

**Joint
Hempstead Harbor, Manhasset Bay, and Oyster Bay/Cold Spring Harbor
Protection Committees Meeting
February 27, 2012**

Eileen Keenan

Contact Info:

Phone: 631 444 0422~AND~631 632 3093

Email: ek72@cornell.edu

TOPICS TO BE ADDRESSED:

1. January 2012 MS4 Court Decision.
2. Retrofit/Watershed Improvement Strategy requirements.
3. Assessment and Modeling for Appendix 2 Waterbodies.
4. Inspection of Septic Systems

**NRDC v. DEC Westchester Supreme Court Decision
(Handout)**

➤ **Significant Aspects of the Decision:**

- a. The Court did not remove or reduce any existing MS4 requirements.
- b. The Court held that DEC's existing procedures for reviewing and approving MS4 Notices of Intent (NOIs) and Annual Reports are deficient.
- c. The Court held that DEC's procedures for providing for public participation in the review and approval of MS4 NOIs and Annual Reports are also deficient.
- d. The Court held that DEC's deadlines and schedules for MS4 compliance with Watershed Improvement Strategy pollutant discharge reductions are inadequate.
- e. The Court annulled the current MS4 General Permit.

➤ **Practical Implications of the Decision:**

- a. Appeal and request by DEC to re-instate current general permit and to remand specific sections of the regs for revision is likely.
- b. If the Decision stands, NYS DEC will be required to engage in a more substantive level of review of Notices of Intent and Annual Reports.
- c. If the Decision stands, NYS DEC will be required to conduct Public Hearings on Notices of Intent and Annual Reports.
- d. If the Decision stands, NYS DEC will be required to adopt incremental deadlines for Watershed Improvement Strategy/ TMDL pollutant discharge reductions requirements.
- e. It is likely that the decision will not stand as it is...nonetheless, the final outcome will likely result in more detailed requirements, and higher substantive scrutiny by the DEC, EPA, as well as by the general public.

Retrofit Plan / Watershed Improvement Strategies

- a. Retrofit plans – one component of Watershed Improvement Strategy requirements - are due by the date specified in MS4 General Permit pages 78-80. **(Handout)**

- b. Inter-municipal watershed-based retrofit project planning is the preferred approach.
- c. Some of the projects identified and/or already implemented by the Manhasset Bay, Oyster Bay/Cold Spring Harbor and Hempstead Harbor Protection Committees may meet the retrofit project requirement.
- d. DEC has indicated it will consider BMPs you may have implemented since the adoption of the TMDLs, in determining the extent to which further retrofit projects are needed.
- e. Your retrofit plan should reflect the BMPs and projects that you have implemented since the adoption of the TMDL, and/or the process by which you will determine the need for additional retrofits, and to identify, select, and implement them.
- f. DEC has been working to clarify the pathogens discharge attributable to each municipality, if that wasn't calculated by the applicable TMDL.
- g. DEC has also been working to develop procedures, templates, guidance, storm sewershed delineations, etc.
- h. Land use data, and storm sewershed mapping are needed.

Local Progress:

- In addressing Watershed Improvement Strategy and retrofit project requirements, several municipal members of the Protection Committees have initiated efforts to confirm the applicability of the Watershed Improvement Strategy requirements to them ...and to identify the areas within their jurisdiction that drain to TMDL waterbodies through their stormsewer system.
- There have been cases where the water quality status of a few waterbodies has changed in the last few years- as reflected by the re-opening of shellfishing beds -, which indicates that certain municipalities should not be subject to Watershed Improvement Strategy and retrofit project requirements, since the impairment has been corrected.
- Further, storm sewershed and drainage area field investigations have determined that some municipalities have been mis-identified in the MS4 General Permit as discharging to TMDL waterbodies.
- Municipalities are subject to Watershed Improvement Strategy requirements only if their system discharges to an impaired TMDL waterbody.
- Municipalities that have been identified as having a discharge to a TMDL waterbody, but who find that they do not in fact have such a discharge, or who find that the water quality status of a waterbody they discharge to has changed, need to fully document the findings that they believe indicate they ought not be subject to Watershed Improvement Strategy requirements.
- A few municipalities have sent their storm sewershed mapping documentation to DEC and have asked for correction of their status with respect to Watershed Improvement Strategy requirements.
- For further information about such efforts, please speak with John Waltz and Jim Antonelli (Sydney Bowne). They have done this work for their clients.

Assessment and Modeling for Appendix 2 Waterbodies

If your municipal stormsewer system discharges to a waterbody listed in Appendix 2 of the MS4 General Permit, it is necessary for your SWMP to ensure no net increase in your discharges of the pollutant of concern identified for that waterbody. It is also necessary for you to evaluate, by January 2013, using NYS DEC-supported modeling, your SWMPs effectiveness in ensuring such no net increase. (See GP-0-10-002 page 11, and 103,104, and 106.)

- a. NYS DEC is working on development of a model that municipalities can use to satisfy the no net increase modeling of effectiveness requirement.

- b. Ensuring no net increase means using policies, practices, and procedures – BMPs - to ensure that land use changes do not result in an increase in discharges of the listed pollutant of concern to the Appendix 2 waterbody. (Green infrastructure, pervious pavement, buffers, etc., etc.)
- c. In October 2011, NYS DEC proposed the addition of a number of waterbodies to Appendix 2 (HAND-OUT). Those proposed additions have not been finalized, pending the potential NYS DEC appeal and the outcome of the Westchester Court's MS4 decision.

Inspection of Septic Systems

The New York MS4 regulations have always required each municipality to proactively investigate and eliminate illicit discharges, including instances where septic systems are discharging, or have the potential to discharge, to the stormsewer system. MS4 illicit discharge requirements, including those pertaining to septic systems, are the responsibility of each municipality.

The Watershed Improvement Strategy requirements add specificity to the basic illicit discharge detection and elimination requirements to ensure that waterbodies impaired by pathogens are not receiving human waste from storm sewer systems due to illicit sanitary connections, or septic system failures.

As with the other Watershed Improvement Strategy requirements, the enhanced illicit discharge requirements relating to septic systems only apply in areas that contribute drainage to the TMDL waterbody via the stormsewer system.

Specific requirements:

1. Identification of areas in which septic system discharges to the storm sewer are occurring or, may occur. Such as areas of shallow groundwater, low infiltrative soils, historical on-site sanitary system failures, or proximity to pathogen impaired waterbodies.
2. Periodic municipal field investigations/inspections within such identified areas to determine whether septic discharges are occurring.
3. Track down and elimination of suspected septic system illicit discharges.
4. Local law (and implementation procedures/enforcement) requiring inspections and/or maintenance of septic systems in identified suspect areas at a minimum frequency of once every five years.

Hand Outs:

- *Village of Pauling NY Septic Local Law.**
- *Town of Patterson NY Septic Local Law**
- *Long Island Press 2 23 12 article**

TOWN OF PATTERSON
NOTICE OF HEARING

AMENDMENTS TO CHAPTER 113
OF THE PATTERSON TOWN CODE

PUBLIC NOTICE is hereby given that there has been introduced before the Town Board of the Town of Patterson, New York, on March 23, 2011 an amendment to the Patterson Town Code to add Chapter 113, entitled "ON-SITE SANITARY SYSTEMS", which amendment will provide for the inspection of on-site sanitary systems, or septic systems in compliance with NYS Department of Environmental Conservation General Permit GP-0-10-002.;

NOW THEREFORE, pursuant to Section 20 of the Municipal Home Rule Law, the Town Board of the Town of Patterson, New York will hold a public hearing on the aforesaid Amendment at the Town Offices, 1142 Route 311, Patterson, New York, on April 13, 2011, at 7:30 p.m. in the evening of that day at which time all persons interested therein shall be heard. The Town Board will make every effort to assure that the hearing is accessible to persons with disabilities. Anyone requiring special assistance and/or reasonable accommodations should contact the Town Clerk.

Dated: March 24, 2011

BY ORDER OF THE TOWN BOARD OF THE
TOWN OF PATTERSON

ANTOINETTE KOPECK, TOWN CLERK

TOWN OF PATTERSON
AMENDMENT TO
CHAPTER 113 OF THE PATTERSON TOWN CODE

BE IT ENACTED by the Town Board of the Town of Patterson, Putnam County,
New York, as follows:

Section 1. Chapter 113 entitled "ON-SITE SANITARY SYSTEMS", is hereby added
to the Patterson Town Code as follows:

**THIS AMENDMENT SHALL CREATE A NEW CHAPTER 113, ENTITLED ON-SITE
SANITARY SYSTEMS**

Chapter 113

ON-SITE SANITARY SYSTEMS

§113-1. Purpose and Intent

§113-2. Definitions.

§113-3. Inspection requirements.

§113-4. Waivers/Variance.

§113-5. Enforcement and penalties.

§113-6. Compliance with Other Laws.

§113-7. Severability.

§113-8. Effective Date.

[HISTORY: Adopted by the Town Board of the Town of Patterson 4-13-2011 as L.L. No. 4-2011, effective 4-13-2011; Amended __-__-__ by Local Law No. _____. Other Amendments noted where applicable.]

GENERAL REFERENCES

§113-1. Purpose and Intent.

The Town of Patterson hereby finds that it is necessary to the health, safety and welfare of the residents of the Town of Patterson that on-site sanitary systems operate and be maintained in a manner that will prevent, to the extent possible, hazards to the public health, to minimize their potential for failure and to protect the drinking water supply of the Town of Patterson and drinking water supplies which pass through the Town of Patterson.

This local law is intended to implement the provisions of Part IX.A.3.b of the New York State Department of Environmental Conservation, SPDES General Permit GP-0-10-002 ("Permit") for Stormwater Discharge from Municipal Separate Storm Sewer Systems (MS4) effective May 1, 2010, which requires that the Town implement and enforce a program to ensure that on-site sanitary systems are inspected and, where necessary, maintained or rehabilitated as required by Part IX.A.3.b of the Permit and/or similar provisions in successor Permits.

§113-2. Definitions.

APPEALS AUTHORITY shall mean the Municipal Code Enforcement Officer.

INSPECTION shall mean the evacuation and removal of septage as necessary from a Separate Sewage Disposal System/On-site Sanitary System and subsequent reporting through the completion of an approved inspection form by a Septage Collector that is licensed by the Putnam County Department of Health.

SEPARATE SEWAGE DISPOSAL SYSTEM/ON-SITE SANITARY SYSTEM - a system or facilities or means for the treatment or modification or ultimate disposal of waterborne sewage or domestic wastes or trade wastes or offensive material, each being designed for the treatment of less than 1,000 gallons per day, regardless of location with respect to any building or structure or premises thereby served. Such system shall include, but shall not be limited to, septic tanks, cesspools, absorption fields and other facilities for the treatment or modification or required control of sewage.

SEPTAGE COLLECTOR - an individual or entity licensed by the Putnam County Health Department who engages in the performance of any one (1) or more of the following services, or who offers to provide any one (1) or more of the following services for a fee, in Putnam County, with respect to separate sewage disposal systems: evacuation, removal, collection or transportation of septage.

SEPTAGE shall mean the contents of any container, including but not limited to a septic tank, which is designed and intended to hold sewage .

SEWAGE shall mean the combination of human and household waste with water which is discharged to the home plumbing system including the waste from a flush toilet, bath, sink, lavatory, dishwashing or laundry machine, or the water-carried waste from any other fixture, equipment or machine.

§113-3. Inspection requirements.

Beginning on May 1, 2011, the owner of any parcel located within the Town of Patterson which relies upon a Separate Sewage Disposal System/On-site Sanitary System shall cause an inspection to be performed on said Separate Sewage Disposal System/On-site Sanitary System at a minimum frequency of once every five (5) years.

Upon the completion of any inspection, every owner shall maintain a copy of the record of such inspection, which will be provided to the owner by the Septage Collector, for a minimum of six (6) years

The Septage Collector shall furnish one (1) copy of the record of inspection to the Municipal Code Enforcement Officer in the town/village in which the Separate Sewage Disposal System/On-site Sanitary System is located and one (1) copy of the record of inspection to the Putnam County Soil and Water District office.

§113-4. Waivers/Variance.

The Appeals Authority shall not grant a waiver or exemption from any of the requirements of this local law provided, however, that the Appeals Authority may vary the time requirements as referenced within this local law, upon the submission and consideration of evidence which may necessitate an extension of time to comply with all aspects of this local law. Such extension shall not exceed one hundred eighty (180) days.

§113-5. Enforcement and penalties.

Any owner of a parcel which is located in the Town of Patterson and is served by a Separate Sewage Disposal System/On-site Sanitary System that fails to comply with the provision of this local law, shall be guilty of a violation, and shall be subject to a penalty as follows:

The Municipal Code Enforcement Officer shall first issue a written notice of violation to the owner informing the owner of the anticipated imposition of penalties if the violation is not corrected within 30 days.

Any person or corporation, whether as owner, lessee, principal, agent, employee or otherwise, which violates any of the provisions of this chapter or permits any such violation or fails to comply with any of the requirements thereof shall be guilty of a violation, punishable by a fine not exceeding two hundred fifty dollars, for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine of not less than three hundred fifty dollars nor more than seven hundred dollars and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars not more than one thousand dollars. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter or any part thereof or any condition or requirement of subdivision approval shall be deemed misdemeanors. Each fourteen day (14) period of continued violation shall constitute a separate additional violation.

§113-6. Compliance with Other Laws.

Compliance with this local law shall not be deemed compliance or approval of the municipality under any other rules, regulations, codes or laws.

§113-7. Severability.

In the event that any provision of this local law shall be held unconstitutional or unlawful, the remaining provisions in this local law shall remain in full force and effect.”

§113-8. Effective Date.

This local law shall take effect immediately upon its adoption and filing in the office of the Secretary of State.

Section 2. This local law shall take effect immediately.

Dated: April 14, 2011

BY THE ORDER OF THE TOWN BOARD OF
THE TOWN OF PATTERSON
ANTOINETTE KOPECK, TOWN CLERK

LOCAL LAW # _____
MAINTENANCE OF SUBSURFACE SEWAGE DISPOSAL SYSTEMS

RESOLVED, that the Village Board adopt the Negative Declaration in regard to adding a new Chapter 75 to the Village Code of the Village of Pawling, titled "Maintenance of Subsurface Sewage Disposal Systems" and;

BE IT FURTHER RESOLVED, that the Village Board adopt Local Law # _____ adding a new Chapter 75 to the Village Code of the Village of Pawling, titled "Maintenance of Subsurface Sewage Disposal Systems".

A Local Law adding a new Chapter 75 to the Village Code of the Village of Pawling ("Village Code"), requiring all property owners whose properties are within the East of Hudson Watershed in the Village of Pawling to pump their septic systems at least once every five (5) years. BE IT ENACTED by the Village Board of the Village of Pawling ("Village") as follows:

A new Chapter 75 is hereby added to the Village Code, reading as follows: "Maintenance of Subsurface Sewage Disposal Systems"

Article I. General Provisions

Section 75.01 Statement of Purpose

This Chapter's purpose is described as follows:

- A. To implement the provisions of Part IX.A.3.b of the New York State Department of Environmental Conservation, SPDES General Permit GP-0-10-002 for Stormwater Discharges from Municipal Separate Storm Sewage Systems (MS4), effective May 1, 2010, which requires that the Village implement, through the enactment of the necessary legal authority, and enforce a program to ensure that subsurface sewage disposal systems/onsite wastewater treatment systems are inspected and, where necessary, maintained or rehabilitated as required by Part IX.A.3.b of the Permit and/or similar provisions in successor Permits.
- B. To protect from further degradation those waterbodies located in the "New York City East of Hudson Watershed" by the New York State Department of Environmental Conservation (NYSDEC), by reducing phosphorus loading in the East of Hudson Watershed through the required periodic pumpout and visual inspection of all individual subsurface sewage disposal systems (SSDS) located on properties which are located within the New York City East of Hudson Watershed.
- C. To benefit residents by establishing a record of maintenance performed on each septic system. Regular maintenance will tend to provide a septic system that remains adequately functional for a longer period of time as opposed to a system with no maintenance.
- D. To identify failing septic systems, or serve to prevent them, before they become a significant threat to the public health and/or the environment.
- E. This Chapter is not intended to replace the regulatory requirements of the Dutchess County Department of Health and/or the Dutchess County Sanitary Code.

Section 75.02 Definitions and Acronyms

- A. As used herein, the following terms shall have the following meanings:
 - (1) "Facility" All buildings, other structures, grounds and contiguous property at any locations related to or connected with a user at the user's location.
 - (2) "Individual Subsurface Sewage Disposal System" – means a system of piping, tanks or other subsurface facilities serving any premises or having a flow rate of less than one thousand (1,000) gallons per day. The system generally includes a septic tank and absorption fields but may also include any system permitted under the Dutchess County Sanitary Code and Part 75A of the New York State Sanitary Code.
 - (3) "Industrial" Meaning or pertaining to industry, manufacturing, commerce, trade, business, or institution, and is distinguished from domestic or residential.

- (4) "Lot" – a parcel of land bearing a tax grid designation on the Village of Pawling Tax Map. Said tax maps are prepared and maintained by the Dutchess County Real Property Tax Service Agency. Said tax maps include all residential, commercial and industrial parcels.
- (5) "New York City East of Hudson Watershed" – A watershed serving as a public water supply for New York City. Its limits are generally shown on the map provided within Municipal Separate Storm Sewage System (MS4) NYSDEC State Pollutant Discharge Elimination System (SPDES) General Permit No. GP-0-10-002. The limits are more specifically provided on maps located in the Village of Pawling Planning and Building Departments.
- (6) "Owner" means any person who has legal or equitable title to a property or facility
- (7) "Person" means any individual, public or Private Corporation, political entity, agency, municipality, industry, co-partnership, association, firm, trust, estate or other legal entity whatsoever.
- (8) "Records" shall include, but not be limited to, any printed, typewritten, handwritten or otherwise recorded matter of whatever character (including paper or electronic media), including but not limited to, letters, files, memoranda, directives, notes and notebooks, correspondence, descriptions, telephone call slips, permits, applications, reports, compilations, films, photographs and inspection reports. For the purposes of this Chapter, records shall mean records of and relating to waste generation, reuse and disposal, and shall include records of usage of raw materials.
- (9) Septage – The contents of a septic tank or other separate sewage disposal system/onsite wastewater treatment system which receives sanitary sewage waste.
- (10) "Septic Contractor" – A contractor registered with the NYSDEC to haul residential septage, a.k.a "Registered Waste Transporter".
- (11) "Septic System" – The common name for an individual subsurface sewage disposal system (SSDS), a.k.a. individual subsurface treatment system (SSTS).
- (12) "Septic Tank" is an underground receptacle (typically concrete) for wastewater. The tank serves to settle sludge settles to the bottom of the tank, allows floatables to rise to the top of the tank and provides a place for bacteria to decompose some waste. The effluent flows out of the tank into the ground through drains.
- (13) "State" - State of New York.
- (14) "Village" The Village of Pawling as incorporated on (date).

B. As used herein, the following acronyms shall have the following meanings:

- (1) CEO – Code Enforcement Officer
- (2) CO – Certificate of Occupancy
- (3) EOH – New York City East of Hudson Watershed
- (4) DCDH – Dutchess County Department of Health
- (5) MS4 – Municipal Separate Storm Sewage System

- (6) NYSDEC – New York State Department of Environmental Conservation
- (7) NYCDEP – New York City Department of Environmental Protection
- (8) SMO – Stormwater Management Officer
- (9) SPDES – State Pollutant Discharge Elimination System
- (10) SSDS – Subsurface Sewage Disposal System

Article II. Specific Requirements.

Section 75.03 Required Maintenance

- A. The owner of each lot located within the EOH watershed which contains one or more septic systems, shall have each septic tank pumped and cleaned and all components of the system visually inspected by a "Registered Waste Transporter" in a manner sufficient to enable the "Registered Waste Transporter" to furnish the information as required in Article II. Section 75.05A. of this Chapter.
- B. The septic system is required to be pumped, cleaned and visually inspected at least once every five (5) years.

Section 75.04 Initial Implementation

- A. Beginning on May 1, 2011, the owner or any parcel located within the Village of Pawling and within the East of Hudson Watershed which relies upon a separate sewage disposal system/onsite wastewater treatment system for the treatment or modification or ultimate disposal of waterborne sewage or domestic wastes or trade wastes or offensive material, with respect to any building or structure thereon, shall cause an inspection to be performed on said separate sewage disposal system/onsite wastewater treatment system at a frequency as required by this Chapter.
- B. Within sixty (60) days following the adoption of this Chapter, the Village shall identify each lot to which this Chapter shall apply on the date of its adoption, and shall in writing notify the owner of each such lot by registered mail to include a copy of the "Village of Pawling Septic System Data and Inspection Form". Said inspection form will also be available at the Village of Pawling Village Hall upon request.
- C. Those lot owners now or hereafter subject to this Chapter, whose septic systems have been pumped within twelve (12) months prior to the date upon which this Chapter shall take effect in respect to said lots, shall be exempt from this Chapter's initial implementation. To qualify for this initial exception, the lot owner must provide to the Village of Pawling SMO or CEO a copy of a paid receipt and other records containing the information specified in Article II. Section 75.05.A of this Chapter. The owner may enter the tax lot grid number on said receipt. The receipt shall confirm the pumpout and inspection of the septic tank of owner's septic system within the preceding twelve (12) month period.

Section 75.05 .Compliance Confirmation

- A. Upon completion of a septic system pumpout and visual inspection performed by a "Registered Waste Transporter" each lot owner shall, within 30 days following the pumpout and visual inspection, provide the Village of Pawling SMO or CEO with a copy of a paid receipt, a completed "Village of Pawling Septic System Data and Inspection Form" endorsed by the "Registered Waste Transporter" performing the work and the required filing fee.
- B. The "Village of Pawling Septic System Data and Inspection Form" shall contain the following:
- (1) The property owners name;
 - (2) The property owners street address;
 - (3) The property owners tax grid 1. D. number;
 - (4) Property type;
 - (5) The pumpout and inspection date;
 - (6) The components serviced;
 - (7) The type of component;
 - (8) The septic tank capacity;
 - (9) The type of septic tank;
 - (10) The approximate amount of gallons of septage pumped from the system,
 - (11) The approximate percentage of sludge layer;
 - (12) A documented visual inspection of the inlet and outlet;
 - (13) The structural integrity of the components,
 - (14) A documented visual inspection of the ground condition in the area of the absorption fields; and
 - (15) Any other information or comments as provided on the "Village of Pawling Septic System Data and Inspection Form". The Inspection form may be revised by action of the Village of Pawling Village Board at its discretion.
- C. Duplicate copies of the receipts and "Village of Pawling Septic System Data and Inspection Form" as specified above shall be retained by the lot owner for a period of five (5) years, and a copy shall be provided to the Village of Pawling SMO or CEO upon request.
- D. Duplicate copies should be retained and reviewed by the Village of Pawling SMO or CEO.
- E. Filing Fees shall be submitted with the completed inspection form. The filing fees shall be established by action of the Board of Trustees.

Article III. Enforcement

Section 75.06 Septic System Failure

- A. If a pumpout and visual inspection indicates a "detailed investigation needed", and therefore cannot meet the requirements of Section 19.7 of the Dutchess County Sanitary Code, upon notification by the Village of Pawling SMO or CEO, then the owner shall meet the requirements of Section 19.8 of the Dutchess County Sanitary Code by causing an investigation of the septic system failure to be undertaken with the cooperation of the DCDH within sixty (60) days of the date of the notification. Evidence of this investigation in the form of a letter from a contractor or a New York State licensed Professional Engineer (P.E) and a completed Village of Pawling Subsurface Sewage Disposal System Investigation and Remediation Form must be submitted to the Village of Pawling SMO or CEO.
- B. If the Village of Pawling finds that no investigation has begun as specified in Section 75.06 A, the Village of Pawling SMO or CEO will further notify the DCDH that a failing septic system condition may exist and request that the DCDH perform an investigation for possible further action as specified in the Dutchess County Sanitary Code.
- C. If the Village of Pawling finds that an investigation has begun and has been completed in accordance with Article III. Section 75.06.A. above, and remediation or repair of said SSDS is recommended, the lot owner shall commence remediation or repair of said SSDS within sixty (60) days. Evidence that this work has been completed shall be in the form of a letter from a contractor or a New York State licensed Professional Engineer (P.E) provided to the Village of Pawling SMO and CEO. If the Village of Pawling finds that no remediation or repair has begun, the Village of Pawling SMO or CEO will request a schedule for completion from the lot owner, or, further notify the DCDH that a failing septic system condition may exist and request that the DCDH perform an investigation for possible further action as specified in the Dutchess County Sanitary Code.

Section 75.07 Penalties

- A. The following actions will be considered violations where penalties may be assessed:
 - (1) Failure to timely perform the inspection and maintenance required by this Chapter.
 - (2) Failure to timely submit evidence of timely inspection and maintenance as required by this Chapter
 - (3) Failure to timely notify DCDOH and/or to request an investigation by DCDOH when the results of an inspection indicate that the requirements of the Dutchess Sanitary Code cannot be met by the septic systems.
- B. The owner will be provided a written notice of violation by the SMO/CEO. The violation must be resolved within sixty (60) days of the date of the notice.
- C. All violations may be appealed to the Village Board of Trustees within 30 days of the date of the Notice of Violation. The owner may present information or a schedule for compliance if the time to comply in the notice is not adequate due to conditions preventing full compliance.

- D. In addition to, or as an alternative to, any penalty provided herein or by law, any person who violates the provisions of this Chapter shall be guilty of a violation punishable by a fine not exceeding \$100 annually; for conviction of a first offense; for conviction of a second offense; a fine not exceeding \$200 annually, for conviction of a third offense; a fine not exceeding \$300 annually; for a fourth offense, a fine not exceeding \$400 annually; for a fifth offense; a fine not exceeding \$500 which were committed within a period of five years, punishable by a fine not less than \$100 nor more than \$1,500.00. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this Chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each year's continued violation shall constitute a separate additional violation.

Section 75.08 Excluded Properties

- A. If only a portion of a lot is located within the EOH watershed, then the owner of the lot may be exempted from this regulation if the existing SSDS is located outside the EOH watershed. If an "as-built" plan of the SSDS exists, said plan shall be provided to the Village of Pawling SMO or CEO for a determination. If no "as-built" plan of the SSDS exists, the owner of the lot shall contact the Village of Pawling SMO or CEO to conduct an investigation for a determination if said SSDS is located within, or outside of the EOH watershed.
- B. If an owner receives notice that their property must have an inspection performed and the owner feels that the notice is in error, the owner may submit information to the SMO or CEO to show that no Septic Systems is present or is regulated under another permit. A letter requesting exemption from this regulation must be submitted to the Village of Pawling SMO or CEO.
- C. The Village of Pawling SMO or CEO will prepare a written acknowledgement of the determination that the lot is exempted from this regulation and state the reasons for the exemption.

Section 75.09 New Systems

- A. If a new SSDS is installed on a lot, the system must be maintained as describe in this Chapter at least once within 5-years from the date that the DCDOH issue a permit to discharge in compliance with the requirements of this Chapter.

Section 75.10 Severability

- A. Should any portion of this Chapter be declared illegal, the remaining portion hereof shall remain in full force an effect and be enforceable as such ..

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

Mayor Liffland advised the Village Board that, pursuant to the Municipal Home Rule Law of the State of New York, it was necessary to hold a public hearing upon this local law.

_____ offered the following resolution, which was seconded by _____, who moved its adoption:

WHEREAS, on _____, 2011, _____ has introduced this local law for the Village of Pawling, to be known as Village of Pawling Proposed Local Law No. ___ of 2011, entitled "MAINTENANCE OF SUBSURFACE SEWAGE DISPOSAL SYSTEMS"

RESOLVED, that a public hearing be held in relation to the proposed changes as set forth in the form of notice, hereinafter provided, at which hearing parties in interest and citizens shall have an opportunity to be heard, to be held at the Village Hall on _____, 2011, at 7 o'clock p.m., Prevailing Time, and that notice of said meeting shall be published in the official newspaper of general circulation in the Village of Pawling by the Village Clerk, at least five (5) days before such hearing and that such notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Board of Trustees of the Village of Pawling will hold a public hearing at the Village Hall, 9 Memorial Avenue, Pawling, New York on _____, 2007, at 7 o'clock p.m., Prevailing Time on Proposed Local Law No. ___ of 2007, entitled "MAINTENANCE OF SUBSURFACE SEWAGE DISPOSAL SYSTEMS" to the Village Code; by adding a new Chapter, Chapter 75 "Maintenance of On-Site Septic Systems" to the existing Village Code

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the Village of Pawling Village Hall, 9 Memorial Avenue, Pawling, New York, between the hours of _____ a.m. and _____ p.m. on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Pawling, New York
_____, 2011

JENNIFER OSBORN, VILLAGE CLERK

The foregoing resolution was voted upon with all members voting as follows:

Mayor Liffland	Yes No	_____
Trustee Durkin	Yes No	_____
Trustee Murphy	Yes No	_____
Trustee Osborne	Yes No	_____
Trustee Walsh	Yes No	_____

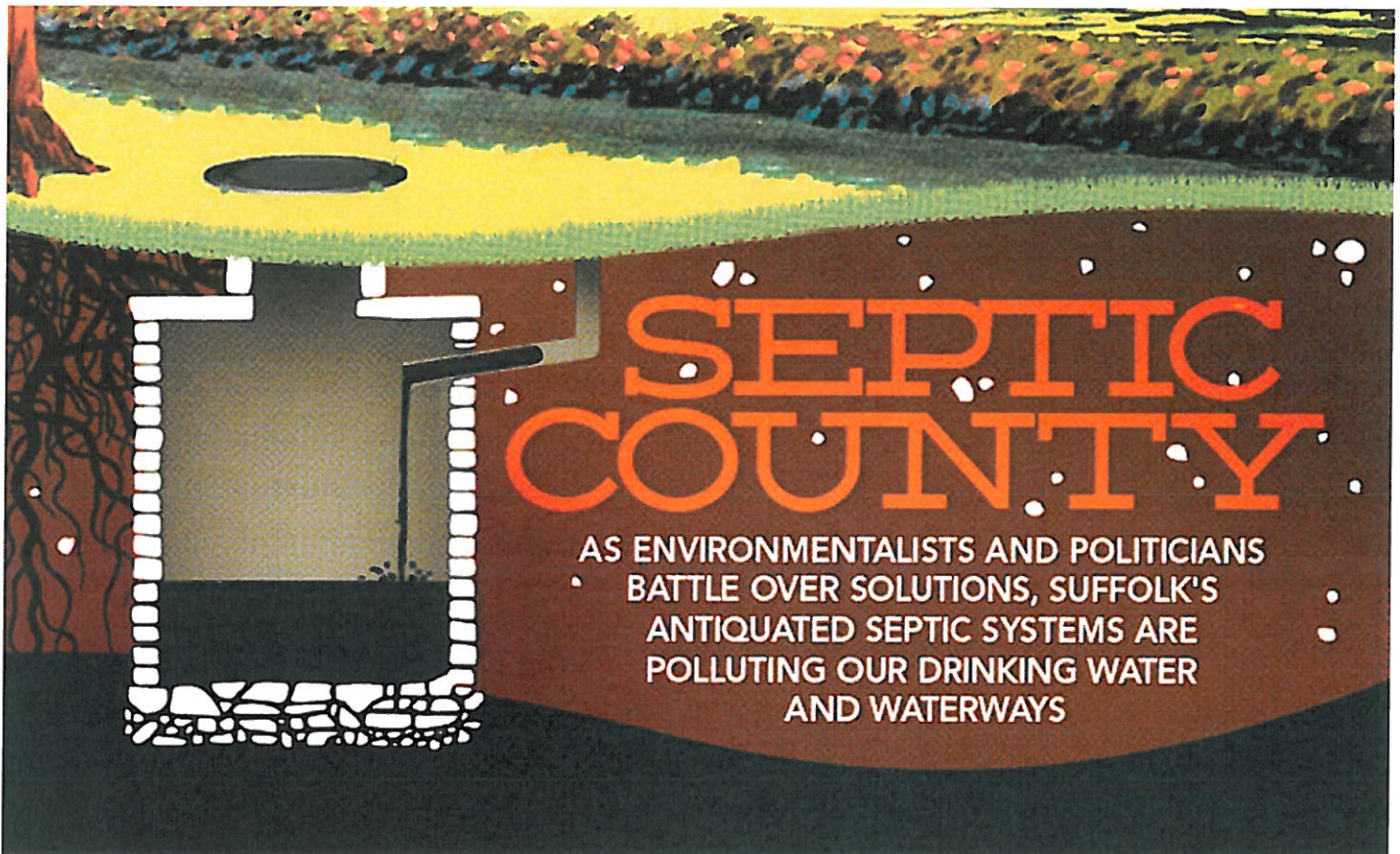
DATED: Pawling, New York
_____, 2011

JENNIFER OSBORN, VILLAGE CLERK

From the Long Island Press

Suffolk County Septic Systems Polluting Water Supply

By [Christopher Twarowski, Timothy Bolger and Spencer Rumsey](#) on February 23rd, 2012



Kevin McAllister stands on the dock at Forge River Marina in Mastic and points south, across the cold waters, to the 3.2-mile long tributary's mouth, where it empties into Moriches Bay.

The 52-year-old knows these waters well. He grew up nearby, crabbing and water-skiing here throughout his youth. McAllister shifts his sights, motioning to the Forge's muddy banks, which quickly collapse into a densely packed wall of residential waterfront homes. A senior housing complex occupies the opposite side, replacing land that had been used for nearly 100 years as a duck farm.

For McAllister, of the Quogue-based nonprofit [Peconic Baykeeper](#), this recent visit with two *Press* reporters is his equivalent of returning to the scene of a horrific crime that changed the course of his work. He recalls the discovery he made here in June 2005 while on a boat tour of the river with two other reporters.

"All of a sudden I started seeing kind of a chalky color to the water," he says. "It was chalky white, just didn't look right. So I got deeper in and then all of a sudden you can smell some odors... We started to see the dead fish on the surface. Then up and around this area there was actually eels—you could see them, little juvenile eels, American eel—popping up to the surface, like snorkels.

“What the fish were trying to do, plus the crabs, they were scurrying out—there were blue crab up on the banks, on both sides, trying to get out of the water—because there was no oxygen,” continues McAllister. “It was going to kill them if they stayed in, and for that matter, they weren’t going to survive anyway, coming out.”

The scene bore the classic symptoms of chronic algal bloom, explains McAllister—rapid outbreaks of microscopic algae that deplete the host water body of oxygen, decimate marine life, and in some species, produce toxins lethal to humans. According to environmental experts, such explosions are triggered by excessive nitrogen, in the form of nitrates. A major source of those high levels of nitrogen, they say, is the human waste continuously discharged into Long Island’s groundwater through septic tanks and cesspool systems, eventually joining the surface water. By “groundwater,” they mean the underground aquifers Long Island’s 2.8 million residents uniquely live atop and shower, wash and drink from.

Yes, Suffolk County residents are drinking the same water they flush their toilets into.

The Forge River is not the only casualty. Its fate is representative of the ongoing deterioration and demise of not only LI’s drinking water supply, but dozens of other water bodies across both Nassau and Suffolk.

Most alarming to many environmentalists and scientists interviewed for this story were the findings of a more than 400-page draft of the soon-to-be-released final *Suffolk County Comprehensive Water Resources Management Plan*, the culmination of years of analysis by the county’s [Department of Health Services](#), Planning Department, Department of Public Works and Water Authority, along with consultants and more than three dozen engineers and water quality specialists. Such a study had not been conducted since 1987.

Among its discoveries: Nitrogen concentrations are increasing exponentially in all three LI aquifers—the Lloyd, Upper Glacial and Magothy—rising 40 percent and 200 percent, respectively, in the latter two. Volatile organic compounds, pesticides and other contaminants are also increasing their presence in our drinking water supply, and new pollutants, such as pharmaceuticals and personal care products (PPCPs), have now also been detected.

Although each of these are cause for alarm and warrant immediate remedial actions and accountability in their own respect, the battle over nitrogen contamination is currently front and center in the ongoing water wars of Suffolk, where only slightly more than one-quarter of its 1.7 million population has the benefit of community-sewage disposal systems and thus, hundreds of thousands of residents utilize instead approximately 400,000 cesspools and septic tanks buried in their front or back yards for waste and wastewater disposal, providing a constant, daily supply of fresh contaminants for the drinking water supply.

“The same contaminants that affect drinking water can adversely affect surface waters,” a Suffolk health department spokesperson tells the *Press*. “However, the single-biggest regional problem is nitrogen inputs to surface waters from groundwater.”

EPA documents examined by the *Press* reveal that some privately run wastewater treatment systems in Suffolk had been repeatedly discharging nitrogen levels that exceeded the federal [Environmental Protection Agency](#)’s mandated standard for years. There currently exists no set plan to require the hundreds of thousands of antiquated cesspools and septic tanks buried throughout Suffolk to be upgraded or retrofitted to the best possible technology available. There also exists no singular, Island-wide regulatory agency charged with overseeing and actively enforcing the protection of LI’s drinking water.

Thus, the pollution and consequential contamination of the regional drinking water supply and its aesthetically and economically vital waterways continue to increase.

“The Forge River is the poster child for nutrient pollution from wastewater,” says McAllister. “Ultimately, this is just an example of what our waterways can be if we’re not managing for the wastewater influences.”



SOUNDING THE ALARM: Kevin McAllister of nonprofit Peconic Baykeeper (L) and its board chairman Brendan McCurdy discuss the water quality crisis facing Long Island. High levels of nitrogen discharged into our drinking water supply and waterways threaten residents’ health and the environment.

SHOCK TREATMENT

Suffolk’s wastewater dilemma has been flooding the consciousness of the county’s environmentalists, residents and elected officials in recent months.

On the table is a proposal from [Legis. Sarah Anker](#) (D-Mount Sinai) to speed up the county health department’s permit process for approving sewer and septic systems in new developments and help businesses track their applications during the process. New [Suffolk County Executive Steve Bellone](#) said in his campaign that the delays in the health department’s permit process are unconscionably slow, hindering the county’s economic growth and recovery.

Earlier this month, the [Suffolk County Legislature](#) created a committee to study expanding sewers in the county. Lawmakers also recently created an “infrastructure bank” designed to foster private-public partnerships to help fund such sewers. At some point this fall, county officials hope to hold a public referendum on either expanding Babylon’s Southwest Sewer District—currently the only area of the county fully sewered—or creating an entire new sewer district; sewers are seen by many as key for future development in Suffolk.

“The present grade of cesspools is one step better than an outhouse,” says [Legis. Wayne Horsley](#) (D-Babylon), who led the sewer committee’s formation. “If you want to have businesses that will bring in good paying jobs, you have to have the infrastructure to advance the county. And that basic infrastructure is sewerage.”

Kick-starting much of the recent discussion has been the aforementioned draft Suffolk County *Comprehensive Water Resources Management Plan*, released last January—the final, revised version of which is due out by June, according to the health department—that paints a disturbing picture of the health and protection of LI’s drinking water supply and waterways.

Levels of Tetrachloroethene (PCE) in the drinking water supply, for example—recognized by the EPA as a carcinogen—have been increasing exponentially, “detected in four times as many wells in 2005 as in 1987,” it reads.

Trichloroethene (TCE), a degradation product of PCE, “was detected in more wells—and at higher average concentrations—in 2005 than in 1987.”

MTBE, or Methyl tert-butyl ether, a flammable, volatile, colorless gasoline additive, has been detected in Suffolk’s groundwater since 1991.

High-density development that occurred after World War II and eastern Suffolk’s long history of farming are two main culprits of nitrogen contamination, according to the report. Since many contaminants take years to travel from groundwater to surface waters, much of the destruction witnessed today began back then, though antiquated cesspool systems continue to contribute to that murky tradition.

“The biggest threats to drinking water are nitrogen, volatile organic compounds and pesticides,” Bellone tells the *Press*. “We agree that more work needs to be done to protect our aquifer, particularly with respect to nitrogen and surface waters.”

The draft plan “has got to be a wake-up call that the job is not being done to protect our drinking water and manage our waste water,” says Michael White, an environmental law attorney and the former executive director of the [Long Island Regional Planning Council](#).

But as comprehensive as the latest report is, it still falls short, argue environmentalists.

“The data gets us to the 10-yard line, but it never kind of puts the ball into the end zone,” says Robert DeLuca, president of Southold-based nonprofit [Group for the East End](#) and also a former employee of Suffolk’s health department. “It essentially said, ‘Wow, look at all the stuff that’s happening, and we’ll keep doing the best we can.’”

DeLuca, McAllister, and half a dozen others co-published their gripes in an 18-page critical response to the report last August, titled [Water Worries: Suffolk Report Documents Decline Without Prescription for Remedy](#). Their concerns were also submitted to the county health department during its public comment period, to be factored into potential remedial plans for its final report due in June.

Christopher Gobler, PhD, director of the [Stony Brook-Southampton Coastal and Estuarine Research Program](#), also weighed in. He has worked extensively with the algal blooms infecting Northport Harbor, commonly known as red tide, which produces toxins that can be poisonous to humans.

“The levels of nitrogen have gone up and will continue to go up,” Gobler tells the *Press*. “The amount of nitrogen in the groundwaters is a function of the number of people living above the ground. And without a sewage treatment plant for almost all of eastern Suffolk County, every time you add another home with a septic tank and have people living in that home, you’re going to drive up the nitrogen loads. It’s all very predictable.”

Besides the foul smells and effects on the aesthetics of the Island's bays and rivers, Gobler stresses the impact on the local economy.

"In 1980, two of three hard clams eaten east of the Mississippi River came from Great South Bay," he writes. "Landings of hard clams and bay scallops have diminished 99 percent since this time, in part due to N[itrogen]-stimulated harmful algal blooms."

Then there's the health threats ingesting too much nitrogen from our drinking water poses: It deprives the blood of oxygen, explains Gobler, and can cause "Blue Baby Syndrome" in infants, whereby the child's skin literally turns blue.

Casting blame on any one agency or facility for accountability, however, is tough. When it comes to exactly who is responsible for protecting Long Island's drinking water, it gets complicated.

"There's multiple agencies at multiple levels that currently have some piece of this responsibility, and I think that's the challenge," says DeLuca. "The Suffolk County Health Department has a responsibility for the protection of drinking water and the sanitary waste disposal systems that are in the ground right now. The state [Department of Environmental Conservation](#) is responsible for the protection of surface waters and wetlands. They have their own sets of rules and regulations. The local towns and villages, many of them have their own ordinances, planning and zoning. So you have probably a half dozen agencies all with a foot in the pool here."

Richard Amper, executive director of Riverhead-based nonprofit [Long Island Pine Barrens Society](#), an oft-outspoken environmental advocate, put it more bluntly:

"If there were a single somebody in charge of groundwater quality on Long Island, you'd go to them and take them out behind the barn and shoot them in the head," he blasts. "Surface water is the DEC. They will tell you they're understaffed. If it's drinking water, it's Suffolk County Department of Health Services. And they're understaffed and they're not processing development applications as fast as the government wants them to.

"Whatever level of government that you're talking about, everyone's falling down on the job—collectively, and all at the same time—and the consequences are catastrophic," he adds.

Amper is part of a growing number of local environmentalists calling for the creation of a singular agency or commission that would oversee all of the Island's drinking water resources. Adrienne Esposito, executive director of Farmingdale-based nonprofit [Citizens Campaign for the Environment](#), is another. And she stresses that whatever form this new body is, it's got to have teeth.

"We don't want a paper tiger," she says. "We want an entity that has the force of law."

One role for this theoretical commission, she says, would be monitoring and enforcing the wastewater discharge standards of sewage treatment plants and onsite wastewater treatment systems and their pollutant infusions into the drinking water supply.

Currently 10 milligrams per liter of wastewater discharge for nitrogen is a standard that McAllister wants changed to 5 milligrams, since, he argues, the threshold was created to address health concerns with drinking water, not surface water quality. Long Island's water bodies begin to deteriorate due to nitrogen pollution at 0.5 milligrams per liter, he says, thus the higher the requirements for nitrogen discharges, the better the health of the bays and estuaries.



NITROGEN POLLUTION POSTER CHILD: The Forge River in Mastic has been the scene of chronic algal blooms, depleted dissolved oxygen levels and massive fish and crab kills for years.

FLUSHED

The vast majority of wastewater disposal systems in Suffolk are merely the basic cesspool system, which, in many cases, is just a ring of concrete cinder blocks forming an underground waste pit. But since 1997 another system has been used for larger, multi-family dwellings and commercial properties.

Manufactured by Williamsport, Penn.-based [Cromaglass Corporation](#), the company's wastewater treatment systems have been installed across the globe, from Baghdad to Lake Tahoe, for nearly 50 years. They are, in essence, onsite, mini-sewage treatment facilities, also known as "package" treatment plants, that typically handle flows ranging from 1,000 to 15,000 gallons of wastewater per day, or the equivalent of three to 50 full-sized single-family residences.

Cromaglass technology helped open parts of unsewered Suffolk to development, providing prospective builders with a solution for large-dwelling construction projects that could not otherwise meet the EPA's nitrogen removal requirements and effluent standards.

There are between 32 and 40 such systems now in use throughout Suffolk, according to the health department and the company, respectively. They service about 2,000 residents of senior living facilities, hotels, apartment and condominium complexes, says the company.

Until December 2011, Cromaglass was the only such system permitted for new developments. Now, Boston, Mass.-based Lombardo Associates' Nitrex and Walton, Ken.-based Purestream's BESST (Biological Engineered Single Sludge Treatment) systems can also be used.

An ongoing study by the county health department that will include an assessment of operation and cost-benefit analysis, to be completed next month, may open the door to other systems as well, and in addition, will evaluate whether any approved systems are appropriate for single-family homes.

The Nitrex system, touts the health department, has the capability of reducing nitrogen to the range of 2 to 3 milligrams per liter of wastewater discharged, a figure not lost on McAllister, who for years has been calling for more choices, better technology and demanding higher-grade effluent.

McAllister wants lawmakers and the county health department to de-certify Cromaglass, devise protocol for it and other onsite septic-cesspool systems' replacement—possibly as incentives or at time of property transfer—and mandate all new developments to solely use the most efficient systems.

McAllister bases his demands on EPA discharge monitoring reports he obtained through a Freedom of Information Law request that shows, out of 27 Cromaglass systems installed in Suffolk, for 2008, 2009 and 2010, “Two out of every three were failing. Failing means they were not meeting the permit discharge standards, which is for drinking water protection,” he says.

The *Press* verified the documents through online, publicly accessible EPA databases.

“Why does Suffolk County still provide the ability to select from the list when there’s a significant disparity on performance?” he asks. “I’ll cut right to the chase: Nitrex, three parts. Cromaglass, two out of three can’t even get down to 10 parts. And some of these are through the roof—discharges of 40, 50 milligrams.”

Other environmentalists are equally critical of the Cromaglass system.

“They’re just not effective at all,” says Amper. “We need new technology; we need less density.”

Cromaglass’ Suffolk County representatives Lou Kircher and son Jeff, both self-described environmentalists themselves, defend the system, saying it is an effective, efficient process that provides an environmentally responsible alternative to cesspools and septic systems for future development in Suffolk. Although the systems aren’t 100 percent perfect, they say, they’re pretty close—as long as they’re properly maintained and operated.

“Operator neglect and owner indifference” are the biggest challenges to the system’s performance, says Jeff. “Every system is only as good as the operator.”

Jeff, whose background is in biochemistry and microbiology, explains that he and his father install the systems, but it’s up to the operators and property owners to maintain them. The Suffolk health department’s Office of Wastewater Management oversees and enforces Cromaglass and other sewage treatment plants’ compliance to nitrogen standards, confirms a health department spokesperson—with “enhanced (quarterly) inspection and monitoring, significant fines for violations, and requirements for reserve funding for upgrades.”

Jeff says the health department has historically lacked manpower, the inspectors were worn thin and overwhelmed. [According to the health department, three inspectors are responsible for all 193 sewage treatment plants, including Cromaglass, and 80 pump stations, in Suffolk.]

“The county is understaffed and has not been able to be diligent enough, but they have now become much more stringent in supervision of the plants,” Jeff says. “And in addition, Cromaglass, actually, has been contracted to do additional inspections.”

The Cromaglass system utilizes a complex process, and the EPA documents also show that the systems can achieve nitrogen discharges as low as 1, 2, 3 and 4 milligrams per liter.

In a nutshell: Post-flush, users’ waste and wastewater flow into a well before entering the Cromaglass system, where throughout a six-hour cycle that involves both aerobic and anaerobic bacteria treatment, aerobic bacteria break down the carbon and hydrogen from the wastewater, leaving nitrogen, and anaerobic bacteria consume the nitrogen. From there, the waste travels to a digester,

where any suspended solids settle out. The remaining liquid, also called grey water, then flows into a sludge tank and is then released into leaching fields, where the treated effluent enters the ground.

In addition to all this, the system has odor vacuums to combat fumes or foul smells, and features complete redundancy—meaning that if one particular aspect of the process fails, others can back it up.

The Suffolk health department stands behind Cromaglass, too, telling the *Press* in a written statement regarding the EPA documents:

“While there were some startup problems in the initial Cromaglass systems, performance of these systems in Suffolk County is now very good,” says a spokeswoman. “These systems are operating better than other full-size wastewater treatment plants in Suffolk County, and have significantly reduced nitrogen loading to groundwater and surface waters as compared with the alternative of onsite septic tanks and leaching pools.”

Despite the high praises from the health department, however, some lawmakers aren’t fans.

[Legis. Ed Romaine](#) (R-Center Moriches) has “grave concerns” about the Cromaglass system, and suggests the health department irreversibly damaged relations with the legislature over the issue.

“I raised a ton of questions back in July, and they blew me off,” says Romaine, who suspects the health department has done an about-face and the report expected next month will show that the agency is now more critical of Cromaglass. “This is a department that gave us a great deal of difficulty in approving other systems.”

He believes that in addition to phasing out Cromaglass and the new push to sewer the county, there should also be incentives for homeowners with the worst polluting systems—pre-1972 cesspools—to replace their old systems with often cost-prohibitive, more advanced wastewater treatment alternatives. Yet it may already be too late, he says, when factoring in underground nitrogen and ammonia plumes oozing into the ground today that will not reach the bays and aquifers for 20 years or more.

“It’s sobering when you think about [it],” Romaine says. “This is a problem that may defy solution. Even if we make some solutions, even band-aid solutions, they may not protect the bays or the drinking water to allow both to be enjoyed a generation from now.”

DOWN THE DRAIN

Environmentalists direct special ire at Suffolk [Legis. Tom Cilmi](#) (R-Bay Shore), who after the draft report’s release, sponsored legislation that effectively stripped the county health department of implementing significant healthy policy changes without legislative approval. It passed nearly unanimously; former County Executive Steve Levy signed it into law.

Many environmental advocates allege the move was done preemptively to head off any potential policy changes that may be included in the revised final report—such as, for example, McAllister’s call for the de-certification and replacement of Cromaglass and antiquated cesspool and septic systems with the most efficient technology, such as Nitrex. Or perhaps improving the water quality nitrogen discharge standard from 10 milligrams per liter to 5 milligrams—mandates that would cost big money to implement. Critics charge that the motivation for such a law was less about protecting Long Island’s drinking water and ill-fated waterways and more about protecting deep-pocketed development interests and campaign contributors.

“The politicians are more concerned about protecting the special interests than the public health,” blasts Amper. “Within a month of the time that the health department’s report came out, the legislature, at the behest of developers, approved legislation that effectively says, ‘The health department is not allowed to do its job or promulgate any protective regulations unless we say so.’”

Motivated by outside interests or not, says DeLuca, the former health department employee, the new protocol just doesn’t make sense. He wants it repealed in tandem with the implementation of real, concrete plans on how to truly deal with the situation.

“It’s absurd, and I think it’s actually dangerous,” he says, “because what happens with legislation like that is that every public health decision becomes politicized. You don’t need 18 legislators trying to decide what’s good for public health. You need public health officials to decide that and, essentially, adopt rules and regulations that advance that.

“I think it’s very difficult for a public policy maker, who may not be a scientist and who may have absolutely no background or understanding as to what 10 milligrams per liter means—to sit there and basically pass judgment on some of the technical standards that are going to have to be put in place as we move forward,” DeLuca says. “There’s a reason why people [are] on the Board of Health and there are technical people involved in those health standards, because you need somebody with that level of competence—who is also not running for office—to be able to say with a straight face, ‘This is what we need to do and here’s why.’”

Cilmi tells the *Press* his legislation was “absolutely” influenced by the draft report and potentially expensive policy changes that could be coming from the health department down the road, stressing that it’s his job, as an elected official, to have a say in those decisions.

“My bill was in an effort to say, ‘Look, this report that was done is a very important report, it brings to light some very concerning facts about what’s going on with our environment, what’s going on with our waterways, what’s going on with our groundwater. But, when we’re going to make policy decisions based on those facts, that will have major impact not only on the future of our environment and public health, but also on the future of our economy, then those decisions are most appropriately made with counsel from all of the stakeholders, but made by the legislature.’

“I don’t want unelected administrative officials mandating anything,” he continues. “There are other implications to these decisions that need to be weighed along with everything.”

Regarding the allegations of campaign contributors’ influence:

“I won’t sit here and deny that I didn’t get phone calls from developers,” Cilmi says. “But you know what, in every decision that we make, we get phone calls from a myriad of stakeholders, and I wouldn’t want it any other way.” McAllister, his environmental colleagues, and even the crafters of the county’s draft plan, argue that if the money is not spent on fixing the problem now, the cost will grow exponentially.

“Let’s say we’re doubling the cost, or even tripling the cost,” he says. “We’ve got to bite the bullet at some point, because we can’t continue to perpetuate the status quo because the status quo has brought us to a water quality crisis.

“Rome is burning.”