval, the shore well needs to be installed by a certified NYS DEC registered water well contractor. Inclusion of a deed amendment as a condition on the specific waiver approval should be considered. A professional engineer needs to certify that proper construction and installation of treatment has been provided. The water well contractor or engineer needs to provide the water supply owner with a copy of the operation, maintenance and monitoring plan.

COUNTY OR STATE HEALTH DEPARTMENT APPROVAL PROCESS REQUIRING A SPECIFIC WAIVER FROM PART 75 OR A COUNTY SANITARY CODE PROVISION

The health official for the geographic area where the property that will utilize the water source is located should be contacted for information about how to apply for a specific waiver or other county sanitary code approval. **It is recommended that, before application submittal, the local health official be contacted regarding conceptual acceptability of the proposal.**

A specific waiver **IS NOT** intended as a device for routinely approving individual water sources that do not meet state standards. It is intended to provide administrative flexibility to address rare cases when hardships exist and/or other circumstances that make it impractical to meet Appendix 5-B standards.

ADDITIONAL INFORMATION

Appendix 5-B can be found at: <http://www.health.state.ny.us/environmental/water/drinking/part5/appendix5b.htm>

NYSDEC registered well drillers can be found at: <http://www.dec.ny.gov/cfm/xtapps/WaterWell/index.cfm>

For a copy of Appendix 5-B or other Fact Sheets or questions concerning this Fact Sheet:

Contact Your Local Health Department
Official
(look for environmental health contacts)
www.nyscho.org/Directory/directory.html

or

Residential Sanitation Section
Bureau of Water Supply Protection
New York State Department of Health
(518) 402-7650 or FAX (518) 402-7659
E-mail: bpwsp@health.state.ny.us

Cisterns

Cisterns collect rainwater from a roof into a tank typically located in the basement or under ground. Due to dust, dirt, and bird droppings washed off the roof, cisterns are susceptible to contamination similar to surface water. Weathered or deteriorated roof materials may contaminate cisterns with asbestos, lead and loose nails. Cisterns should not be used as a water source and are not eligible for approvals via specific waivers or Building Permits issued pursuant to the Residential Code.

REPLACEMENT WATER SUPPLIES

When a new water source is needed to replace an existing inadequate onsite water source the use of susceptible sources as described above is discouraged. A properly installed drilled well must be considered first before considering the use of a susceptible source. As a last resort, the use of susceptible sources can be considered under the following conditions:

Well Points, Dug Wells and Springs

Where shallow ground water aquifers exist, well points, dug wells and springs can be allowed if these are installed according to Appendix 5-B, by a certified NYS DEC registered water well contractor and with issuance of a specific waiver or county sanitary code approval as needed. Installation of appropriate treatment should be considered. For springs an engineering report, which may include a hydrogeologic study, should be provided to assure that the water source is satisfactory.

Shore Wells

In cases where satisfactory groundwater cannot be developed according to Appendix 5-B standards, a specific waiver or approvals via county sanitary code can be requested for development of a shore well or infiltration gallery. All such requests need to demonstrate unsatisfactory availability of groundwater via an engineering report or other evidence (such as a hydrogeologic study) deemed acceptable by the approval authority. Since shore wells and infiltration galleries provide minimal natural filtration, all requests need to include proposed design, treatment (including filtration and a disinfection system) and an operation, maintenance and monitoring plan (including regular water testing; see NYS DOH Fact Sheet #3, "Recommended Residential Water Quality Testing") equivalent to that required for surface water, by a professional engineer. After health department approval, the shore well needs to be installed by a certified NYS DEC registered water well contractor. Inclusion of a deed amendment as a condition on the specific waiver approval should be considered. A professional engineer needs to certify that proper construction and installation of treatment has been provided. The water well contractor or engineer needs to provide the water supply owner with a copy of the operation, maintenance and monitoring plan.

COUNTY OR STATE HEALTH DEPARTMENT APPROVAL PROCESS REQUIRING A SPECIFIC WAIVER FROM PART 75 OR A COUNTY SANITARY CODE PROVISION

The health official for the geographic area where the property that will utilize the water source is located should be contacted for information about how to apply for a specific waiver or other county sanitary code approval. **It is recommended that, before application submittal, the local health official be contacted regarding conceptual acceptability of the proposal.**

A specific waiver IS NOT intended as a device for routinely approving individual water sources that do not meet state standards. It is intended to provide administrative flexibility to address rare cases when hardships exist and/or other circumstances that make it impractical to meet Appendix 5-B standards.

ADDITIONAL INFORMATION

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NYSDEC registered well drillers can be found at: <http://www.dec.ny.gov/cfm/xtapps/WaterWell/index.cfm>

For a copy of Appendix 5-B or other Fact Sheets or questions concerning this Fact Sheet:

Contact Your Local Health Department
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(look for environmental health contacts)
www.nyscho.org/Directory/directory.html

or

Residential Sanitation Section
Bureau of Water Supply Protection
New York State Department of Health
(518) 402-7650 or FAX (518) 402-7659
E-mail: bpwsp@health.state.ny.us

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 Sent
 Trash

Legend

Unread
 Read
 New
 Attachment
 Replied
 Deleted
 Flagged

Inbox Message 2 of 10

Reply Forward + Add to Quick Pick List Delete



From: Peter Landre <ptl2@cornell.edu>
 To: KWIC <office@keukawatershed.com>, bauterp@gmail.com
 Date: Tue, 25 Mar 2008 12:11:21 -0400
 Subject: IWS letter

Hi Paul,

I am amazed at the potential impact the new enforcement of will have on individuals and lake communities...unless I am misunderstanding the rules or they are not enforced...

Some thoughts for the letter...

1) Fact Sheet #5 indicates that the NYSDOH is now interpreting Appendix 5-b to mean that using lake water for a private domestic source will no longer be allowed for new construction OR for replacement or upgrading of existing lake water supply systems. This interpretation may also threaten all real estate transfers with lake water sources since the state is saying surface water is unsuitable for residential use (even w/ treatment) and not building permit pursuant to the Residential Code.

2) Enforcement of Appendix 5-b as described in fact sheet is obtrusive and will lead to severe economic hardship and/or hundreds of properties on Keuka and other Finger Lakes become not be able to use lake water, even with recognized disinfection treatment technology, and/or they will not be able to construct allowable drilled well (or other alternative) due to build characteristics (lot will be too small to meet required setbacks distances in many instances).

3) There are approximately 1,500 (do you have this figure on Keuka alone that draw water directly from Keuka lake threatened by these rules.

4) What public health evidence or monitoring data does the state show residents drawing water from Keuka Lake (or any other drinking water supply Finger Lake) have become sick due to water that would warrant the extreme policy position that is no longer be used for private water supplies? Are these statistics simply based on literature data from other areas that do not have watershed management programs in place like Keuka and other Finger Lakes? Why is there a "one-size-fits-all" approach to this when there are distinct differences in surface water quality across the region?

5) Bacteriological (fecal and e. coli) water testing on Keuka Lake over the past 15 years by the Keuka Lake Association using Midstate (certified NYSDOH ELAP lab) shows little to no bacteriological contamination in recent years and within acceptable limits. Surface waters used for drinking sources (of course, pre-treatment systems still need to be used by homeowners to ensure safe

6) If there is evidence of public health outbreaks due to surface waters in the Finger Lakes, these rules may be warranted. If such evidence the cost to individuals and communities are justified. Homeowners should be able to manage their own water without the interference and the costly regulatory enforcement. Fact Sheet #5. The statement "Private homeowners typically have the equipment, expertise and training to reliably provide acceptable drinking water" in the fact sheet seems to be the basis on which the rules are being enforced. This statement implies there is a public health risk (exposure and toxicity) and that individuals are dumb or not capable of learning or acquiring the expertise to provide water for their homes. Even if a residence does not have a pre-treatment, they are not impacting anyone else except possibly themselves. Unlike a failing septic that can affect an unsuspecting neighbor, private water sources are confined to one's house and do not pose a pollution threat for the community.

7) If there is sound scientific evidence that the lakes are safe AND there are regular outbreaks of disease due to individual water supplies, then the solution should NOT be as described in Fact Sheet #5. The state should develop a statewide program to provide technical support to provide municipal water to those areas not currently on public water supplies. Current systems should be maintained and upgraded as needed UNTIL such time as the state provides the technical support to provide area-wide municipal water.

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CC [Bob Worden <rbwbluelake@adelphia.net>](mailto:rbwbluelake@adelphia.net), [The Weber's <bbweb@empacc.net>](mailto:bbweb@empacc.net), [dawn <dawn@wayneny.com>](mailto:dawn@wayneny.com), [dcdowdle <dcdowdle@frontiernet.net>](mailto:dcdowdle@frontiernet.net)

Status **Normal**

Reply-to [Peter Landre <ptl2@cornell.edu>](mailto:ptl2@cornell.edu)

Attachments [fs5_susceptible_water_sources.pdf](#)

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DEAR SENATOR GEORGE AND ASSEMBLYMAN JIM,

In 2005 the DoH of the State, from their Troy office, issued a series of regulations on drinking water sources, mainly dealing with well drilling, licensing, locations and things to safeguard users of ground source individual water sources.

This year the DoH published a "fact sheet" that summarized the well regulations, but also added (from the 2005 regulations) a statement on surface water supplies for individual drinking water systems.

The statement simply states that individual systems may not draw water from surface supplies---no exceptions/waivers.

The irony of this regulation is that many of the upstate NY Finger lakes have made remarkable advances in the art of protecting the waters of the lakes from sources of water borne infectious matter, including bacterial, viral and parasitic elements. I refer you to www.keukawatershed.com for a description of one of the premier organizations formed as an intermunicipal corporation to protect the waters of Keuka lake for both private and municipal drinking water as well as healthy recreational activities.

So now the State has decreed in a "one size fits all" regulation that treats our waters the same as waters known to be unhealthy by virtue of heavy population densities, shallow depths or inadequate waste water regulation enforcement.

What this means is that property owners who cannot drill a well to the State specifications cannot begin new construction, possibly cannot get bank financing and may not be able to sell an existing property to a third party---in other words, more than a hardship, we have a taking of property.

George and Jim, this is another example of an onerous State bureaucracy imposing its will upon the people and further fueling the fire of smoldering resentment towards the Albany government of our State.

Please see what you can do to provide exemptions for lakes with KWIC type organizations and/or provide for a waiver system when public

water systems are simply not available and welll are not possible either.

Best regards,

Bill Weber, Town of Pulteney Supervisor and KWIC Commissioner

PULTENEY

William A. Weber
Town Supervisor
PO Box 214
Pulteney, NY 14874

Phone: 607-868-4222
Fax: 607-868-4010
Cell: 607-738-1547

KEUKA LAKE

Hon. John R. Kuhl
UNITED STATES CONGRESS
22 Buell Street
Bath, 14810

17 June, 2008

Dear Randy,

I need your help with a NYS problem that your years of experience in the State government might help us with.

The Department of Health of our State has recently promulgated regulations that prohibit the use of surface waters for individual household consumption.

On the assumption you use Keuka Lake as your water source and are not in the Town of Pulteney's water district, according to the regulations, you are in violation and may not be issued a construction permit, nor any waste water waivers from the State.

Additionally, if you were to sell your house and the prospective buyer would need bank financing, the banks would not offer it because there is no legal water system.

Whilst I do not imagine the Town of Pulteney enforcing this insane regulation, we have been told any interaction with State agencies will result in a simple NO waivers, permits, etc.

I can get you the full details of the regulations, as submitted by the State DoH on a "Fact Sheet" dealing with wells and water supplies.

We, the KLA, KWIC and individuals have written to virtually everyone we can think of in our State government, including the Governor, I thought you might be able to provide some insight as to methods of interacting with Sheldon Silver and Joseph Bruno, the assumed king pins of our State, after the Governor.

Let me know if I may furnish any more information.

With kindest personal regards,



Press Releases

Office of the New York State Attorney General Andrew M. Cuomo

Department of Law
120 Broadway
New York, NY 10271
212-416-8060

Department of Law
The State Capitol
Albany, NY 12224
518-473-5525

For Immediate Release:
New York City Press Office / 212-416-8060
Albany Press Office / 518-473-5525
nyag.pressoffice@oag.state.ny.us

June 27, 2008

ATTORNEY GENERAL CUOMO ANNOUNCES CRIMINAL CHARGES AGAINST FOUR MEN WHO INTENTIONALLY INSTALLED FAULTY SEPTIC TANKS

Central New York men accused of illegal septic system installations and filing false documents

Charges include discharging raw sewage into Oswego River

SYRACUSE, N.Y. (June 27, 2008) – Attorney General Andrew Cuomo today announced that four men have been indicted on charges they intentionally installed faulty septic systems, purposely streamed raw sewage into the Oswego River, and filed false documents to cover it up.

The charges relate to a scheme alleged to have taken place between September 2003 and April 2008 and involved a developer and his employee intentionally installing defective septic systems in a Town of Granby mobile home development, and digging a trench that streamed raw sewage into the Oswego River. A former Town of Granby code enforcement officer and an engineer were accused of illegally filing false inspection reports, which aided in the scheme to defraud home buyers.

"Skirting laws and regulations that exist to protect homeowners and the environment is disgraceful," said Attorney General Cuomo. "My office will not tolerate scheming businesses that attempt to circumvent the system at the expense of hard working homeowners."

Gary A. Royce, Jr., 42, of Fulton, a mobile home lot developer, and his employee, Leslie A. Baker, 30, of Mexico, were charged with scheme to defraud in the first degree, a felony carrying a maximum penalty of four years in prison. Daniel L. Flanders, 69, of Marcellus was charged with offering a false instrument for filing in the first degree and Harold E. Babcock, 70, of Fulton was charged for issuing a false certificate and offering a false instrument for filing in the first degree. These charges carry maximum prison sentences of four years.

Royce included installation of a properly designed septic system in the purchase price of a mobile home. However, according to court records, the septic systems Royce and Baker actually installed lacked necessary components or contained fewer components than required by law. With help from Flanders and Babcock, they also installed these septic systems without obtaining required engineer designed plans and inspections.

Flanders, a New York state licensed engineer, is accused of filing false inspection reports with the Town of Granby on two separate occasions. Babcock, a former Town of Granby code enforcement officer, is alleged to have submitted false inspection reports with the town, and then issued falsified certificates of occupancy to home buyers. A certificate of occupancy was required for homeowners to move in and for Royce to be paid.

In late March 2008, Royce allegedly dug a trench at one of his properties for the purpose of draining raw sewage into a nearby creek that flows into the Oswego River, a Lake Ontario tributary that serves as a fishing destination year round. With regards to this incident, the indictment charges Royce with violating New York state Environmental Conservation Law, a felony carrying a maximum penalty of four years in prison.

The four were arraigned in Oswego County Court where Royce was held in lieu of \$5,000 bail and the others were released pending a July 2 court appearance.

This case is being prosecuted by Assistant Attorney General Nicholas DeMartino of the Criminal Prosecutions Bureau, under the supervision of Deputy Bureau Chief Richard Ernst.

ATTORNEY GENERAL'S OFFICE CONTACTS CRIMINAL JUSTICE DIVISION

The investigation was conducted by Sr. Investigator David Bruce and Investigator Thomas Wolf.

The charges are merely accusations and the defendants are presumed innocent until proven guilty.



JAMES G. BACALLES
Steuben and Yates Counties
Assemblyman 136TH District

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIRMAN
Minority Conference
RANKING MINORITY MEMBER
Health Committee
COMMITTEES
Corporations, Authorities &
Commissions
Social Services
Transportation
Legislative Commission on
Development of Rural Resources

July 2, 2008

William A. Weber, Supervisor
Town of Pulteney
P.O. Box 214
Pulteney, NY 14874

Dear Bill:

In response to your concerns regarding the state Department of Health's (DOH) fact sheet about surface water withdrawals by lake property owners, we wanted to let you know our offices have been investigating this issue for several weeks since we've been made aware there may be a potential problem.

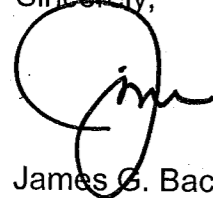
First, please know this is not a new regulation or law being foisted upon lake property owners undertaking new construction or renovations. The DOH Fact Sheet #5 outlines recommendations regarding wells and surface water, among other things. The recommendations, or guidelines if you will, are suggestions for health officials and code enforcement officers to follow. According to a DOH official, fact sheets, including Fact Sheet #5, are not regulations, mandates or requirements. It is a statement of position or guidance based on interpretation of laws, regulations, opinions and other Department of Health policy. Fact Sheet #5 cannot prohibit surface water withdrawal for domestic use because it is not law or regulation, the official said.

We've been having ongoing discussions with DOH staff about these recommendations and how they may be affecting code enforcement activities in relation to lake property owners' plans for construction or renovation. Therefore, it became clear early on in the discussions that we should bring the Department of State staff, which oversees the training and work of municipal code enforcement officers, into the mix. Our offices are helping facilitate a public information session at some time in the near future involving Health Department and Department of State officials who can address Fact Sheet #5 and answer questions from lake property owners.

We're confident there will be more information on this matter disseminated either through press releases or notices of public meetings. We appreciate your patience and,

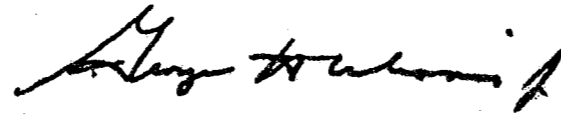
as always, if you have specific questions, please feel free to contact one of our offices.

Sincerely,



James G. Bacalles
Member of Assembly

Sincerely,



George H. Winner, Jr.
Member of Senate

JGB/GHW/rkl

Impact of the NYS Department of Health's recent "Fact Sheet no. 5" on Individual Water Systems

Some KLA members have already begun hearing about a recent advisement from the NYS Department of Health that may affect the short or long term ability for individuals to use the lake as a source of household water supply. (Refer to www.health.state.ny.us/environmental/water/drinking/part5/append5b/fs5_susceptible_water_sources.htm). The KLA board has been studying this issue, and although it is by no means completely understood (particularly conditions and methods of enforcement) we are in the process of protesting the enforcement of this regulation on Keuka Lake. Following is a current statement of KLA's position.

New Dept of Health Regulations for Individual Water Supplies

The Department Health recently passed individual water supply regulations (IWS) called Appendix 5-b which may have significant economic impacts on development along the lake. The regulations were incorporated in the new building code administered by the Department of State and enforced locally by each town Code Enforcement Officer (CEO). How the regulations will be enforced will largely depend on how the local CEO interprets the building code as there appears to be widely divergent views of its applicability.

The crux of the new regulations is how they define what is considered a safe and potable water supply for individual homes. The interpretation of the regulations are spelled out in a series of "Fact Sheets" including Fact Sheet #5 which stipulates that IWS can no longer use water from surface sources including the lake for new construction OR for homes that are re-built or renovated to the extent that they need a building permit (i.e., an addition w/ an additional bedroom). The only option available for new construction or renovations requiring a building permit along the lake will be a drilled well. If it can be proven by an engineers report that satisfactory groundwater can NOT be achieved with a well, a shore-well may be allowed if it can be proven by an engineering report that it can be built and monitored to assure potable water. A well point, dug well and spring may also be allowed with an engineers report, but these are not options typical viable along the lake.

While the bulk of the regulations are oriented toward construction of new drilled wells on upland properties, the unintended consequence is the limited set of viable and practical options for lakeshore properties. There are many issues raised with the implementation of the new regulations including the fact that separation distances required for a drilled well or shore-well will often not be possible on small, lake shore lots. A minimum of 100' from a septic to a well is required and if the septic is uphill from the well or in course gravel, it will need to be 200'. The separation distances also include the neighbor's septic system so on small lakefront lots, it may not be possible to site a new well or shore-well, thus limiting new construction or renovations requiring a building permit. The DOH has stated they will not be granting waivers for using lake water supply systems for new or replacement systems OR allowing reduced separation distances if requested which will effectively limit the development potential on the lake (if you are not able to meet the separation distances, you will not be given a building permit for you project).

The DOH states in Fact Sheet #5 that treatment options for lake water will not be considered an acceptable option, even though certified technology from the National Sanitation Foundation (NSF

International-www.nsf.org) is widely and readily available for treating bacteria, giardia, cryptosporidium, viruses, etc as well as reputable installers. The reason the DOH will not allow treatment of lake water as an option is that homeowners "don't have the equipment, expertise and training to reliably provide acceptable quality drinking water."

It is interesting to note that no scientific evidence of health problems in New York or water quality data for the lakes was used to justify the regulatory changes. Water quality data for Keuka including bacterial testing in the summer by the KLA clearly shows the lake has very low to zero bacterial counts in the most developed areas during the summer time when one would expect the greatest level of contamination. Even with the low counts, the KLA has always recommended to homeowners to treat water from the lake using appropriate water treatment technology just like they have always recommended people pump and maintain their septic systems.

The KLA board of directors considers that at this point there are many unknowns about the application and enforcement of this regulation on Keuka Lake. Furthermore the KLA board feels that the high water quality of Keuka lake does not require this type of regulation on an individual level, particularly given that there are suitable individual water purification systems commercially available. The KLA board will be working with KWIC, our municipal officers, and our State legislators to achieve local resolution to these issues. If you have concerns about these new regulations and how they impact your property, you should contact you local Town Supervisor and our State Legislators for their help and continue to follow developments as they occur and are publicized.

Senator George H. Winner, Jr.
Room 814, Legislative Office Building
Albany, NY 12247

Assemblymember Jim Bacalles
LOB 439, Albany, NY 12248
518-455-5791

105 E. Steuben St., Bath, NY 14810
607-776-3201

105 E. Steuben St., Bath NY 14840
607-776-9691

Special Notice

Effective (July 1, 2008) the KLA office will move from Hammondsport to Penn Yan. Here are our new particulars:

Street Address: 142 Main St. Mailing Address: PO Box 35, Penn Yan, NY 14527

Phone Number: Toll-free:1-866-369-3781 (local phone will also be installed)

Email: info@keukalakeassoc.org



Keuka Watershed Improvement Cooperative
Suite 110
1 Keuka Business Park
Penn Yan, NY 14527
315-536-0917

Paul Bauter, Watershed Manager

Code Enforcement and Zoning Officers

RE: Steep slopes regulations

Gil Harrop, Code Enforcement officer for the Town of Wayne has recently brought to my attention that the Town of Wayne has a regulation for soil disturbances on steep slopes. The case that brought this to our attention was an onsite wastewater treatment system that was to be constructed on a steep slope that would also require a special permit. This has raised the question, "How many other municipalities have a similar regulation?".

This letter is an effort to gather that information and also to find out if there are special forms for that permit in other municipalities. Do we need to add some questions to our permit application to provide information to the municipalities?

We would like to compile this information as soon as possible. If you could furnish us with information on any steep slope regulations and permits you have in your municipality it would be appreciated. We would like to finish this task by August 15, 2008 if possible. Thank you for your assistance.

Respectfully,



Paul Bauter
Watershed Manager

CC: KWIC Directors
Watershed Inspectors

Possible Change to KWIC Policy and Procedures Manual Regarding Site Evaluation for Existing Onsite Wastewater Treatment System Protocols

The present policy does not include an evaluation of holding tanks for existing ~~at present~~ systems. Do we need or desire a change in the Policy and Procedures Manual to accommodate a protocol for this. At present we would have to include them in the present evaluation procedures, which would fail the system because there is not enough application area. (There is none with a holding tank)

Because of the recent change in interpretations of the rules by the Department of State and Department of Health, we are faced with some decisions to be made concerning this issue and the water supply situation.

Possible change would be an * for a failed system.

- * With the exception of seasonal use holding tanks with no additional water demand, which would meet the following evaluation.
 - 1) Holding tank located and uncovered.
 - 2) Amount of cover checked.
 - 3) Level of fluid check
 - 4) Capacity check
 - 5) Pumped and checked for groundwater contamination (watertightness)
 - 6) Visible and audible alarm set at proper level
 - 7) Structurally sound
 - 8) Watersaving fixtures present

• Verified by a Professional —

Site Evaluation for Existing Onsite Wastewater Treatment System Protocols

(Formerly KWIC Policy Amendment Number 9 Revised to comply with NYSDOH Fact Sheet dated 1/13/04;
A failed system is a system where a component or all of the components of the system fail to function properly)

The purpose of this protocol is to uniformly address the issue concerning a properly functioning existing onsite wastewater treatment system relating to conversions (refers to alterations, repairs that exceed 50% of the replacement cost and additions that do not require additional demand on the existing onsite wastewater treatment system). Where this protocol conflicts with any state, federal, or local standard the stricter standard shall govern. All present forms and sketches shall be used in the evaluation.

Local Wastewater Management Regulations state "No person shall build, erect, construct, expand, enlarge, add bedrooms or convert to another use any structure or system that is subject to the provisions of this law and involves wastewater discharge without first obtaining a Wastewater System Construction Permit." The New York Department of State, Codes Division has indicated that an existing onsite wastewater treatment system shall be upgraded upon additional wastewater demand or system failure. The Plumbing Code of New York State, Section 102.2, states "Plumbing systems lawfully in existence at the time of the adoption of this code shall be permitted to have their use and maintenance continued if the use, maintenance or repair is in accordance with the original design and no hazard to life, health or property is created by such plumbing system." To comply with these

provisions in a uniform manner throughout the cooperative it is necessary to define a failed system (functioning adequately or properly).

A failed system is a system where a component or all of the components of the system fail to function properly. A properly functioning septic tank or treatment unit will reduce pollutant levels and produce an effluent of fairly uniform quality. For a soil absorption system to function properly it must:

1. Provide enough application area. The application area is the amount of surface area provided by the particular drainage system (side areas of absorption units) where sewage effluent is applied to the soil. The amount of application area needed for a given house depends on the characteristics of the soils on the property and the daily flows (in gallons) generated from the house. The anticipated flow from a house is usually based upon the number of bedrooms in the dwelling.
2. The SAS must be surrounded by natural soil conditions that will treat and disperse the effluent discharge without becoming saturated or organically overloaded. The current standard separation distances are those of Appendix 75-A, "Wastewater Treatment Standards - Individual Household Systems", contained in Title 10, chapter 2, part 75 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

To adequately determine the functional condition, an inspection of an existing onsite wastewater treatment system shall consist of, but not be limited to the following:

1. Interior plumbing check- visual, flow checks
2. Septic tank or primary treatment unit
 - a. Located and uncovered
 - b. Amount of cover checked
 - c. Level check
 - d. Baffle check
 - e. Capacity check
 - f. Pumped and checked for groundwater contamination
 - g. If treatment unit, check operation as per manufacturer
3. Pump station, if equipped
 - a. Capacity check
 - b. Location
 - c. Amount of cover checked
 - d. Pump operating within planned range
 - e. High water alarm-satisfactory
 - f. Flow back checked
4. SAS uncovered (seepage pit cover, drop boxes, or distribution box)
 - a. Fluid levels checked
 - b. Condition of box or pit
 - c. Location
 - d. Size of SAS
 - e. Surface condition checked
 - f. Previous high water stains checked
 - g. Groundwater condition checked
5. Locations of wells, surface water bodies and drainage ways check

In order to simplify the evaluation a section of definitions is the next step in the protocol.

Definitions:

Current standard separation distance (Appendix 75-A) refers to Table 2 of Appendix 75-A, Wastewater Treatment Standards – Individual Household Systems (Statutory Authority: Public Health Law, 201(1)(1)). Any revision or update by New York State shall replace these standards from that time on.

Dye tests involve flushing a special florescent dye down a toilet or other drain. If wastewater is coming to the surface (an unsanitary condition indicating serious septic failure) one may see dye in that water, provided the septic system is flowing at common rates. When suspect wet areas are observed we strongly recommend that the inspector perform a dye test. A sufficient volume and concentration of dye shall be used to fully stain the capacity of the septic tank. The owner shall furnish sufficient amount of water to duplicate the hydraulic loading of the system.

Encroachments are structures or land uses that impede the planned function of the soil absorption system (SAS).

Excessive amounts of effluent draining back refer to a pressurized system that is pumping effluent to a SAS. The amount of drain back that is satisfactory is the amount the effluent line from the pump to the SAS contains.

Groundwater subsurface water occupying the saturation zone from which wells and springs are fed.

Groundwater contamination for site evaluations that do not include a deep hole soil investigation shall include the following: visible groundwater entering the pit or absorption trench above the static fluid level or if a clear water current can be detected visibly. Groundwater levels for site evaluations that include a deep hole soil investigation can be detected by the excavation if done during the wet season or by the presence of mottled soils.

Inadequate refers to the condition (**unsatisfactory**) of a system or component that is defective and not functioning as planned. This may refer to undersized, cracked, plugged, not fitting within the range for intended operation, and/or limiting the operation of the system or component.

One day's storage refers to the volume of wastewater generated by the household based on the number of bedrooms and the plumbing fixtures. For structures other than households refer to the DEC Design Standards for Wastewater Treatment Works 1988.

Open pipe discharge refers to any pipe discharging to the surface, either direct fixture discharge or acting as an overflow pipe.

SAS is the soil absorption system such as conventional trenches, absorption beds, raised fills, and seepage pits.

Satisfactory is the condition of a system or component of the system that is operating as planned, handling the intended hydraulic load in safe and proper manner for the protection of the environment and the public health.

Static effluent level is a sustained level.

Structurally unsatisfactory is rotted, weathered to a weak condition, disfigured from original shape, brittle from age, chemical reaction damages severe, or similar conditions that may effect the safety or operation of the component. Seepage pits with wood, metal or stone pits are unsatisfactory.

TESTIMONY OF GEORGE PROIOS

VICE-PRESIDENT-NEW YORK ASSOCIATION OF CONSERVATION
DISTRICTS

&

VICE-CHAIRMAN- NYS SOIL & WATER CONSERVATION
COMMITTEE

AUGUST 13, 2008

Assemblyman Robert Sweeny, Chairman
Assembly Standing Committee on Environmental Conservation
Members of the Committee

My name is George Proios and I belong to a number of organizations that have direct dealing with Stormwater issues. I am Chairman of the Suffolk County Soil & Water Conservation District, and Vice-President of the NY Association of Conservation Districts that represents all of the 58 local county Soil & Water Districts. I am also the Vice-Chairman of the NY State Soil & Water Conservation Committee. New York State McKinney's Laws, book 62b, enumerates the powers, authority and responsibilities given to both the State Committee and local Districts, which includes issues relating to Stormwater.

The Department of Environmental Conservation had approximately 10 years to gear up to address the new provisions in the Clean Water Act relating to Stormwater. During the five years of Phase I, they did virtually nothing to prepare the department or their partners for the more rigorous requirements of Phase II. At the eleventh hour, December of 2002, DEC promulgated their state regulations to keep in compliance with EPA's requirement that the program be in place by March 10th of 2003. These regulations were done with little input from environmental organizations, Soil & Water Districts and many other groups. A couple of not well advertised public hearings were held and the regulations adopted.

Since that time, while some efforts have been made to get the program up and running, there have been many ongoing issues the department refuses to

address. Some of these were raised many years ago by myself at the Non-Point Source Coordinating Committee. Two issues specifically dealt with DEC's lack of any clear plan for how to influence and monitor the activities of local towns and villages that have the power to approve or deny new development that creates Stormwater, and the lack of a specific standard to calculate Stormwater and insure that it is being used when new projects are approved.

Over five years ago, the NY State Soil & Water Conservation Committee, recognizing the on-going work of local districts already in this area and the need for the federal and state regulations to somehow get implemented at the local level, created the Stormwater Sub-committee, which I have been chairing since its inception. We attempted to meet regularly with DEC personnel and our Stormwater educator. We held seminars, and conducted yearly surveys of all the local districts to ascertain what was going on locally, and more importantly, what needed to change or be improved. We began work on what became know as the "**Stormwater Vision Statement**" which laid out the possible rolls for local districts in assisting in the implementation of a Stormwater program.

Three years ago, NYACD met with then Commissioner Denise Sheehan and discussed some of the ongoing problems with administering the Stormwater program. The following year we met with Deputy Commissioner More and again related the same concerns. And this past February, we met with the new Commissioner Grannis and several of his deputies. At the end of my comments, the director of the division of water stated that he would immediately begin to address some of these issues. To date I have seen no action- at least none that has been meaningful. The following is a synopsis of these issues we have been raising:

1. DEC has no one person in charge of the Stormwater Program, a Stormwater CZAR, empowered to make decisions and bring each of the 9 local regional offices into compliance and uniformity to the best standards exhibited by a couple of regional offices. Currently, responsibilities lie with three different individuals within three different bureaus within the Division of Water.

As an aside, I would also like to mention that when the last Division director assumed office, she eliminated the seven bureaus within the Water Division

down to three. The following year it went back to four, then five, and currently we are at six. A lot of turmoil just to allow a non technical person to place her imprint on the Division. But with all these changes, two major omissions remain: 1) the word water conservation does not exist in any bureau and no one is assigned full time to water conservation; and 2) the word groundwater does not exist in any bureau and no one is specifically assigned fulltime to groundwater.

2. There is a wide disparity in how each of the nine regional offices handles the Stormwater program. Some embrace it wholeheartedly and others all but ignore it. This could be dealt with if someone were in charge of the overall program up in Albany. Some regional offices have an excellent relationship with the remaining Stormwater managers who utilize local districts to help implement the program, while here on Long Island, DEC has never asked the two local Soil & Water Districts to assist. The previous \$200,000 that had been set aside for local district assistance could only be accessed if DEC called upon the District to assist. Since we have never been called here on Long Island, none of the State money has been accessed by us. I should also mention that at one time we did have five regional Stormwater specialists located in local district offices paid for by 319 funds transferred by DEC to the State Soil & Water Conservation Committee. Two positions have been vacant, and the MOU between the State Committee and DEC has lapsed. Our understanding is that as the Federal government has reduced its allocation of 319 funds to NY, DEC has decided to use that money for its own personnel rather than keep established, working programs in tact.
3. There is no monitoring or any type of enforcement with respect to local governments approving new construction that fails to incorporate the 100 year flood design. Most do not do this! Additionally, the definition of the 100 year flood has changed dramatically, considering we have had three such events in NY in the past decade. No one in DEC seems concerned about this. Not only are we not designing for the 100 year flood, but if we were, it would not be adequate. Furthermore, a DEC official recently relayed to me that a category 5 hurricane would produce twice the volume of runoff of the hundred year flood, so again, even if we designed for a new 100 year standard, a category 4 or 5 hurricane would still create a major disaster for New York.