

Legislative Commission on



Resource Needs of New York State and Long Island

2013 • Bob Sweeney, Chairman



Dear Friend:

This newsletter summarizes the initiatives and accomplishments of the New York State Assembly Legislative Commission on Water Resource Needs of NYS and Long Island. New York is endowed with diverse and vibrant water resources, from Long Island's ocean shores to the fresh water running through Adirondack forests. It is the Commission's challenge to help ensure that these resources are safe,

clean and protected so future generations will be able to fish and swim as well as have access to potable water.

As the 2014 legislative session approaches, the Water Commission will continue to focus on water-related issues including public water infrastructure integrity, public drinking water protection, and the impact of climate change, coastal issues, and groundwater protection. The Commission will also monitor the State's regulatory activities and proceedings in relation to hydraulic fracturing.

As always, I welcome your ideas and concerns. Please do not hesitate to contact me.

Sincerely,

*Assemblyman Robert Sweeney
Chairman, Legislative Commission on
Water Resource Needs of NYS and Long Island*

ISSUE HIGHLIGHTS

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Update on Hydraulic Fracturing

New York's lands and waters constitute a unique and delicately balanced ecosystem. The protection and preservation of these lands and waters promotes the health, safety and welfare of the people of this State. The State is the trustee, for the benefit of its citizens, of all natural resources within its jurisdiction.

The New York State Department of Environmental Conservation (DEC) has been reviewing the issue of authorizing the use of high-volume hydraulic fracturing for a number of years now. Hydraulic fracturing, or hydrofracking, is a process that is used to extract natural gas from deep below the surface. The process utilizes a combination of chemicals and water to fracture rock formations in order to release trapped natural gas. Utilization of this technique generates significant wastewater likely to have a variety of unknown toxic and radioactive contaminants. Hydraulic fracturing, especially high-volume hydraulic fracturing, has raised numerous concerns regarding the safety of the overall process as well as potential long-term effects to both human health and the environment. Hydrofracking has been the subject of numerous legislative hearings, roundtable discussions, and legislative proposals.

Moratorium on Hydraulic Fracturing

This legislation would suspend, until May 15, 2015, the issuance of permits for natural gas extraction in low permeability natural gas reservoirs such as the Marcellus and Utica shale formations. It would require a School of Public Health within the State University of New York system to conduct a comprehensive health impact assessment complete with opportunities for public comment and review in order to ensure a comprehensive review of the public health and environmental

impacts of high-volume hydraulic fracturing before the process is authorized in the State.

This bill would also help ensure that the Legislature has adequate time to review DEC's Supplemental Generic Environmental Impact Statement (SGEIS) when finalized. Such a moratorium would allow for a thorough, deliberate and unrushed analysis of all of the issues involved. **[A.5424-A (Sweeney) Passed the Assembly]**

Prohibits Road Application of Wastewater from Hydraulic Fracturing

This bill would prohibit waste or "flowback" water from natural gas drilling operations, which contains a variety of chemical and possibly radioactive contaminants, from being used on highways for purposes such as melting ice and dust suppression. **[A.3561 (O'Donnell) Assembly 3rd reading]**

Natural Gas Production Contamination Response and Compensation Programs

This legislation would establish the Natural Gas Production Contamination Response and Compensation Program and the Natural Gas Damage Recovery Fund, to be administered by the State Comptroller, to help ensure that any contamination resulting from natural gas drilling and/or production is remediated quickly. This legislation is modeled after the New York State Environmental Protection and Spill Compensation Fund ("Oil Spill Fund") a proven, effective program. **[A.3634 (Sweeney) Assembly Calendar]**

Protecting the Carmans River

The Pine Barrens Protection Act of 1993 has successfully protected tens of thousands of acres in the Long Island Pine Barrens. This year, legislation was enacted to expand the Central Pine Barrens "core preservation" and "compatible growth" areas of the Pine Barrens Protection Act of 1993 in order to provide additional protection for the Carmans River, one of the most pristine rivers on Long Island. The Carmans River flows ten miles south from Middle

Island in the Town of Brookhaven to the Great South Bay. This legislation will help prevent contamination of the river from run-off in the watershed by putting additional protections on certain properties. Many of the parcels of land to be included lie between already-protected parcels so their inclusion will help ensure greater contiguity. **[A.7905 (Sweeney), Chapter 240 of the Laws of 2013]**

Guarding Long Island's Drinking Water Quality

Long Island's groundwater aquifers are the sole source of drinking water for nearly three million residents of Nassau and Suffolk County. Unfortunately, these aquifers are highly vulnerable to pollution. Because of the value of this resource to the public health and economic stability of the region, protection of Long Island's groundwater resources has been the subject of substantial federal, state and local investment, legislation and policy initiatives for nearly 40 years. Despite these efforts, recent water quality data clearly demonstrates that Long Island's water resources are in a state of decline.

There is an integral interconnection between the conditions on the ground surface and the quality of both surface water and groundwater resources. On Long Island, pollution is rapidly becoming a critical issue. Protecting and restoring the drinking water source for residents, business and agricultural producers now and in the future is a fundamental mission of the Commission.

Ensuring the Quality of Groundwater on Long Island

The implications of increasing levels of pollution in Long Island's ground and surface water resources are significant and require a comprehensive management and restoration strategy that cannot be accomplished by any one local agency or municipality. Long Island's water resources do not conform to political boundaries. Current planning, zoning, and sanitary code regulations are not adequately integrated to accomplish regional surface and groundwater quality goals.

The Assembly passed legislation that would create a Long Island water planning board to develop a comprehensive water conservation and management plan critical to the achievement of regional water quality goals, as well as management solutions and integrated regulatory programs that must be part of any viable conservation and restoration strategy for Long Island's water resources. The presence of an integrated and enforceable plan would help Long Island better manage the increasing level of water pollution. The continued application of a piecemeal management approach to water protection on Long Island will only exacerbate the current trends as well as the negative economic and public health effects that such trends will impose on the future. **[A.1047 (Sweeney) Passed the Assembly]**

Addressing Pesticide Contamination

Long Island's population of approximately three million people receives its drinking water from sole source aquifers. Although Long Island's soil quality helps ensure a plentiful groundwater supply, this same quality helps contaminants such as pesticides to leach from the surface into the groundwater. For example, in 1979, Long Island became the site of the first detection of a pesticide in groundwater when the pesticide Aldicarb was detected despite prior laboratory studies showing it could not contaminate groundwater.

Recent water quality studies have detected increasing pesticide contamination. For example, studies conducted by the Suffolk County Department of Health Services, the Suffolk County Water Authority and the United States Geological Survey detected the pesticide Metalaxyl 1,292 times at 727 locations.

In a 1998 annual report issued pursuant to the State Pesticide Reporting Law, the Department of Environmental Conservation (DEC) recommended the development of a Long Island Pesticides Management Plan. The plan was first released in 2011, as a draft plan and indicated "with the exception of situations involving verifiable unlawful misuse of a pesticide (including unlawful disposal), and in the absence of a critical pest management need that cannot be met by alternative means, prohibiting regional use of pesticides that pose a threat to Long Island groundwater will be a first option." DEC has thus far opted not to finalize the 2011 draft proposal and instead, on January 30, 2013, released a new Long Island Pesticide Pollution Prevention Strategy for public comment.

The Assembly Standing Committee on Environmental Conservation held a hearing on April 2nd in Farmingdale to solicit input on the plan released by the Department of Environmental Conservation regarding pesticide use on Long Island.

Encouraging Proper Disposal of Drugs

The Assembly passed legislation that would require DEC, in consultation with the NYS State Police, to establish a one-year drug disposal demonstration program in at least three publicly-available State Police facilities located in urban, suburban and rural areas. The DEC would also be required to maintain on its website a list of the participating State Police facilities and any information regarding drug disposal procedures for such facilities, as well as any specific information concerning a drug's disposal.

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The Committee recently held a hearing at Farmingdale State to review DEC's lack of progress in developing a meaningful Long Island pesticide use plan. For more than a decade DEC has been working on a pesticide plan specific to Long Island. Earlier this year DEC produced a document that failed to provide measurable goals and objectives. The hearing was held to solicit input on what improvements should be made. After the hearing recommendations for changes to the plan were submitted to DEC. Pictured are Assemblyman Otis, Assemblyman Sweeney and Assemblyman Lavine.



Guarding Long Island's Drinking Water Quality continued

Expired, unwanted, or unused pharmaceutical drugs require proper disposal in order to prevent accidental ingestion and/or unintended environmental harm. An extensive water analysis conducted by the United States Geological Survey detected at least one contaminant in approximately 96 percent of water samples taken from 74 sources in 25 states and Puerto Rico. Although drug take-back days are taking place in some communities, a more coordinated effort is required to help prevent continued contamination. The drug disposal demonstration programs established by this legislation would provide data that could be used to determine the most effective methods of disposal. **[A.5465 (Sweeney) Passed the Assembly]**

Statewide Private Well Water Testing

This legislation would require drinking water from private wells to be tested for contaminants such as bacteria (total coliform), nitrates, nitrites, sodium, iron, manganese, pH, and certain volatile organic compounds upon the transfer of property. It is estimated that over one million New York homeowners rely on private wells for their drinking water. These residents may be drinking contaminated water without knowing it, as there is no current statewide requirement for the testing of private drinking water wells. Several counties require such testing and would be eligible to continue to do so provided that their laws are as stringent as State law. After a similar law was passed in New Jersey, it was discovered that one in four private drinking water wells was contaminated above state drinking water standards.

All citizens in the state should be provided with information on the quality of their drinking water. Currently, public drinking water supplies are routinely tested for these contaminants and the information is available to all users.

This bill would ensure that water from private wells is subject to the same testing and quality standards. Further, it would allow potential buyers to make informed decisions and plan for any necessary treatment for potable water. **[A.1040 (Jaffee) Passed the Assembly]**

Ensuring Adequate Financial Resources

A 2008 assessment of the costs to repair, replace and update New York's wastewater infrastructure estimated the total funding needs to be \$36.2 billion over a 20-year period. A similar assessment for drinking water infrastructure found a need of \$38.7 billion over a 20-year period. In the past, the issuance of environmental bonds has helped to provide funding for capital projects; however, the last environmental bond act was approved in 1996.

Legislation has been introduced (A.8121 Sweeney) that would establish the \$5 billion Clean Water/Clean Air/Green Jobs Bond Act of 2014. This legislation would authorize the voters to determine whether or not funding should be provided for projects that would:

- *Protect, improve and enhance the quality of drinking water and the enhancement of water bodies;*
- *Repair, replace and/or update municipal wastewater/drinking water infrastructure; and*
- *Fund water quality-related research and development.*

Climate Change & Extreme Weather Events

According to the National Oceanic and Atmospheric Administration, August marked the 342nd consecutive month with above-average temperatures. This means that people 28 years old or younger have never lived through a month that was colder than average.

Global warming will have detrimental effects on economic well-being, public health, natural resources and the environment. Once infrequent, extreme weather events have become commonplace in the span of just a few years. A recent report by the National Climate Assessment and Development Advisory Committee indicates that “The Northeast has experienced a greater increase in extreme precipitation over the past few decades than any other region in the United States. Since 1958, the Northeast has seen a 74 percent increase in the amount of precipitation falling in very heavy events.”

The Intergovernmental Panel on Climate Change, awarded the 2007 Nobel Peace Prize, predicted that temperatures will rise more rapidly if greenhouse gases are not abated. The Panel concluded that reducing emissions 80 percent below current levels by mid-century would prevent the worst impacts of global warming.

Future extreme weather events will likely be compounded by sea-level rise. Sea-level rise in the Northeast is expected to exceed the global average. As a result, the chance of what is now a 1-in-10-year coastal flood event in the Northeast could triple by 2100, occurring roughly once every three years, simply in response to higher sea levels. This means that between one-half million and 2.3 million people will be at risk from flooding. These statistics have been illustrated most recently by the devastating impacts of extreme weather events like Sandy, Lee and Irene. In addition to the tragic loss of life, and devastating effects to property and environmental damage, the economic cost of extreme weather events must be considered. The financial toll of Superstorm Sandy on New York is estimated to be at least \$42 billion dollars. The Assembly has taken several steps to address this important issue. Some highlights of those actions are listed below.

Planning for Climate Change and Extreme Weather Events

The Assembly passed legislation that would ensure that the effects of climate change and extreme weather events are considered and planned for when expending State funds

and issuing permits. For example, water and sewage treatment plants within the State sustained extensive damage as a result of Superstorm Sandy. As funding and permitting decisions are made regarding such plants in the future, the potential for damage from other extreme weather events should be considered. State funding is a limited resource and it is appropriate that attention be given to climate risk and extreme weather events in order to ensure the long-term viability of funded projects. The same is true for Environmental Protection Fund programs such as the Local Waterfront Revitalization Program, in which municipalities are provided with funding to help develop long-term waterfront zoning. **[A.6558 (Sweeney) Passed the Assembly]**

Reducing Emissions to Prevent Climate Change

This bill would require all heating oil sold for use in any building within the counties of Nassau, Rockland, Suffolk, Westchester and the City of New York to contain at least two percent biodiesel, on and after October 1, 2014. On July 1, 2015, all heating oil sold statewide would be required to meet this standard. The inclusion of bioheating standards would help result in less pollution, a more efficient fuel, reduced dependence on foreign energy sources, and the expansion of markets for New York businesses and farmers. **[A.7906 (Sweeney) Passed Both Houses]**

Setting Limits on Greenhouse Gas Emissions

This legislation would require the DEC, after a public hearing, to promulgate rules and regulations establishing enforceable limits on greenhouse gas emissions from major sources. Greenhouse gas emissions to be regulated would include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas determined by the department to be a significant contributor to global warming. **[A.6327 (Sweeney) Passed the Assembly]**

Rockland Bergen Bi-State Watershed Flood Prevention and Protection

This bill would formalize the existing relationship between the states of New York and New Jersey as it relates to the issues of flooding hazards along the various waterways that cross the interstate border region; more specifically, relating to tributar-

ies and watersheds of the Hackensack River, Mahwah River, Ramapo River, Saddle River, and Sparkill Brook/Creek, within the counties of Rockland, New York and Bergen, New Jersey. **[A.1297 (Zebrowski) Passed both Houses]**

Protecting Critical Ocean Species

Greater Protections for Sharks

This new law provides additional protections to help eliminate illegal shark finning. Shark finning occurs when a shark is caught, its fins are cut off and the carcass is dumped back into the ocean. Although shark finning is illegal, the sale of shark fins can help provide an outlet for the sale of illegally-obtained fins. This law will greatly restrict the sale of shark fins in order to discourage shark-finning activities.

Sharks occupy the top of the marine food chain and are a critical part of the ocean ecosystem. Yet they are particularly susceptible to decline due to over-fishing because they are slow to reach reproductive maturity and birth small litters. Hence, they cannot rebuild their populations quickly. Their decline modifies the balance of species in the marine ecosystem and negatively affects other fisheries, creating a serious threat to the biodiversity of oceans. Data from federal and international agencies show a decline in shark populations worldwide. **[A.1769-B (Maisel), Chapter 171 of the Laws of 2013]**

Protecting the American Lobster

This legislation would ensure the timely adoption of management measures required by the Atlantic States Marine Fisheries Commission (ASMFC) Amendment XVII to protect the Southern New England lobster stock which is experiencing persistent failures caused by both environmental impacts, such as low oxygen in the water and warming waters, and fishing mortality. In addition, this bill would allow for the sale of oversize lobsters in New York State. **[A.8105 (Weisenberg) Chapter 305 of the Laws of 2013]**



Protecting Environmentally Sensitive Areas

Wetlands

This legislation would require developers in New York City to provide 21 days written notice to neighboring property owners located within 1,000 feet of proposed activity in wetlands. Current law provides for notice to adjacent lands and known claimants. This bill, however, would give close neighbors impacted by applications for building permits in areas designated as wetlands notice of the permit and the opportunity to comment on the requested permit. **[A.517 (Cusick) Passed the Assembly]**

Protecting Jamaica Bay

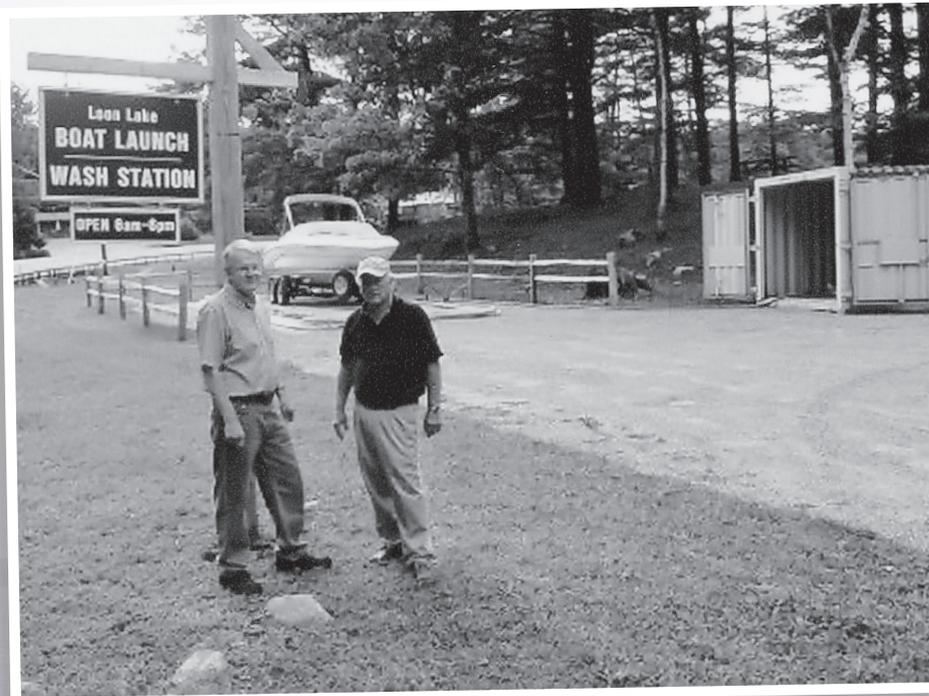
This bill would prohibit the use of certain materials for the purposes of filling pits, commonly referred to as “borrow pits” in the Jamaica Bay. Due to the increase in vessel size, New York State waterways such as channels and harbors are being excavated or dredged to maintain sufficient depth for safe and efficient vessel operations. This legislation would prohibit the use of contaminated dredge materials in the filling of the Jamaica Bay borrow pits. **[A.2074 (Goldfeder) Passed the Assembly]**

The Environmental Protection Fund (EPF)

This year's budget (FY 2013-14) provided \$153 million dollars to the EPF, a net increase of \$19 million from prior fiscal years. The EPF is used to fund environmentally necessary programs and projects across the State, from pollution prevention to water quality infrastructure. A few key funding categories of interest include:

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|-----------------|---|
| \$1 million | Pesticide Management |
| \$3.2 million | Pollution Prevention Institute |
| \$14.2 million | Agricultural Non-point Source Pollution Control |
| \$4.5 million | Municipal Non-point Source Pollution Control |
| \$6.945 million | Water Quality Improvement |
| \$1 million | Agricultural Waste Management |

This year's budget for the first time specifically requires at least one million dollars of EPF funds to be allocated for open space preservation downstate, including on Long Island.



Assemblyman Sweeney and Ed Griesmer of the Loon Lake Association discuss the problems of dealing with invasive species. Boats, trailers, waders and other fishing and boating equipment can spread invasive species from one body of water to another unless properly cleaned, dried or disinfected after use.

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Resource Needs of New York State and Long Island



To further our efforts to reduce waste, please inform us if you have a change in address by calling us at 518-455-5787, faxing us at 518-455-3976, or writing us at the above address.

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Resource Needs of New York State and Long Island



Contact Information

If you would like further information or to share your ideas or concerns, please call the Chair's office at **518-455-5787**, or send facsimiles to **518-455-3976**. Letters may be sent to **Assemblyman Robert Sweeney, Chairman of Legislative Commission on Water Resource Needs of New York State and Long Island, Room 625, Legislative Office Building, Albany, New York 12248** or by e-mail to sweeney@assembly.state.ny.us. Also, to further the NYS Assembly's efforts to reduce waste, please inform us if you have a change of address or wish to be removed from the mailing list.

To update or remove your name from the mailing list, email committeemailinglist@assembly.state.ny.us. Please include "Commission on Water Resource Needs" in the subject line and provide your name and address as it appears on the mailing label and any changes you would like made.