

Peconic Estuary Protection Committee
Meeting Summary - February 1, 2017

Cornell Cooperative Extension
423 Griffing Avenue, Riverhead, NY
10:00am- 12:00pm

ATTENDEES

Committee Member Representatives

Town of Brookhaven | Veronica King (Committee Vice-Chair)
Town of East Hampton | Mark Abramson
Town of Riverhead | Drew Dillingham (Committee Chair)
Town of Shelter Island | Laury Dowd
Town of Southampton | Paul Birmingham (for Christine Fetten)
Town of Southold | Michael Collins
Suffolk County | Alison Branco
Village of Sag Harbor | Bettelou Fletcher (for Robert Stein)
New York State Department of Transportation | Gregg Williams
Peconic Estuary Protection Committee Coordinator | Rachel Gruzen

Guests

Elizabeth Hornstein | Peconic Estuary Program/Department of Environmental Conservation

Committee Member Representatives Not Present

Village of Greenport | George Hubbard, Paul Pallas
Village of North Haven | Dianne Skilbred

I. January 4th Meeting Summary Approved

The Peconic Estuary Protection Committee (Committee) January 4th Meeting Summary was approved by the membership.

II. Committee Welcomes New Peconic Estuary Program State Coordinator Elizabeth Hornstein

The Committee welcomed Elizabeth Hornstein to the position of Peconic Estuary Program State Coordinator. Elizabeth helps update and track implementation of the PEP Comprehensive Conservation and Management Plan (CCMP). She is currently working to update the CCMP's Habitat Restoration Plan. Based at the NYSDEC, Division of Marine Resources, Bureau of Marine Habitat, Elizabeth serves as a liaison between PEP and NYSDEC. The role was previously performed by Julie Nace who transferred to EPA in September 2016. Elizabeth comes to PEP from The Safina Center at Stony Brook University where she led its Sustainable Seafood Program.

III. Water Quality Monitoring for Pathogens with the NYSDEC Shellfish Sanitation Program

Michael Collins reminded the Committee that the NYSDEC shellfish sanitation program now provides training to municipal staff to conduct water quality monitoring for pathogens. Collins commented on Southold's success in collecting data over the last year with the support, laboratory services and required sampling equipment of the NYSDEC. Collins stated the data has been useful in characterizing all waterbodies in the Town and determining which harbors and bays should be addressed for water quality remediation, and which have improved in recent years and can be re-opened to shellfishing. Collins listed several Southold waterbodies that can be reopened based on the results of sampling. Final approval for reopening waters is determined by a vote by the legislature.

The Coordinator encouraged members to utilize the opportunity to work with NYSDEC to collect water quality data on pathogens. She reminded the Committee that in 2015-16 it requested the NYSDEC expand its laboratory capacity and Legislator Al Krupski advocated for the expansion on our behalf. Some members also reminded the Committee that we should continually advocate for NYSDEC to conduct this sampling and analysis itself so that the burden of data collection not fall on the municipalities.

It was agreed the Coordinator would reach out on behalf of the Committee to learn the schedule for training opportunities, as well as explore areas for intermunicipal collaboration such as joint training or joint transport of samples to the NYSDEC laboratory in East Setauket. Riverhead expressed interest in initiating the program as soon as possible. Southampton and East Hampton also expressed interest. Brookhaven stated its staff resources are already committed for 2017 and Shelter Island stated it did not have need at this time. Horstein offered to facilitate communications with NYSDEC.

ACTION ITEMS:

- Coordinator, facilitated by Elizabeth Horstein, to reach out to the NYSDEC shellfish sanitation program regarding municipal staff training in water quality sampling for pathogens. Coordinator to report to Committee and specifically to the towns of Riverhead, Southampton and East Hampton which may have interest and staff resources to allocate to water quality monitoring.

IV. GIS Land Use and Outfalls Data on “Suffolk County Open Data” Website

Suffolk County is now hosting the Committee’s Geographic Information Systems (GIS) data layers on its Open Data website. The data sets titled, “Peconic Estuary Protection Committee Land Use” and “Peconic Estuary Protection Committee Stormwater Outfalls”, collated by the Committee’s GIS Working Group in 2016 under the leadership of Ross Balwin, GIS Manager to Southampton, can be found here under the category “Environment”:

<http://data.suffolkgis.opendata.arcgis.com/>

The Coordinator distributed to the Committee a draft letter to Suffolk County Office of Ecology and Division of Environmental Quality, NYSDEC and the Long Island Regional Planning Council. The letter encourages the data be integrated into models that calculate nitrogen, wastewater flows and stormwater nutrient transport. By using the same data, agencies can collectively set water quality protection targets, calculate nutrient load reductions and prioritize subwatersheds for remediation with confidence that we are planning and prioritizing using the most accurate information available.

Branco updated the Committee that the County’s Subwatershed Wastewater Plan is using this land use data for the groundwater modeling and nitrogen load calculations for the East End. The letter encouraged the County to also use the outfall data in surface water modeling.

ACTION ITEMS:

- **Coordinator to finalize the letter re: available GIS data with the Chair and Vice Chair and issue.**
(Update: Letters e-mailed and posted on February 6th to Ken Zegel at Suffolk County Dept. of Health Services (SCDHS), Angus Eaton at NYSDEC Bureau of Water Resources, Walter Dawydiak (SCDHS), and David Berg, Long Island Regional Planning Council.)

V. Overview of Long Island Nitrogen Modeling

Upon request, Alison Branco of the Peconic Estuary Program provided an overview of the ongoing nitrogen modeling on Long Island. The County is currently developing a Subwatershed Wastewater Plan to assess how land use and land cover practices are adding nitrogen to ground water and surface water. The Plan is considered a short-term action to the Long Island Nitrogen Action Plan. The Subwatershed Wastewater Plan model uses land surface data, specifically the Committee’s collated Land Use GIS layers, and groundwater flows modeled by CDM Smith, to estimate the nitrogen loads from current land use to the aquifer, and translate that load to the nitrogen impact on surface water bodies. The Plan does not integrate nitrogen loading from stormwater flows given that previous studies show its contribution to be less than 2% (though stormwater is a significant source of pathogens.)The conclusions of the model help the County to prioritize areas for upgraded wastewater treatment including alternative septic infrastructure.

Concurrent to this, the Peconic Estuary Program and others are advocating for the long-term Long Island Nitrogen Action Plan (LINAP), which would take the next step to more accurately understand existing loads to surface waters. The LINAP would model time-varying nitrogen loading using estimates of prior land use and loading. This modeling would be an important part of the process of developing a new set of Total Maximum Daily Loads (TMDLs) for nitrogen for the Estuary. The Pathogen TMDL for the Peconic Estuary and other select Long Island waterbodies is currently pending withdrawal by the EPA per the recommendation of the NYSDEC.

VI. Letters to NYS DEC on the Draft SPDES General Permit for Stormwater Discharges from MS4s

As is detailed in previous Committee meeting summaries, the Committee members are submitting comments to the NYSDEC on the draft State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from MS4s. Committee members including Brookhaven, East Hampton, Riverhead, Shelter Island and Southampton have submitted individual comment letters. In addition the Committee is drafting a letter that identifies several general comments on the draft Permit. Thirdly, the Committee is helping to prepare a Long Island-wide comments letter to be signed by several Long Island protection committees, water quality organizations, the Peconic Estuary Program and the Town of Islip.

The Committee provided suggested edits to the latter two letters. Seven of the 11 members voted approval of the PEPC letter (4 of the 11 members were not present). The Coordinator will incorporate final edits and distribute to Chair and Vice-Chair for final approval and distribution to DEC by the February 3rd deadline.

Given the amount of feedback from multiple coalitions across New York State, members anticipate the NYSDEC will update and re-issue another draft permit for review. If so, the current permit would be extended 1-2 more years.

ACTION ITEM:

- Coordinator to incorporate Committee comments into: 1) the Committee letter to NYSDEC regarding the Draft MS4 permit, and 2) the Long Island-wide comments letter to be signed by several Long Island protection committees and others.

VII. Updates on Large-Capacity Cesspools

The Coordinator presented information to the Committee on two recent communications from EPA regarding Large-Capacity Cesspools (LCCs) on Long Island, the first regarding the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) and the second regarding the Town of East Hampton and Suffolk County.

The EPA has informed the OPRHP that it must close or convert to lawful systems the LCCs at New York State parks, including 33 in Suffolk County and 3 in Nassau County. Effected park facilities in the Peconic Estuary watershed are: Hither Hills, Montauk Downs and Orient Beach. The EPA vs. State Parks Consent Judgment contains a detailed description (in Appendix D) of the remedy chosen for each park, as well as a list of supplemental environmental projects, specifically various new technologies in waste- and stormwater management including: urine separation systems at Robert Moses, Sunken Meadow, Wildwood and Caumsett state parks; nitrogen reducing technology at Connetquot and Hallock state parks; and green technology site improvements for stormwater treatment including a bioretention retrofit at Captree state park (Consent Judgment: <http://nylawyer.nylj.com/adgifs/decisions16/122216consentjudgment.pdf>).

Further background on EPA regulations on LCCs (credit to Eric Swenson of Hempstead Harbor Protection Committee for contributing):

- LCCs are regulated by the EPA as “Class V Wells”, also called Underground Injection Wells (IUCs) because they allow the “movement of fluid into an underground source of drinking water that might cause endangerment” to drinking water and health (source: *Consent Judgment*).
- Under federal regulations, all LCCs were required to be closed by April 5, 2005 and no new or converted LCCs are permitted after that date, because they were found to be a risk to drinking water and to violate the Safe Drinking Water Act (SDWA) (42 USC 300f). The regulations that apply are found in the EPA Code of Federal Regulations for “Requirements for Owners and Operators of Class V Injection Wells”, 40 CFR 144.80 to 144.98 (<https://www.gpo.gov/fdsys/pkg/CFR-2011-title40-vol23/pdf/CFR-2011-title40-vol23-part144-subpartG-subjectgroup-id395.pdf>).

- According to CFR 144.81 (9) Class V Wells include “Septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank. The UIC requirements do not apply to single family residential septic system wells, nor to non-residential septic system wells which are used solely for the disposal of sanitary waste and have the capacity to serve fewer than 20 persons a day.”

The Committee discussed the definition of LCCs and Class V Injection Wells. Collins stated that while cesspools are illegal, adding a properly-sized septic tank in front of a cesspool meets EPA requirements for pre-treatment and exempts the system from the above regulation.

- EPA website outlining where the regulation on LCCs applies: <https://www.epa.gov/uic/large-capacity-cesspools>
- EPA on Class V Wells, “When Is a Septic System Regulated as a Class V Well?” https://www.epa.gov/sites/production/files/2015-08/documents/fs_septic_sys.pdf
- EPA on Class V Wells, “When Are Stormwater Discharges Regulated As Class V Wells?” https://www.epa.gov/sites/production/files/2015-08/documents/fs_storm.pdf

Concurrent to the above events, the EPA recently notified the Town of East Hampton that it is a violation of federal law to approve development applications with LCCs. These are the same laws as listed above. According to the East Hampton Press four advocacy groups wrote EPA in September notifying them of commercial properties in Montauk that had recently received approvals for redevelopment or expansion though LCCs appeared to still be in use (“EPA Chides Town About Waste” (1/25/17), *East Hampton Press*). The advocacy groups commented that “it appears that [the Suffolk County Department of Health] does not recognize the application of the federally mandated Clean Water Act legislation and grandfathers these illegal systems” (*East Hampton Press*).

VIII. Committee Priorities 2017

This discussion was postponed to the March meeting to allow time for discussion of the letters to NYSDEC.

IX. Grants and Funding Updates

Agricultural Stewardship in the Peconic Estuary

Branco updated the Committee on a \$1.2M grant recently awarded to the Suffolk County Department of Economic Development & Planning by the United States Department of Agriculture (USDA) Regional Conservation Partnership Program (RCPP). The project, “Agricultural Stewardship in the Peconic Estuary”, is a “partnership among government agencies, non-profit organizations, academic institutions and private farmers” and “will provide technical assistance and financial resources to Suffolk County farmers within the federally-designated Peconic Estuary Watershed. With these resources, farmers can conduct nutrient management plans and integrated pest management plans to adapt best management practices, which will improve water quality, soil vitality and wildlife habitat.” PEP co-wrote the grant proposal, which also included two years of preliminary work updating the County’s watershed plan. (New York Regional Conservation Partnership Program Projects: <https://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/programs/farmbill/?cid=nrcseprd1307824>)

State Investment in Water Quality

Governor Cuomo announced in January the allocation of \$2B statewide to clean water infrastructure and water quality protection, specifically projects in drinking water, source water and wastewater protection. Though the Committee agreed that the Governor provided little detail on what funding would be allocated to Long Island, the State of the State address does mention the following funded actions:

- “Installing advanced wastewater treatment systems, including those to address nitrogen loading on Long Island;
- “Upgrading aging wastewater treatment plants to increase capacity and improve resiliency;
- “Connecting existing homes in densely populated communities to sewer systems or installing advanced public on-site septic systems; and
- “Conserving open spaces and building green infrastructure, such as constructed wetlands, to capture runoff and filter contaminants.”

Source: “Governor Cuomo Presents the 17th Proposal of 2017 State of the State”

<https://www.governor.ny.gov/news/governor-cuomo-presents-17th-proposal-2017-state-state-invest-2-billion-clean-water>

Discussion on Local Effects of Federal Changes to EPA

Branco provided an update on the anticipated effects of federal funding reductions to the EPA on the PEP. The bulk of the budget for the PEP is through a federal grant, but the Program has planned ahead for such a contingency. The PEP has been working for years with the County and State to have those agencies assume responsibility for natural resource monitoring which is currently being conducted under federal funds. The East End towns can also allocate Community Preservation Funds (CPF) monies to PEP projects if they choose. Branco noted that while there is concern there will be budget cuts to all 28 federal estuary programs which can temporarily incapacitate them, elimination is impossible given President Obama reauthorized the federal estuary programs via the Clean Water Act in 2016.

X. Coordinator Proposal

The Coordinator will submit a proposal to the Committee requesting an hourly rate increase of \$5 per hour in her next and third contract, assuming the Committee wishes to renew it. The Coordinator will present the proposal to the Chair and Vice Chair for distribution to the members in advance of the March meeting, at which time members can discuss and vote. Members suggested that as part of proposal the Coordinator review the organizational structure, funding mechanisms and scope of work for other intermunicipal coalition coordinators.

XI. Peconic Estuary Boater’s Guide

The Coordinator surveyed member interest in a Committee-wide Boater’s Guide that could be distributed within all municipalities of the Peconic Estuary. Members concluded the Harbor Master Guide, produced by the Committee in 2016, was ideal at this time as a template that is easily customized with municipality-specific text. Shelter Island stated that it adapted the template in summer 2016. Brookhaven stated it distributes a similar flyer in the post with dock applications, while another municipality distributes the information in a “Constant Contact” email to dock or mooring permit holders.

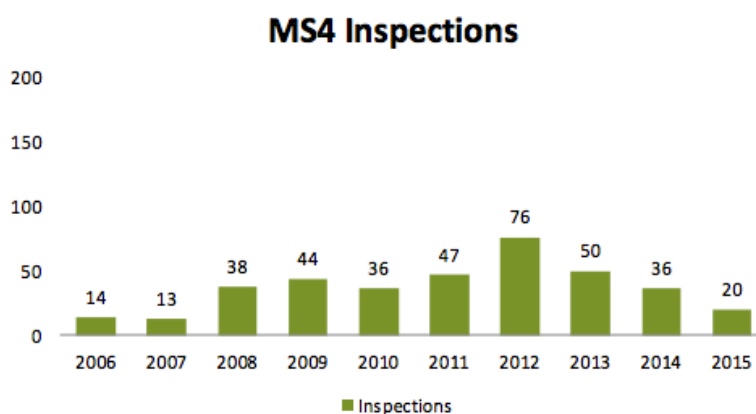
Members agreed that the Association of Marine Industries (AMI) Boater’s Guide, a glossy, 40-page magazine distributed for free by AMI to waterfront facilities across Long Island, is the best vehicle for additional educational content. The AMI Boater’s Guide currently dedicates 8 pages to environmentally responsible boating practices in the Peconic Estuary. Any edits or new material, including information on No-Discharge Zones and pumpout facilities, could be submitted to AMI for integration into the 2017 issue. Branco suggested the Committee also contact the NYSDEC on their educational outreach to boaters and coordinate distribution of materials.

ACTION ITEM:

- **Coordinator to contact AMI regarding updates to its Boater’s Guide on environmentally responsible boating in the Peconic Estuary; and to NYSDEC on their educational outreach to boaters.**

XII. Trends in NYSDEC SPDES Monitoring and Oversight Activities

Collins shared information on the NYSDEC SPDES Compliance and Enforcement Reports located here: <http://www.dec.ny.gov/chemical/62557.html>. The annual reports provide details on the Department's MS4 inspections and other oversight activities to ensure compliance with SPDES permits. Collins noted the trends in MS4 auditing activities documented in the 2015-16 report (http://www.dec.ny.gov/docs/water_pdf/2015annualrpt.pdf). According to "Appendix D: Monitoring and Oversight Activities", the quantity of MS4 inspections has been declining since 2012. Between 2006 and 2015, the peak number of inspections was 76 in 2012 and down to 20 in 2015 (p.59). Collins hypothesized that given this data, and the possible reduction of EPA and NYSDEC budgets under the current federal administration, it seems likely that there will be fewer than 20 audits conducted per year across the 500+ MS4 Permitted Communities in New York State. Collins and others noted that the EPA and NYSDEC have been partners auditing the East End towns in order of most impaired waterbodies to least. Following this trend, next in sequence would be East Hampton and Southold.



Source: NYSDEC SPDES Compliance and Enforcement Report 2015/2016 Annual Report, p. 59.

http://www.dec.ny.gov/docs/water_pdf/2015annualrpt.pdf

Kindly note your calendars for the 2017 meeting dates:

*March 1st, April 5th, May 3rd, May 31st (!note!), July 5th, August 2nd,
September 6th, October 4th, November 1st, December 6th*