

## MEMORANDUM

To: Groundwater Advisory Council  
From: H. Bokuniewicz  
Re: Minutes of the meeting of 25 February 2008  
Date: March 4, 2008

### PRESENT

R. Alvey  
N. Bartilucci  
H. Bokuniewicz  
S. Colabufo  
M. Nofi  
D. Paquette  
K. Roberts  
W. Spitz  
S. Terracciano  
K. Willis

### REGRETS

M. Alarcon  
S. Jones  
L. Koppelman  
R. Liebe  
R. Mazza  
M. Nofi  
G. Proios  
A. Rapiejko

1. There were no comments on the minutes of the last meeting (22 January 2008). Doug Paquette reminds us that the High Flux Beam Reactor is to be decommissioned. The plan can be found at: [http://www.bnl.gov/bnlweb/pubaf/PR\\_display.asp?pr/D=08-X2](http://www.bnl.gov/bnlweb/pubaf/PR_display.asp?pr/D=08-X2). Public comments on the plan are due on March 17, 2008.
2. I have begun setting up a WebEx webinar on sealcoats with Barbara Mahler for 10 AM on Friday, 2 May 2008. I had expressions of interest from between 12 and 60 people. Once we get a firm date, I will start arranging the logistics. It will be initiated by Barbara so anyone should be able to get in on it. There have been problems using Apple Computers however. We don't intend to use the Chat Windows, preferring to set up a simultaneous conference call. We don't know yet how many lines we can get on a conference call.

On the east coast, coal-tan based sealants are used probably because they resist salt and cold temperatures better than asphalt. Many homeowners use a latex compound. Parking lot contaminants are found in the dry wells of the lots and, upstate, a pipeline by the side of the road encountered PAHs at levels high enough to make the soil a hazardous waste. It is unclear whether or not such contamination could reach the groundwater. Roof coatings may raise a similar issue. There may be some low-tech fixes like the use of wood chips to absorb the waste.

The USGS has other WebEx webinars occasionally. We will try to arrange to alert people when one is pending on water issues.

3. Crumb-rubber is a product made out of old tires used as the “soil” in astro-turf playing fields. It is considered a productive use of a waste product. It has the advantage that it provides a fairly soft surface; it dries out quickly after rainfalls, holds up well and, apparently does not attract Canadian geese. Some have claimed, however, that it’s toxic. It may degrade in sunlight and contaminants can be inhaled or ingested. It is not clear whether contaminants leach from it under natural conditions or whether there could be any threat to groundwater. The issue arose at the Pine Barrens Commission; Baseball Heaven in the Pine Barrens is up gradient of some SCWA supply wells. A ban on its use in the Pine Barrens has been suggested. Playgrounds also use a similar product, landscape mulch made of shredded tires.

USGS research on sediment cores in lakes and reservoirs show that you can detect the advent of rubber-tire usage in elevated levels of chromium (Peter Van Meter in the Historical Trends as part of the NWQA study). There has, to date, been no determination that crumb rubber is not a problem. The risks associated with crumb rubber remain to be assessed and put in the context of risks associated with natural turf playing fields due to fertilizer and pesticide application. Leaching test would have to take into account field conditions with cycles of heating and cooling, wetting and drying, and exposure to sunlight and mechanical disturbance. I will look to see if crumb-rubber is used at Stony Brook. We might be able to put a lysimeter under it.

4. We have a student, Caitlin Young, working with Gil Hanson on both continuing the monitoring of nitrate under turf grass and the issue of denitrification. In addition to the ongoing lysimeter sampling and analyses, they have visited Lawrence Livermore Lab and Woods Hole to learn the technique for denitrification studies. They will apply this first to wells in the Northport area in conjunction with work being done on the nitrogen contribution from groundwater seepage by the USGS (Woods Hole) in May. Steve Terracciano has been looking into long-term nitrogen data. Nitrate seems to be pulled into deeper wells with changes in pumpage.
5. We have two post-docs visiting Stony Brook in 2008. These are both geochemists from Spain. One will be working with Kirk Cochran and the other with Bruce Brownawell. We may wish to get them involved with the issue of PCP and pharmaceuticals in groundwater here. Perhaps, the existing set of monitoring wells at the Laundromats in Shirley could be useful.
6. Tom Shanahan has sent out his legislative report. The legislation on the Lloyd is still pending, one to prohibit ASR and the other to ban all new withdrawals. (The USGS is coming with a paper on the inorganic chemical concerns of ASR in the Lloyd based on test wells on Staten Island and Long Beach. NYC never built its pilot project. ASR seems feasible but there may be some concern with swelling as Na replaces Ca in the aquifer. In addition, Fe may be precipitation due to oxygation).

There’s a proposal to make bottle water sales tax exempt. Of course, there’s also the Bigger Better Bottle Bill which would impose a five-cent deposit on all plastic bottles.

7. The article on MTBE detection in Newsday (23 Feb) was briefly discussed. This was an attempt to actively search for MTBE plumes by sinking monitoring wells in likely places. Karen Gomez may be able to provide information about the well locations and depths if that is of interest. All bulk storage facilities are subject to DEC regulations, not just gas stations. Tanks had been replaced with fiberglass tanks, and now, double-walled tanks but leaks continue from the plumbing, rather than the tanks themselves.
8. Plainview lost its lawsuit on MTBE but may appeal. Without MTBE actually being detected in supply wells, perhaps, the State would have a stronger case of damage to state waters.
9. The Guerrera Award was given to Shelby Lipka, an African-American undergraduate at the Polytechnical Institute in civil and environmental engineering.
10. The next meeting will be on **Monday, March 24, 2008** at the Suffolk County Water Authority in Oakdale, 9:30 – 11 AM.

**Report from Tom Shanahan:**

**LEGISLATIVE BRIEFING**

**PREPARED FOR THE LONG ISLAND WATER CONFERENCE**

**BY TOM SHANAHAN**

**February 7, 2008**

Governor Spitzer's proposed budget, as presented on January 22, bore no unpleasant surprises for water suppliers in general, such as a "water tax." However, The Governor did propose amending the Town Law to prohibit special district commissioners from receiving compensation for their services. This would apply to commissioner-run water districts.

On the positive side for water suppliers, the Governor's State of the State message proposed an expansion of the state's "solar net metering" program to businesses; increase the size of eligible solar PV systems to 25kW for residential customers and to 2 megawatts for commercial customers; and increase to one percent of a utility's load, the maximum amount of electricity that the utility would be required to buy back. A number of water suppliers are interested in participating in this expanded program, and are seeking to make sure it will apply to municipalities as well as strictly commercial enterprises.

Following are the bills we are tracking:

Most of these are "carry over" bills, meaning they were introduced last session and are still active because they did not advance to the point of being signed or vetoed. The position listed was taken by the Legislative Review Committee at yesterday's meeting.

Note: The Assembly is handling the carryover of its 2007 bills differently this year. In 2008, any Assembly bills that passed the Assembly in 2007 that were not chaptered or vetoed will be automatically placed on the Assembly's third reading calendar at the start of session. In previous sessions, the Assembly had referred these bills to the Rules committee.

The Senate is handling its carryover of 2007 bills as it has previously, by referring those bills to last year's committees.

**S. 2153 Libous / A. 1994 Kavanagh** - Rank 1 Damage for Delay - Would require that every public contract entered into by public entities contain a "damage for delay" clause. Providing people with clean drinking water is an infrastructure intensive activity. This would entitle contractors to recover additional costs for excusable delay. Unforeseen problems resulting in delay are understood to be a standard element of construction projects, and are currently factored into the equation by responsible contractors when they submit bids as part of the competitive bidding process. This legislation would alter this process by encouraging irresponsible bidders to participate by submitting "lowball" bids and then seeking significant increases through the "damage for delay" clause. This bill was passed by the Legislature a few years ago and vetoed by Governor Pataki. How Governor Spitzer would view this legislation is unknown. **Oppose**

1/9/08 REFERRED TO FINANCE

1/9/08 referred to Governmental Operations

**S. 1558 Marcellino / A. 2986 Weisenberg** - Rank 1 Prohibits the storage or pumping of water into the Lloyd sands aquifer. This would prohibit New York City DEP's plan to "bank" water by pumping it into the aquifer for later withdrawal. **Support**

**A. 879 Englebright** - Rank 3 Prohibits the storage or pumping of water into the Lloyd sands aquifer. Unlike the previous bill, this bill would also prohibit any withdrawals from the Lloyd, and effectively stop any new wells whatsoever from being drilled into the Lloyd. **Strongly Oppose**

**S. 198 Larkin / A 1487 Magee** Rank: 1 Would allow the DEC to exempt from state regulation the registration of pesticide labels that are used primarily in the production of an agricultural commodity if such products have been continually registered by the US Environmental Protection Agency as being safe for the previous 10 years. **Oppose**

1/9/08 REFERRED TO ENVIRONMENTAL CONSERVATION

1/9/08 referred to environmental conservation

**S. 4228 Volker / A. 2179 Canestrari** Rank: 1 Provides for time limitations on certain actions against professional engineers architects other designers and construction contractors. **Support**

1/9/08 REFERRED TO CODES

1/9/08 referred to higher education

**S. 227 Larkin / A. 1152 Guenther** Rank: 1 Provides for minimization and limitation of siting and expansion of solid waste landfills in proximity to aquifers and other public water supplies.

1/9/08 REFERRED TO ENVIRONMENTAL CONSERVATION

1/9/08 referred to environmental conservation

**S. 1112 Little / A. 677 Gantt** Rank: 1 Exempts bottled water sold to individual for human consumption or use from sales and use tax. While water is a necessity of life, public water supply systems adequately meet that need, less expensively, and at equal, if not higher quality. Bottled water is nothing more than a trendy indulgence. People who purchase food at a supermarket are not taxed, but if they buy a meal at a fancy restaurant, they are taxed. People who consume the "luxury" of bottled water should also be willing to be taxed for that self-indulgence. **Oppose**

1/9/08 REFERRED TO INVESTIGATIONS AND GOVERNMENT OPERATIONS

1/9/08 referred to ways and means

**A. 1227 Guenther** Rank: 3 Exempts all water from sales and use taxes. Since public water supplies are already exempt from sales and use taxes, this would serve to benefit only sellers of bottled water. **Oppose**

1/9/08 referred to ways and means

**S. 2196 Stavisky / A. 7298 Lafayette** Rank: 2 Prohibits the discontinuance of utility service to multiple dwellings for non-payment of bills. **Oppose**

1/9/08 REFERRED TO ENERGY AND  
TELECOMMUNICATIONS

1/9/08 referred to energy

**S. 144 LaValle / A. 182 Thiele** Rank: 2 Provides for an increase in federal itemized deduction for home improvements which promote water quality. **Support**

01/9/08 REFERRED TO INVESTIGATIONS AND GOVERNMENT OPERATIONS

1/9/08 referred to ways and means

**A. 3317 Colton** Rank: 3 Directs the commissioner of environmental conservation to promulgate rules and regulations providing for recycling, reuse and remanufacturing of electronic equipment. **Monitor**

1/9/08 DIED IN SENATE

1/9/08 RETURNED TO ASSEMBLY

1/9/08 ordered to third reading cal.284

**S3588 Leibell / A. 8278 Bradley** Rank: 1 Creates the crime of unlawful defilement of a water supply - Adds Section 490.60 to Penal Law. **Support**

1/9/08 died in Assembly 1/9/08 returned to Senate 1/9/08 REFERRED TO VETERANS, HOMELAND SECURITY AND MILITARY AFFAIRS 1/14/08 1ST REPORT CAL.18 1/15/08 2ND REPORT CAL 1/22/08 ADVANCED TO THIRD READING 1/23/08 PASSED SENATE 1/23/08 DELIVERED TO ASSEMBLY 1/23/08 referred to codes

1/9/08 referred to codes

**A. 1319 McEneny** Rank: 3 Creates the crime of unlawful defilement of a water supply - Adds Section 270.08 to Penal Law. **Monitor**

1/9/08 referred to codes

**S. 3580 Alesi / A. A2279 McEneny** Rank: 1 Provides for annual school lead-copper tap water testing; publishing of reports of contamination and a statement of such contamination. No Position

1/9/08 REFERRED TO HEALTH

1/9/08 DIED IN SENATE (A 2279)

1/9/08 RETURNED TO ASSEMBLY

1/9/08 referred to codes

**A. 1094 Brodsky** Rank: 3 Enacts "The Mercury-Free Water Resources and Mercury Reduction Management Strategy Act of 2007"; repealer. **Monitor**

1/9/08 referred to environmental conservation

**A. 503-A Lafayette** Rank: 3 Prohibits selling, offering for sale or delivering bottled water without label listing chemicals and other contaminants; civil penalty of \$1000 for violation. **Strong Support**

1/9/08 referred to consumer affairs and protection

1/23/08 amend and recommit to consumer affairs

**S. 2244 Klein** Rank: 5 Relates to the preparation of water supply emergency plans. **Monitor**

1/9/08 REFERRED TO HEALTH

**S. 3521 Oppenheimer** Rank: 5 Grants private citizens broad authorization to commence civil judicial actions under certain titles of the environmental conservation law. **Monitor**

1/9/08 REFERRED TO ENVIRONMENTAL CONSERVATION

### **Public Authorities**

**S. 837 Flanagan / A. 9214 Morelle** Rank: 1 Relates to tort claims against water authorities of Erie, Suffolk, Monroe and Onondaga counties. **Support**

1/9/08 died in assembly

1/9/08 returned to Senate

1/9/08 REFERRED TO CORPORATIONS, AUTHORITIES AND COMMISSIONS  
1/23/08 1ST REPORT CAL.91

1/28/08 2ND REPORT CAL.

1/29/08 ADVANCED TO THIRD READING

2/9/09 PASSED SENATE

1/9/08 referred to corporations, authorities and commissions TO ASSEMBLY 03/14/07  
referred to corporations, authorities and commissions

**A. 1163 Brodsky** Rank: 3 Prohibits the creation of certain new public corporations and provides for the dissolution of certain public corporations. **Oppose**

1/9/08 referred to corporations, authorities and commissions 01/16/07 to attorney-general  
for opinion 01/17/08 opinion referred to judiciary

**A. 1371 Brodsky** Rank: 3 Limits the use of subcontracting by public authorities or other entities when it would duplicate services of certain employees of the authority. **Monitor**

1/9/08 referred to corporations authorities and commissions

**A. 5849 John** Rank: 3 Includes state and local agency and public authority public work contracts within prevailing wage requirements; sunset. **Monitor**

1/9/08 referred to labor

### **Private Utilities**

**A. 2247 Jacobs** Rank: 3 Prohibits revenue payment to officer or director of a public utility company contingent upon a change in control. **Monitor**

1/9/08 referred to corporations authorities and commissions

**A. 2425 Hawley** Rank: 5 Requires utility corporations to record memorandum of utility surcharge agreements. **Monitor**

1/9/08 referred to judiciary

**S. 1732 Sabini / A. 60 Lafayette** Rank: 2 Requires utility companies to include on their bills notice of any and all public hearings concerning rate hikes. **Oppose**

1/9/08 REFERRED TO ENERGY AND TELECOMMUNICATIONS

1/9/08 returned to Assembly

1/9/08 ordered to third reading cal. 4

1/23/08 passed assembly

1/23/08 delivered to senate

1/23/08 REFERRED TO CORPORATIONS, AUTHORITIES AND COMMISSIONS

Following is the ranking scale:

- 1 - A sponsor from the majority party in each house.
- 2 - A majority sponsor in one house, a minority sponsor in the other house.
- 3 - A majority sponsor in only one house.
- 4 - A minority sponsor in each house.
- 5 - A minority sponsor in only one house.

Republicans hold the majority in the Senate, Democrats hold it in the Assembly.

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