

S6276: Authorizes the use of surplus funds from the greater Catskills flood remediation program by Ulster county

Sponsor: BONACIC

Same as: A10140

Committee: FINANCE

Law Section: Budget Bills

S6276 Summary

Authorizes the use of surplus funds from the greater Catskills flood remediation program by Ulster county. Authorizes the use of surplus funds from the greater Catskills flood remediation program by Ulster county. Authorizes the use of surplus funds from the greater Catskills flood remediation program by Ulster county.

Act: AN ACT to amend section 3 of part NN of chapter 57 of the laws of 2008 relating to authorizing the New York state mortgage agency to transfer certain moneys, in relation to the use of surplus funds from the greater Catskills flood remediation program

S6276 Actions

Nov 9, 2009 REFERRED TO RULES
Jan 6, 2010 REFERRED TO FINANCE
Feb 9, 2010 1ST REPORT CAL.118
Feb 22, 2010 2ND REPORT CAL.
Feb 23, 2010 ADVANCED TO THIRD READING
Mar 4, 2010 PASSED SENATE
Mar 4, 2010 DELIVERED TO ASSEMBLY
Mar 4, 2010 referred to housing

"Same as" Actions for Bill A10140

Mar 5, 2010 referred to housing

S6276 Votes

Vote: Floor - Mar 4, 2010

Ayes (55): ADAMS ADDABBO ALES AUBERTINE BONACIC DEFRANCISCO DIAZ
DILAN ESPADA FARLEY FLANAGAN FOLEY FUSCHILLO GRIFFO HANNON
HASSELL-THOMPSON HUNTLEY JOHNSON C JOHNSON O KLEIN KRUEGER
KRUGER LANZA LARKIN LAVALLE LEIBELL LIBOUS LITTLE MARCELLINO
MAZIARZ MCDONALD MONTGOMERY ONORATO PADAVAN PARKER PERKINS
RANZENHOFER ROBACH SALAND SAMPSON SAVINO SCHNEIDERMAN
SERRANO SEWARD SKELOS SMITH SQUADRON STACHOWSKI STAVISKY
STEWART-COUSINS THOMPSON VALESKY VOLKER WINNER YOUNG

Nays (0):

Abstains (0):

Excused (6): BRESLIN DUANE GOLDEN MORAHAN NOZZOLIO OPPENHEIMER

S6276 Memo

BILL NUMBER: S6276

TITLE OF BILL :

An act to amend section 3 of part NN of chapter 57 of the laws of 2008 relating to authorizing the New York state mortgage agency to transfer certain moneys, in relation to the use of surplus funds from the greater Catskills flood remediation program

PURPOSE OR GENERAL IDEA OF BILL :

To authorize the purchase of homes near the New York City aqueducts which are susceptible to flooding or water infiltration near the leaking New York City owned aqueduct in Ulster County near the Rondout Reservoir.

SUMMARY OF SPECIFIC PROVISIONS :

Authorizes the use of remaining funds from the Greater Catskills Flood remediation program (of which there are currently approximately \$4 million in unused funds) to purchase homes within two miles of the New York City Aqueducts in the County of Ulster. The homes must be subject to water seepage and be under \$250,000 in fair market value.

EFFECTS OF PRESENT LAW WHICH THIS BILL WOULD ALTER :

The Catskills have been subject to substantial flooding over the last several years. While various persons blame other persons for the action, the reality is year in and year out, families were being victimized by the flooding and lives were being lost. The Legislature enacted the Greater Catskills Flood Remediation Program which allocated \$15 million to purchase homes where the owner was subject to flooding. The time to apply for that funding and meet the guidelines has expired. Dozens of homes have been bought out or are under contract and expected to be bought out. There remains approximately \$4 million from the program available. The legislation would reallocate that funding to Ulster County to purchase homes which experience seepage near the leaking New York City aqueducts.

JUSTIFICATION :

Families in Wawarsing who live near the leaking New York City aqueduct have seen substantial seepage into their basements. Families have blamed the City of New York for that seepage due to the leaking aqueduct. The City acknowledges that millions of gallons per day leak from its aqueducts. While the City is taking steps to repair the aqueducts, the repairs, if ever done, are not expected to take place for years.

The DEP has done testing in terms of shutting off the water supply in the aqueduct and a correlation has been shown that water rises and falls when the water in the tunnel is or is not flowing. Still, despite the correlation, other factors are also pointed to as a potential culprit of the seepage. City officials have advised

Wawarsing area residents that they may file claims with the City Comptroller's office - a timely and costly proceeding. The reality is that litigating against the City is a substantial if not overwhelming task for a homeowner, particularly when it comes to proving cause and effect of leakage of an aqueduct hundreds of feet below the ground.

During the past two years, City DEP staff have become substantially more engaged with watershed residents to try and study the issue. However, no solution has been forthcoming and the only actions taken are more studies and the aforementioned recommendation that residents file claims against the City. Watershed area residents simply do not have the hundreds of thousands of dollars it would take to prosecute such civil litigation, particularly when the City raises genuine questions of fact as to whether they are absolutely the culprit.

This legislation seeks to put the question of whether or not the City is actually responsible for the seepage aside, and use the surplus funds from the Greater Catskills Flood remediation program to buyout property owners who live near the leaking aqueduct, and who wish to sell their land. It does not seek to cast blame on any individual, but rather offers a reasonable solution to an ongoing problem that is damaging relationships between watershed communities and upstate - and more importantly, is hurting people.

The legislation is a reasonable solution to a constant problem for watershed families using existing funds. It is a "win/win" for both the City DEP - which, while appearing to be sympathetic to this issue, are not in a position to admit liability to the watershed families. It is a win for watershed area families who are unable to sell their homes due to constant seepage.

LEGISLATIVE HISTORY :
New Bill.

FISCAL IMPLICATIONS :
No new funds are utilized. Rather, existing funds are being redistributed since not all funds have been used.

EFFECTIVE DATE :
Immediately.

S6276 Text

S T A T E O F N E W Y O R K

6276

2009-2010 Regular Sessions

I N S E N A T E

November 9, 2009

Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend section 3 of part NN of chapter 57 of the laws of 2008 relating to authorizing the New York state mortgage agency to transfer certain moneys, in relation to the use of surplus funds from the greater Catskills flood remediation program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 3 of part NN of chapter 57 of the laws of 2008
2 relating to authorizing the New York state mortgage agency to transfer
3 certain moneys, as amended by section 1 of part B of chapter 2 of the
4 laws of 2009, is amended to read as follows:

5 S 3. (A) Within the amounts transferred to the corporation pursuant to
6 section one of this act for the greater Catskills flood remediation
7 program, the corporation shall provide funds to the counties of Broome,
8 Chenango, Delaware, Herkimer, Montgomery, Orange, Otsego, Schoharie,
9 Sullivan, Tioga and Ulster, upon application by a county and within the
10 amounts available for disbursement to such county, to enable the coun-
11 ties to purchase and demolish one or two family homes that have been
12 certified by the local building inspector and county emergency manage-
13 ment director, to the satisfaction of the corporation, as having been
14 subject to one or more incidents of flooding since April 1, 2004 and as
15 likely to be subject to a future flood incident that would cause
16 substantial damage thereto. Any application by a county for disbursement
17 of funds under this act shall demonstrate, to the satisfaction of the
18 corporation, that: (1) the home is occupied as the primary residence of
19 an owner with a family income of up to one hundred fifty percent of the
20 area median income as defined by the United States department of housing
21 and urban development, provided, however, that an otherwise eligible
22 home shall be eligible for purchase under this act if the current owner
23 can demonstrate that the home was occupied as the owner's primary resi-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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S. 6276

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1 dence prior to a flood event that rendered the home unsuitable for habi-
2 tation; (2) the current appraised value of the home does not exceed two
3 hundred fifty thousand dollars and the purchase price for the home will
4 not exceed the appraised value less the amount of any property casualty
5 insurance or disaster relief payments received by the owner as compen-
6 sation for damage incurred in a flood incident; (3) all recorded liens
7 or other encumbrances on the home will be released at closing; (4) the
8 county provides assurances that the home will be condemned and the prop-
9 erty will be dedicated and maintained in perpetuity for a use that is
10 compatible with open space, recreational, flood mitigation or wetlands
11 management practices; and (5) disbursements under this section shall be
12 limited to the costs of acquisition of eligible homes, including legal,
13 appraisal, recording and other transaction costs, and the costs of demo-
14 lition. In selecting homes for purchase pursuant to this act, each
15 county shall give preference to homes with a current appraised value of
16 less than one hundred fifty thousand dollars and to homes that have been
17 subject to two or more incidents of flooding since April 1, 2004. The
18 corporation shall establish policies and procedures consistent with this
19 section, which shall include county reporting requirements, and shall
20 report to the governor, the speaker of the assembly, the temporary pres-
21 ident of the senate and the director of the division of the budget on or
22 before December 31, 2008 regarding the implementation of this section.

23 Of the amounts transferred to the corporation pursuant to section one of
24 this act, the amounts disbursed to counties pursuant to this section
25 shall not exceed the following amounts: Broome, \$750,000; Chenango,
26 \$750,000; Delaware, \$2,000,000; Herkimer, \$750,000; Montgomery,
27 \$750,000; Orange, \$2,000,000; Otsego, \$750,000; Schoharie, \$750,000;
28 Sullivan, \$3,750,000; Tioga, \$750,000; and Ulster, \$2,000,000.

29 (B) ANY FUNDS NOT UNDER CONTRACT OR GRANT AGREEMENT BETWEEN ANY COUNTY
30 PROVIDED FOR BY THIS SECTION AND THE STATE OF NEW YORK OR ANY OF ITS
31 DIVISIONS OR AGENCIES ON OR BY JANUARY 1, 2010 MAY BE USED, UPON A FIND-
32 ING BY THE CORPORATION THAT SUCH FUNDS ARE AVAILABLE, BY ULSTER COUNTY,
33 WHETHER THE FUNDS ARE ALLOCATED TO SUCH COUNTY OR TO ANOTHER COUNTY
34 UNDER THIS PROGRAM, TO PURCHASE HOMES WHICH ARE VALUED AT UNDER \$250,000
35 UPON A FINDING BY THE CORPORATION THAT: (1) THE HOMES HAVE BEEN
36 SUBJECTED TO SEEPAGE OF WATER INTO THE HOMES EITHER THROUGH THE WALLS OR
37 FOUNDATION OF SUCH HOME OR WATER OTHERWISE ENTERS INTO THE HOME OTHER
38 THAN THROUGH PIPES INTENDED FOR SUCH PURPOSE AND (2) THE HOME IS SITU-
39 ATED WITHIN TWO MILES OF AN UNDERGROUND AQUEDUCT OWNED, MAINTAINED OR
40 OPERATED BY THE CITY OF NEW YORK OR ANY BOARD, AGENCY, DEPARTMENT OR
41 BUREAU THEREOF AND IS USED FOR THE TRANSPORT OF DRINKING WATER TO THE
42 CITY OF NEW YORK. THE REQUIREMENTS ENUMERATED IN PARAGRAPHS ONE THROUGH
43 FIVE OF SUBDIVISION (A) OF THIS SECTION SHALL APPLY, PROVIDED, HOWEVER
44 THAT NOTWITHSTANDING THE REQUIREMENTS OF PARAGRAPH ONE OF SUBDIVISION
45 (A) OF THIS SECTION, NO PERSON OR PERSONS WHO OTHERWISE MEETS THE
46 REQUIREMENTS OF THIS SUBDIVISION SHALL BE EXCLUDED ON THE BASIS OF
47 INCOME AND IT IS FURTHER PROVIDED THAT THE COSTS OF DEMOLITION OF ANY
48 HOME PURCHASED THROUGH THIS SECTION ARE AN ELIGIBLE COST.

49 S 2. This act shall take effect immediately.

**New York State
Division of Housing & Community Renewal**

Greater Catskills Flood Remediation Program - Questions and Answers

1. Can the county request an extension of the deadline?

A. Yes, a 30-day deadline extensions can be requested in writing by fax or email.

2. The enacted budget language states that the county must "assure" the property is dedicated for open space, recreational use, wetlands, or flood mitigation purposes. Please define "assure."

A. For the purposes of this program, "assure" is defined as, "a guarantee; to make certain attainment of."

3. If "assure" indicates ownership, who must own, insure, and maintain the property?

A. The term "assure" does not indicate ownership of property.

4. Is the county required to take ownership?

A. The program requires the counties to acquire eligible homes from willing and eligible property owners (sellers); as such the county will take ownership of the property at time of closing.

5. Can a local land conservation group take ownership?

A. Following acquisition by the county, legal ownership of the property carries with it the traditional "bundle of legal rights" transferred with the property from seller to buyer. These are the recognized rights of the holder of title to the property and include, within local, state and federal laws, the rights of possession, control, exclusion, enjoyment, and disposition provided the county assures property will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, flood mitigation, or wetlands management practices.

6. How does the County "assure" proper dedicated use of the land?

A. The county may use any legal instrument, e.g. restrictive covenants or deed restrictions, in accordance with local, state and federal laws to achieve this program requirement.

7. May this be accomplished through a conservation easement or deed restriction?

A. The county may use any legal instrument, e.g. restrictive covenants or deed restrictions, in accordance with local, state and federal laws to achieve this program requirement.

8. May an adjoining land owner purchase the property and place a conservation easement on the land?

A. Following acquisition by the county, legal ownership of the property carries with it the traditional "bundle of legal rights" transferred with the property from seller to buyer. These are the recognized rights of the holder of title to the property and include, within local, state and federal laws, the rights of possession, control, exclusion, enjoyment, and disposition provided the county assures property will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, flood mitigation, or wetlands management practices.

9. How is the value determined?

A. Valuation is determined by a current legal real estate appraisal.

10. When does that transaction take place?

A. Exhibit B-Home Acquisition Form(s) which includes the current appraised value must be complete prior to submission of the RFP.

11. Who owns and maintains the property prior to the transfer?

A. The current legal owner (or seller) of the property.

12. How does the county deal with property disposition?

A. Counties should adhere to their current county policy governing the disposition of county-owned property.

13. Who handles the legal transactions for the county?

A. The county determines how program related legal transactions will be handled.

14. If it is outside counsel, is an RFP required for the professional services?

A. Counties should adhere to their current county policy governing the procurement or contracting of professional services.

15. Does this need to take place as part of the application process prior to the October 14, 2008 deadline?

A. Yes

16. Are program funds reimbursable? If so, how does the funding flow to the County? If borrowed, are interest and other borrowing costs eligible program expenses?

A. Eligible program costs can be reimbursed. Following grant contract execution counties will need to submit a request for release of funds for eligible program costs. Should the county find the need to borrow, interest or costs associated with borrowing are not eligible expenses.

17. If the funds are reimbursable, how long does it take to receive the funds from the state from the date of closing on an eligible property?

A. Upon grant contract execution between the HTFC and the counties, a program fund request and

disbursement protocol will be established to make eligible, approved funds available to efficiently achieve the goals of the program.

18. Are there any advance payments made to the County?

A. Upon grant contract execution between the HTFC and the counties, a program fund request and disbursement protocol will be established to make eligible, approved funds available to efficiently achieve the goals of the program. This protocol will be established in concert with the county.

19. How much of the program funds may be used for administration and program delivery?

A. Program delivery and administration are not an eligible use of program funds. Non-property acquisition transaction costs are eligible, see Section. 2.1 of the RFP.

20. Are legal, appraisal, and recording fees considered to be part of these costs, or are they over and above program delivery and administration?

A. Yes. Legal, appraisal and recording fees are considered transaction costs.

21. Other soft costs under program delivery may include the costs to determine property eligibility by the local building inspector and the emergency management officer. Are these costs eligible?

A. No

22. Is the county required to certify the income of the seller?

A. Yes

23. If so, this requires a full income verification process. Does this need to be done prior to the October 14, 2008 deadline?

A. Yes, income verification must be performed prior to submitting Exhibit B- Home Acquisition Form and county specific income verification forms have been included as exhibits in the RFP.

24. Does demolition include debris removal, personal belonging removal, and site restoration?

A. Per section 1.3 of the RFP, "demolition" is defined as the removal of standing structures in accordance with federal, state, and local laws.

25. Are we required to RFP for demolition?

A. Counties should adhere to their current county policy governing the procurement of professional services or contracting.

26. What if during the demolition environmental hazards are discovered?

A. The current legal owner of the property is responsible for required remediation of discovered environmental hazards in accordance with local, state and federal laws.

27. What if during the demolition a buried oil tank is discovered?

A. The current legal owner of the property is responsible for required remediation of discovered environmental hazards in accordance with local, state and federal laws.

28. Who is responsible?

A. The current legal owner of the property is responsible for required remediation of discovered environmental hazards in accordance with local, state and federal laws.

29. What if the tank leaked and the soil has been contaminated?

A. The current legal owner of the property is responsible for required remediation of discovered environmental hazards in accordance with local, state and federal laws.

30. How is the value determined?

A. Valuation is determined by a current legal real estate appraisal.

31. Must it be determined prior to the October 14, 2008 deadline?

A. Yes, Exhibit B-Home Acquisition Form(s) which includes the current appraised value must be complete prior to submission of the RFP.

32. If a forensic appraisal is required, does this need to be accomplished prior to the October 14, 2008 deadline?

A. Yes, Exhibit B-Home Acquisition Form(s) which includes the current appraised value must be complete prior to submission of the RFP.

33. Who pays for this expense?

A. The county, however appraisals are considered transaction costs.

34. Are we required to RFP?

A. Counties should adhere to their current county policy governing the procurement or contracting of professional services.

35. Who determined that the County is placing a preference on properties that are valued at less than \$150,000 and have been subject to two or more floods?

A. Direction on county preference for eligible homes is in accordance with the NYS enacted budget and Section 3.1 (3) of this RFP.

36. Since prior insurance and flood relief funds must be subtracted from the appraised property value, who must investigate and certify the funds were received?

A. The county is required to certify property casualty insurance of disaster relief payments received by the owner as compensation for damage incurred in a flood incident.

37. **In the past, we have worked with SEMO to determine the NFIP payments to the homeowners. Can OCR establish a system with SEMO to determine the past payments to the potential participants?**

A. The county managed program affords the county the opportunity to establish its own process or system for determining certification of past payments described above. The county must ensure they are satisfied satisfaction and per Section 4.3 of the RFP, they must describe the sources used to determine the amount received by the owner.

38. **If the funds received were re-invested in the home, how are we to determine the re-investment?**

A. In accordance with Section 3.1 of the RFP, if the homeowner can document to the satisfaction of the county that they invested some or all of the payments back into the home, those documented amounts may not be deducted from the appraised value on which the offer is based.

39. **Often times the repairs made to a home were completed by the owner and there is no documentation of labor costs. How is re-investment to be determined and documented?**

A. If those costs can not be determined and documented to the satisfaction of the county than they can not be deducted from the appraised value on which the offer is based.

40. **Based on our counties past experience, the amount of insurance and flood relief proceeds has been in the tens of thousands. The subsequent value of the home is not enough for the owner to purchase another home, leaving the owner with nowhere to go. However, if the value is based on property value prior to the flood damage, the picture is a bit different. Which value is required, pre- or post-flood?**

A. The county may utilize legal property appraisal instruments or techniques that determine the value of the home "pre-flood".

41. **Are the values and the re-investment amount required to be certified prior to the October 14, 2008 deadline?**

A. Yes

42. **Who determines and certifies that the property is likely to be subject to future flood incidents that would cause substantial damage?**

A. The county emergency management director and local building inspector must certify that the home as having been subject to one or more incidents of flooding since April 1, 2004 and as likely to be subject to a future flood incident that would cause substantial damage thereto.

43. **The language states that the county must assure that the home will be condemned. Who certifies this? If the property is condemned and the owner backs out at closing, how can the local building inspector or emergency management officer reverse a condemnation? Who is liable? What if the property is occupied?**

A. For the purposes of this program, the term "condemn" is defined as being unfit for use as certified by the local building inspector and emergency management officer having determined that the home is unsuitable for habitation or is likely to be subject to a future flood incident that would

cause substantial damage. It is important to remember that transaction is voluntary and between a willing seller and buyer (the county).

44. Do we need appraisals just to apply for the funds?

A. Yes

45. Will the cost of securing appraisals be reimbursed?

A. Appraisals are considered transaction costs and are eligible for reimbursement.

46. There is a question regarding the owner's income. Are we supposed to be qualifying household incomes at this point?

A. Yes, income verification must be performed prior to submitting Exhibit B- Home Acquisition Form and county specific income verification forms have been included as exhibits in the RFP.

47. I understand the appraisal process, but in the RFP document that was sent out it states, "All recorded liens or other encumbrances on the home will be released at closing". Who pays for this? For example, if a property is appraised for \$15,000.00 and the mortgage or lien on the residence is \$50,000.00, who is responsible to pay the difference? Is the homeowner responsible to pay off his lien, or will it be the County's responsibility to pay off the entire lien (s) on the property?

A. The property acquisition by the county is a traditional real estate transaction between a willing seller and buyer (the county) and these financial issues are to be addressed prior to sale agreement and closing between the seller and buyer. The program requirement is clear that all recorded liens or other encumbrances on the home will be released at closing. This program requirement must be met regardless of negotiated contract points between seller and buyer.

48. Does this include all home equity loans also?

A. Yes

49. When the County does finally incur the property, can the property be turned over to another municipality or sold at an auction? I understand there will forever be a deed restriction that will state the property may only be used for open space, recreational, flood mitigation or wetlands management purposes, but can the County turn over the property to the local municipality or include the property at the next County Auction?

A. Following acquisition by the county, legal ownership of the property carries with it the traditional "bundle of legal rights" transferred with the property from seller to buyer. These are the recognized rights of the holder of title to the property and include, within local, state and federal laws, the rights of possession, control, exclusion, enjoyment, and disposition provided the county assures property will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, flood mitigation, or wetlands management practices.

50. In the demolition costs that are now included, are all associated costs included in the demolition, an eligible cost? For example, asbestos abatement or DEC permits and fees. Are they eligible costs?

A. Per section 1.3 of the RFP, "demolition" is defined as the removal of standing structures in accordance with federal, state, and local laws.

51. Does the County have to release an RFP for the demolition?

A. Counties should adhere to their current county policy governing the procurement or contracting of professional services.

52. Can the RFP contain all of the associated costs like permits, dumping fees, asbestos inspection & removal, etc?

A. Per section 1.3 of the RFP, "demolition" is defined as the removal of standing structures in accordance with federal, state, and local laws.

53. In the RFP under Section 3.1 it mentions "Counties are giving preference to homes with a current appraised values of less than one hundred fifty thousand dollars and to home that have been subject to two or more incidents of flooding since April 1, 2004". What if they have only been exposed to one flood? Are they not eligible or is preference given to persons whom have been affected by more than one flood over the residences that have only been affected by a single event?

A. In selecting homes for purchase pursuant to the act, each county shall give preference to homes with a current appraised value of less than one-hundred fifty thousand dollars and to homes that have been subject to two or more incidents of flooding since April 1, 2004.

54. Are secondary residences eligible to apply? It only mentions residences that are occupied as primary residences.

A. No, only primary residences are eligible for consideration.

55. If they are eligible, are they to be ranked lower than a primary residence?

A. Only primary residences are eligible for consideration.

56. Will this (the GCFRP) be similar to the FEMA program? (i.e. some uses such as open pavilions, community garden plots, skate board parks, etc. are acceptable even though this means the construction of some infrastructure on the site.)

A. Please refer to the response to question #5, which states, that following acquisition by the county, legal ownership of the property carries with it the traditional "bundle of legal rights" transferred with the property from seller to buyer. These are the recognized rights of the holder of title to the property and include, within local, state and federal laws, the rights of possession, control, exclusion, enjoyment, and disposition provided the county assures property will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, flood mitigation, or wetlands management practices.

57. How will this be verified to be in compliance in perpetuity? Will the state conduct periodic checks or will there be required filings by the county periodically ensuring these requirements have continued to be met?

A. Contract obligations and the use of any legal instrument, e.g. restrictive covenants or deed restrictions, in accordance with local, state and federal laws to achieve this program requirement will guarantee approved use in perpetuity by requirement of law. Once all contract obligations are met and the grant is closed out, periodic reporting on such uses after program funds have been expended is not anticipated.

58. **What value do we do the appraisal under. For example do we appraise the property as it stands today or do we appraise it as it stood prior to the last eligible flood event that affected the property and would the appraisal reflect the value of the land at that time or today's values? As an example: If a home was damaged in the June 2006 flood and we purchase it under this program would we appraise the property as it was June 20th 2006 with property values from June 2006 or would we appraise it as it stands now at today's property values?**

A. Please see the response to question #40, which states, the county may utilize legal property appraisal instruments or techniques that determine the value of the home "pre-flood".

59. **Is the appraisal a Fair Market Value appraisal or some other format?**

A. Property valuation is determined by a current legal real estate appraisal. The county may choose any acceptable appraisal technique to establish a fair market value.

If the county conducts an appraisal and the property owner then opts not to participate and Exhibit B cannot be completed after finding out what their home would be purchased for will this appraisal cost be reimbursed?

A. Transaction costs are only reimbursable for properties that are acquired by the county under this program.

60. **If the county conducts an appraisal and the property is deemed at a value greater than the \$250,000.00 eligibility will this appraisal cost be reimbursed?**

A. Transaction costs are only reimbursable for properties that are acquired by the county under this program.

61. **Is there to be a separate form signed by the property owner that states they are voluntarily participating in this program to assure that all properties applied for are serious candidates for purchase?**

A. This county-managed program affords the county the opportunity to establish its own process or system for ensuring compliance with the program regulations outlined in the enacted budget and Section 4.3 of the RFP.

What means should the county use to certify the household income? The Family household income verification form does not seem to be sufficient proof to protect the county and the state. Is there a requirement to get copies of past tax returns or some other form of proof?

A. This county-managed program affords the county the opportunity to establish its own process or system for ensuring compliance with the program regulations outlined in the enacted budget and Section 4.3 of the RFP. The county specific income verification forms which have been provided as exhibits in the RFP are representative of current federal income verification forms and are provided for convenience. Counties may elect to require additional documentation as they feel

necessary to ensure compliance.

62. **Even if site restoration is not funded will there be requirements as to how the sites are restored and whether debris can be backfilled into foundations as part demolition? In addition will there be requirements about what can be used as restorative materials such as the use of clean fill, ditch dirt or other materials?**

A. Site restoration practices, as with all functions and activities associated with the program, must be performed in accordance with all applicable local, state and federal laws.

63. **(in reference to question numbers 26-29) Since demolition will take place after purchase the current legal owner would be the county. Is this correct?**

A. Yes

64. **Since this is state funding SEQR will be required prior to purchase. How will SEQR be completed and won't remediation be determined under a SEQR review?**

A. The State Environmental Quality Review Act (SEQR) (Article 8 of the New York State Environmental Conservation Law) and the implementing regulations at 6 NYCRR Part 617 require NYS agencies or units of local government to consider environmental factors prior to any decision to undertake, approve, or fund an action. Counties will be responsible for conducting the SEQR process for the Greater Catskill Flood Remediation Program.

65. **When will SEQR be conducted?**

A. The counties will determine when to conduct the SEQR process under this county-managed program.

66. **Who will be lead agent under SEQR?**

A. As part of the SEQR review, a determination of lead agency must be made. When a single agency is involved, that agency will be the lead agency. When more than one agency is involved, a lead agency must be established prior to a determination of significance. The lead agency is the party that conducts the SEQR review. The HTFC requires recipient counties of program funding to assume the role of lead agency unless another involved agency elects to assume such status.

67. **Who are the other involved agencies for the SEQR review?**

A. The counties should review SEQR regulations to identify other involved agencies. Information about SEQR is available on the Department of Environmental Conservation's website at <http://www.dec.ny.gov/public/357.html> and <http://www.dec.ny.gov/public/36860.html>.

68. **Will it be done as a project SEQR or will each property be required to be reviewed separately?**

A. The counties will make all determinations regarding SEQR.

69. **If the state conducts SEQR what information will the county is required to provide for this review?**

A. The state will not conduct the SEQOR process.

70. (in reference to question #31) Is this Fair Market Value? Is it pre-flood event value or current value?

A. Yes. Please refer to the response to question #40, which states, the county may utilize legal property appraisal instruments or techniques that determine the value of the home "pre-flood". Also, please refer to question #59, which states that, property valuation is determined by a current legal real estate appraisal. The county may choose any acceptable appraisal technique to establish a fair market value.

71. (in reference to question #36) Does this mean that we are appraising pre-flood value given the fact we are subtracting all paid out flood insurance or other flood relief funds?

A. Yes

72. (in reference to question #39) Is this true or is this supposed to mean that the county WOULD deduct the value of flood insurance or relief payments from the appraisal, if we cannot verify to our satisfaction that the re-investment has been done?

A. If those costs can not be determined and documented to the satisfaction of the county than they can not be deducted from the appraised value on which the offer is based.

73. Are there programs available to the county to assist in relocation of these families within their community? This would be beneficial to assist in the loss of residents and valuable taxable property.

A. The counties are encouraged to investigate and research all local, state and federal homeownership programs and share that information with sellers.

74. Once awarded will there be any timelines to complete demolition and site restoration?

A. The overriding goal of this program is to get people and possessions out of harm's way. To that end, it would be advantageous and enable effective public safety to implement this program as efficiently and effectively as possible. No formal timelines have been established for the program.

75. During review under the FEMA programs SHPO was consulted on each property. To avoid any potential hazard to an archaeological, cultural or historically significant site SHPO required the following:

During the demolition phase, foundations of structures to be demolished will be pushed in below grade and basements will be backfilled using clean fill from an existing off-site material borrow source. Slabs, walkways, driveways, concrete stair footings, and similar appurtenances may also be removed. Ground disturbance will be limited to the immediate area of the demolished structures. Construction equipment will be operated within existing driveways and the perimeters of structures to limit ground disturbance.

Will we be required to do the same for this project?

A. Counties must consult with the NYS State Historic Preservation Office (SHPO) on whether there

are any historic properties on the project site or whether the program activities will have an effect on historic properties. Counties must initiate the SHPO review process by submitting directly to SHPO, a SHPO Transmittal Letter for every project that may include an action that may have an adverse impact on properties that may be of historic significance. SHPO may ask the county for further information regarding the existing site or proposed project design in order to make its determination. Counties should consult with SHPO as soon as possible to prevent delays in the progress of program implementation.

76. **Other buyouts require a legal survey of property lines be completed prior to closing to establish legal boundaries of ownership. Will this be a requirement and will surveys be a reimbursable cost?**

A. Legal surveys are not a requirement of the program, however, if the county considers a legal survey as a transaction cost then under then under the program transaction costs are eligible. Please remember all transactions cost must be reasonable, quantifiable and relative to the number of homes proposed to be acquired.

77. **Will there be quarterly reporting requirements and can reimbursements be drawn down quarterly to cover costs already expended?**

A. Please refer to section 2.3 of the RFP for information on reporting requirements. Please refer to question #18, which states that, upon grant contract execution between the HTFC and the counties, a program fund request and disbursement protocol will be established to make eligible, approved funds available to efficiently achieve the goals of the program. This protocol will be established in concert with the county.

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September 30, 2004

Senators say NYC reneged on watershed

By John Milgrim
Ottaway News Service
jmottaway@aol.com

Albany – The two state senators representing the Catskills are set to go to war over restrictions on hunting, fishing and other recreational uses on New York City watershed lands. They say the city isn't living up to its end of the landmark deal it made with the region to protect its water supply and end years of court and public-relations battles with local communities.

"New York City has reneged on agreements to open watershed lands for traditional recreational uses like fishing and hunting," said state Sen. James Seward, R-Milford. "It's apparent that the state has to step in to take action to force the city to live up to its agreement and to honor its word to sportsmen and tourism officials who believe, as do I, that public lands should be available for use by the public."

At issue are details of the 1997 watershed agreement between the city, the state, local communities and the federal government. The agreement allowed the city to set strict guidelines for development near its reservoirs and tributaries and buy more than a quarter-million acres of buffer land. Local communities got millions in economic development money and infrastructure improvements.

But Seward and state Sen. John Bonacic, R-C-Mount Hope, say the spirit of the deal is so fractured that the state has to step in. They proposed legislation that would put the city's watershed land under state control and make it subject to the same recreational uses as state land. "The city has drafted restrictive recreational regulations that violate and offend the watershed agreement," Bonacic said.

So far, however, their proposal has no visible signs of support in the Assembly, and the two lawmakers say their bill, for now, is meant mainly as a warning shot.

Ian Michaels, New York City Department of Environmental Protection spokesman, says the land-use regulations are well within the intent of the agreement and that the legislation fails to consider the difference between state-owned land and land owned by the city to protect its water supply.

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February 14, 2006

Senate OKs bill on reservoirs

By John Milgrim
 Ottaway News Service
 Jmottaway@aol.com

Albany – In a stunning upstate power play over New York City, the Senate yesterday passed legislation stripping city regulators of the power to determine how much water four of its Catskills reservoirs should hold.

Several New York City Democrats joined with the 45 lawmakers voting yes to giving the state Department of Environmental Conservation power to lower reservoir levels in an effort to reduce flooding downstream.

As of now, it's up to the city's Department of Environmental Protection to make the call on lowering the water levels. And that bureaucracy has been under fire of late for alleged bogus dam inspection reports, poor dam maintenance and perceptions in the Catskills that it neglected actions to control recent flooding throughout the region.

"The DEP has really been pervasive in its malfeasance," charged Sen. John Bonacic, R-Mount Hope, who sponsored the bill.

Bonacic's bill was first introduced in the Senate in 1997 but was never before voted on.

"They (the DEP) don't have a great track record, and I really feel they need oversight," said Assemblywoman Aileen Gunther, D-Forestburgh, the bill's Assembly sponsor.

Her dilemma will be getting a majority of New York City Democrats, who control the Assembly, to also support the measure. Without that support, it is likely that the bill would die without a vote.

Just last week, Assembly Democrats held a hearing on DEP reservoir oversight. Several other bills imposing new regulations on the DEP are pending in both house of the Legislature.

The bill that passed in the Senate yesterday was the one most opposed by the city.

"Enactment of this legislation would cripple the city's ability to operate its water system," DEP Commissioner Emily Lloyd said in prepared testimony at the hearing. City officials contend the legislation would put city residents at risk.

"The bill threatens the public health and safety by asking millions of people who rely on the city's system to accept the possibility that sufficient water may not be available," stated an opposition memo Mayor Mike Bloomberg's office sent to lawmakers.

Bonacic said the legislation would give DEC more control over the water levels in the Neversink, Rondout, Ashokan and Schoharie reservoirs, two of which were listed as at or above 100 percent capacity last week.

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March 02, 2006

Senate OKs second dam bill

Legislation would increase oversight level

By John Milgrim
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Albany - For the second time in three weeks, the state Senate has passed legislation increasing oversight of New York City's upstate water supply, increasing pressure on the Democrat-controlled Assembly to do the same.

The Republican-controlled Senate yesterday unanimously passed legislation to increase the frequency and detail of inspections of the city reservoir system's dams, and to make those reports available to downstream municipalities. On Feb. 13, the Senate approved legislation stripping city regulators of the power to determine how much water four of its Catskills reservoirs should hold.

"So far, the Assembly hasn't acted other than having a public hearing," said Sen. John Bonacic, R-Mount Hope, who sponsored both bills in the Senate. "They certainly should act on this dam safety bill. The message is, let's stop having public hearings and let's start passing legislation."

Lawmakers have come under pressure recently to increase oversight of the city's water supply. A Times Herald-Record report in January found that hundreds of recent inspection reports for the Neversink Dam in Sullivan County and the Merriman Dam in Ulster County were photocopied from a master report.

Assemblywoman Aileen Gunther, D-Forestburgh, sponsored the Bonacic bills in the Assembly but says there's no need to rush them through as is. She expects the Assembly to vote next week on a proposal to provide downstream municipalities with dam inspection reports.

Tom DiNapoli, chairman of the Assembly Environmental Conservation Committee, said the immediate priority is for the state to hire additional dam inspectors.

"I'm not dismissing anything out of hand," said DiNapoli, D-Great Neck. "The Assembly has a tradition of looking at the substance of things and not simply doing what's politically expedient for a member's district."

Assemblyman Kevin Cahill, D-Kingston, said he's for increased dam inspections but is troubled with the idea of sharing inspection reports with municipalities.

"Sharing that information in a public way has some potential for danger in the modern world," said Cahill, whose district includes the Ashokan and Rondout reservoirs. "I don't know if we should be exposing vulnerabilities."

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DEP in for fight locally on stream gauges

Elected officials say NYC's move could threaten public safety, recreation

By Steve Israel

Times Herald-Record
Published: 2:00 AM - 03/14/09

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A day after revelations that tools to prevent local flooding and improve water recreation will be shut by New York City, local officials vowed to keep them open.

Several stream gauges in the Delaware and Hudson river basins, which help measure the volume, height and temperature of water from Port Jervis to Hancock, will fall victim to budget cuts by the Department of Environmental Protection. The DEP, which funds the unmanned gauges, had proposed closing as many as 27 of the more than 50 gauges in the local New York City watershed area. It said Friday that it was closing 22 of them, without specifying which ones.

State Sen. John Bonacic vowed to preserve the gauges, which measure conditions for fishing and canoeing in waters like the Neversink and Delaware rivers.

"This is such a critical issue, critical to avoid flooding, to public safety and recreational activities necessary in our economic times," said Bonacic, R-C-Mount Hope, who told the DEP the move is "inappropriate" and asked to meet with officials.

The DEP said the proposed cuts won't affect the safety of local residents.

"The gauges that are being cut won't impact the ability for flood forecasts for the Delaware," a spokesman said. "Out of the gauges being cut, only a handful are used for flood forecasting."

Still, the emergency management coordinator of the Delaware River town of Matamoras, Pa., said he's "not happy with this at all. Here we are trying to get more gauges upriver for ice flows and flooding, and they're cutting them down," said Gary Babb.

A meeting Thursday between the U.S. Geological Survey, which operates the gauges and wants them open, and the DEP failed to resolve the issue.

"The ball's out of our court," said Willie Rodriguez of the USGS, who made a counteroffer to keep the gauges open.

sisrael@th-record.com

DEP statement

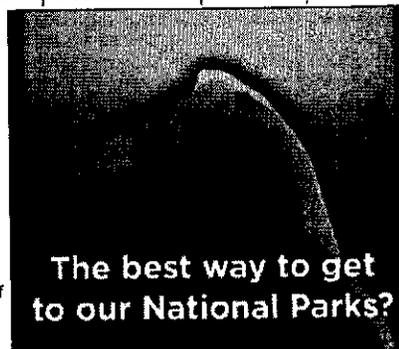
This is a statement from the New York City Department of Environmental Protection regarding closure of stream gauges:

"DEP currently provides funding to the USGS for an extensive network of approximately 100 stream gauges within and outside of DEP's watershed area. The gauges assist in the operation of the water supply and in the maintenance of necessary reservoir release flows. A small number also provide stream flow and flood forecasting data to the National Weather Service.

As a result of the need to reduce expenditures during this difficult economic time, DEP is reviewing all aspects of its budget, including the support it provides for the gauging network. The results of this analysis indicate that many of the gauges no longer serve the purpose for which they were originally intended. DEP is discontinuing its support for 22 gauges this fiscal year, and will continue to support 74 gauges into 2010. Any reductions in funding will not impact our ability to operate the water supply or to meet our reservoir release obligations.

Of the 22 gauges for which funding will no longer be available this year, only two are National Weather Service flood forecast sites."

- Michael Saucier, director of DEP's public affairs.



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State offers to buy out some flood-prone homes

Photo 1 of 1 | Zoom Photo +



Moodna Creek flooded this trailer park in Washingtonville in April 2007. The state is now contributing millions of dollars to buy out homes in flood-prone areas.

Times Herald-Record/TOM BUSHEY

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By Victor Whitman
Times Herald-Record
Published: 2:00 AM - 04/10/08

The state is kicking in \$15.25 million to buy out homes in flood-prone areas, including a total of \$8 million in Sullivan, Ulster and Orange counties.

Sullivan will receive \$4 million; Ulster, Orange and Delaware counties, \$2 million each.

The pot of money allows counties to buy out homeowners willing to sell. The homes would be demolished to create open space and reduce catastrophic flooding.

Six major floods have hit the region since 2004. Six people have died, and homes and roads have been washed away.

"I am sickened when I see the same homes damaged each year, the same families impacted, the Red Cross trucks in the same driveways and neighborhoods," said state Sen. John Bonacic, R-C Mount Hope, chairman of the Senate Committee on Housing, who made this a pet project during the budget negotiations. Some \$10 million of the money goes to counties he represents.

In Sullivan alone, qualifying homes could be found in Roscoe and Jeffersonville, among other places, according to Commissioner of Public Safety Dick Martinkovic.

"It has got to be a dozen or two dozen (homes) at least," he said.

Removing homes from flood plains has already started in the Town of Rockland, where 100 homes were damaged in four years. The town has used a \$1 million grant to buy eight homes in Livingston Manor.

"All of this is great news for us," said county Legislator Elwin Wood, who represents Rockland. "It is a relief that they are all finally making this happen for the area."

To qualify for the program, homes must be primary residences appraised at under \$250,000. Preference would be given to homes that have been flooded twice since April 1, 2004, and are appraised at under \$100,000. The county's emergency management director and a town building official would have to certify that the home qualifies.

Other counties receiving money include: Broome, \$750,000; Chenango, \$750,000; Herkimer, \$750,000; Montgomery, \$750,000; Otsego, \$750,000; Schoharie, \$750,000; and Tioga, \$750,000.

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Wawarsing buyouts pitched for 35 homes in aqueduct mess

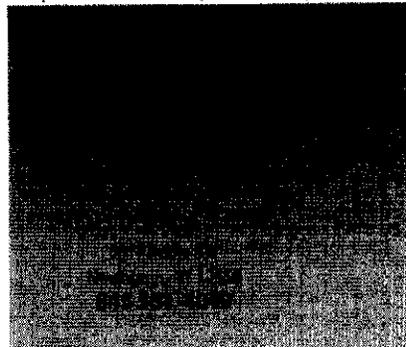
State might help residents affected by leaky water tunnel

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10 Yoga Poses

Ed Gordon stands Friday outside his Wawarsing home, where he's had to run siphon pipes from his overflowing well. About 3 dozen residents have ongoing water problems, possibly linked to a water-tunnel leak.

Times Herald-Record/MICHELE HASKELL

By Adam Bosch

Times Herald-Record
Published: 2:00 AM - 11/15/09

WAWARSING — A state lawmaker has introduced legislation to purchase approximately 35 homes in Wawarsing and move residents away from New York City's leaky aqueduct.

On Monday, state Sen. John Bonacic introduced a bill that would allocate more than \$3 million to purchase the homes along Route 209.

The buyout would be voluntary for homeowners who've been living a watery nightmare here.

The strange happenings are notorious by now: basements that flood when it's not raining, wells that rise and drop drastically, sinkholes that bite chunks out of backyards.

Folks here say that New York City is to blame. Wawarsing is home to one of the largest leaks in New York City's drinking-water tunnel, which runs some 600 feet beneath some houses along Route 209.

Homeowners experience their most dramatic effects when the Department of Environmental Protection shuts off and reactivates the tunnel.

Many hoped that New York City would buy their houses and move them away from the leak, but the DEP has said there's no "scientific data" to prove the Rondout-West Branch tunnel has caused the flooding.

That's where the Bonacic plan comes in. His bill would reallocate money leftover from a regional flood buyout program. The 2008 program set aside \$15 million to buy homes that were repeatedly flooded in freak storms. Now Bonacic wants state lawmakers to put the balance into a fund for people in Wawarsing, rather than sweeping it into the general fund. To qualify, homes would have to be located within 2 miles of the aqueduct tunnel and valued at less than \$250,000.

"Although it's not flooding from natural causes, it's flooding related, really due to the malfeasance of New York City," Bonacic told the Times Herald-Record. "The city keeps running away from it — they refuse to accept responsibility."

In a meeting this summer with DEP officials, Bonacic said he tried to convince the city to split a buyout 50/50 with the state. They refused the offer, he said.

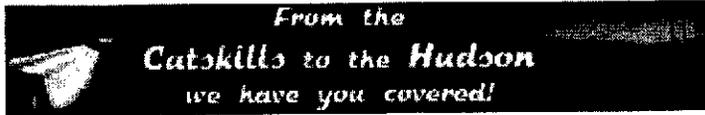
Some 35 homes are affected by the flooding, some worse than others. About half have experienced interest in a buyout.

Meanwhile, New York City began slowly refilling the tunnel Friday after its most recent shutdown for repairs.

The DEP said it's reactivating the tunnel over a period of roughly three days because work was done in several shafts. But homeowners say it's to avoid sudden flooding that comes with quickly restoring water pressure in the aqueduct.

Those residents have already begun to see effects. As of Friday, Mike Rosselli's well dropped 12 feet after the DEP shut down the tunnel. When he checked the level Saturday afternoon, the well had regained all 12 feet and more.

"It's overflowing again," Rosselli said.



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Senate passes Bonacic legislation to provide relief for Wawarsing flood families

ALBANY – The State Senate Thursday passed legislation that would authorize the use of \$4 million in state funds to buy out families who have been subject to repeated and ongoing water seepage and flooding in the Town of Wawarsing.

Those families live near New York City aqueducts that leak tens of millions of gallons of water into the ground daily and that water damages homes where it seeps in.

Bonacic said New York City has refused to admit responsibility. He said New York City will never admit liability, "but by their actions, they are tacitly acknowledging something that pre-2006 they would not even talk about: there is a flood control obligation associated with reservoir ownership and management."

If the proposal is approved in the Assembly and signed by the governor, it would use part of \$15 million in flood buyout funds Bonacic secured in 2008.

"This legislative solution is a triage rather than a full scale operation to give these families back their lives," Bonacic said. "These families have suffered too much to simply have a check written for the value of their homes when the emotional and personal crisis they have faced year in and year out, are worth so much more."

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Laura and Steve Smith stand behind their \$850, 9 horsepower, gas-powered water pump. Photo by Brian Rubin

NYC Aqueduct: Not All It's Cracked Up To Be

By Brian Rubin

When Steve and Laura Smith decided they'd had enough of the renter's life in Accord back in 2003, they pulled up stakes and bought a house on Smith Road in Wawarsing. Looking at their home, it's no wonder they chose that spot: at the end of the dead end road, there's all the privacy you could ask for, the area's quiet with friendly neighbors, and the view from the backyard just can't be beat.

Unfortunately, the realtor who sold them the house neglected to mention one thing: the deluge of water that seeps up from the ground underneath their property every spring. This yearly flood forces them to run a pump 24 hours a day, 7 days a week, for over a month every year, causing an estimated \$10,000 worth of damages and lost income. Thus began a frustrating multi-year process of seeking aid from their elected representatives with absolutely no progress or solutions.

"They tell us, 'we're working on it,'" says Steve of what he and his wife have been told by the town government and the highway department. "We're working on it" is what we've always heard."

The Smiths are not alone in their plight: residents and neighbors throughout a roughly 1-mile area near Lippman Park's location off of Route 209 seem to suffer the same problem of excessive amounts of water flooding their homes and properties. While flooding in the Wawarsing-area is certainly nothing new (the residents of Carlo Drive are hit particularly hard every year, as are those of Old Greenfield Road) the cause of the immense flooding around this area in the 209 corridor had remained something of a mystery — that is, until very recently.

The culprit for the flooding, it would seem, has been discovered by the combined efforts of the Smiths and their similarly soaked neighbors Julianne and Wayne Lennon, who live on Route 209. According to their findings, the flooding can be traced to holes and cracks in the Delaware Aqueduct which runs from the Rondout Reservoir through the Town of Wawarsing, and supplies New York City with roughly half of its water. The leaking water soaks into the ground around the tunnel, and when spring brings its rain and melts the area's snow, the saturated land can't hold any more water, leaving many of the residents in that area scrambling for water pumps and hip-boots.

Enough is Enough

The Smiths have tried getting help from the town board of Wawarsing since 2005, when the flooding really began to get out of hand, but to no avail. They began their quest for relief while James Dolaway was Town Supervisor, asking that a drainage culvert that was once in place near their driveway be repaired (before the Smiths had bought their house, the culvert was functioning, but then collapsed; the town's highway department then covered the drain with blacktop). When the response from the town didn't amount to much more than receiving information on how FEMA worked with victims of natural disasters, they hoped that the newly elected Supervisor, Ed Jennings, would be able to succeed where Dolaway hadn't. After all, Jennings lived just down the street from them, and suffered the same flooding. But when asked what's been done in the area since he was elected Town Supervisor, the Smiths laugh, saying, bitterly, "They paved Lippman Park."

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That's nice."

"He's lived here so long, he's almost numb to it," says Steve.

"That's what I don't understand — this is unacceptable flooding," adds Laura.

As a result, the Smiths and the Lennons had decided that instead of trying to appeal for help from elected officials and municipalities, it would be better to go it alone and try and hold those responsible for the problem accountable.

This past Friday, the Smiths and the Lennons held a meeting at the Napanoch Firehouse during which flooded residents of Wawarsing would be brought face-to-face with representatives from the New York City Department of Environmental Protection (DEP), the organization that is responsible for maintaining the aqueduct that is believed to be the source of the area's flooding.

Over fifty town residents filled the firehouse that evening, including town council members John Gavaris and Supervisor Jennings, county legislators Mary Sheeley, Sue Cummings, and Joe Stoeckler, and the legal council from State Senator John Bonacic's (R/I/C - Mount Hope) office, Langdon Chapman. During the two-hour meeting, residents vented their frustrations onto the DEP's Deputy Commissioner, Paul Rush, who explained to the assembled audience that the DEP was aware of cracks and leaks in the tunnel which goes through Wawarsing for about 15 years, but because of fluctuating and inconclusive findings, they devoted most of their resources and attention to fixing more evident cracks in the tunnel near Roseton, a town in Orange County. Furthermore, until more tests could be conducted and more information could be gathered, the DEP couldn't conclusively say that the bulk of the residents' flooding problems could be linked to the leaking aqueduct.

These revelations, unsurprisingly, angered the assembled residents.

It seemed as though Rush and two NYCDEP associates, Ira Stern and Bill Richardson, were set to give a presentation about their findings and detail their future plans regarding the tunnel, but throughout the meeting, Rush was bombarded with questions about what the DEP plans to do to compensate residents who have suffered at what may be a problem the organization will be unable to fix completely for another twenty years.

Among some of the information Rush told the residents, was the fact that Wawarsing and Roseton are the two main problem areas in the tunnel, and that those two spots are responsible for between 14 million to 36 million gallons of water leakage per day, the latter being the number of gallons leaked during times of the tunnel's highest usage.

Rush also said that the Wawarsing portion of the tunnel's problems were far more difficult to fix than those of Roseton because of the small cracks and fissures in the tunnel, and that to adequately repair the tunnel, the flow of water would have to be shut off entirely, which would prove to be impossible because of New York City's reliance on the aqueduct's water supply.

In order to see how much water the aqueduct's leaks are responsible for, the DEP will shut off the tunnel on Thursday for one day, and Rush asked that all afflicted homeowners watch and see if the shutoff produces any changes to water levels around their properties. One person advised that residents check well-levels if their homes are not currently flooded.

When asked how or if the DEP would compensate victims of the floods, Rush said he wasn't able to say much regarding the matter pending further findings, but that those who believed New York City to be responsible for their damages would be able to file claims with the New York City Comptroller, a statement which was met with eye-rolls and groans from residents who wanted Rush to claim the DEP's responsibility for the flooding, and who sought compensation for the thousands of dollars lost in property and high-electric bills due to having to run water pumps for weeks on end.

At one point, Senator Bonacic's council, Langdon Chapman, who reminded those assembled of his repeated conflicts with the DEP throughout his years as a litigator, asked Rush what the DEP planned to do should they come back with "inconclusive results," a phrase he said would lead to inaction.

"Tell me it's going to be different this time," he said.

To wrap up the meeting, Ira Stern said that he and his colleagues had learned much that evening, and they now knew of the extensive problems the residents had been facing. He said that he, Richardson, and Rush would be making an appearance at the Wawarsing Town Board meeting on June 19 to present their findings. There were calls from those in attendance for the DEP's representatives to make sure that there be more constant contact and communication from the organization with town residents, as well as calls for regular meetings such as the one they were at. Rush and Stern seemed amenable to the request, though it was not clear what kind of formal meetings the organization would establish. Residents left the meeting glad that they were finally able to make their troubles known to those who might be responsible — and possibly even fix them — but

unsatisfied about the lack of viable solutions.

"A Joke"

Despite the large turnout the meeting saw, flood-victims Wayde Lennon and Steve Smith both felt that the meeting — or the presentation from DEP Deputy Commissioner Paul Rush — didn't do much to solve the flood problem.

In a follow-up interview on Monday, Lennon called the meeting "a joke," saying, "Paul Rush tried to do a lot of whitewashing instead of sticking to the issues...he's saying the commissioner is willing to do what it takes to fix these leaks, but is the commissioner willing to do what it takes to fix the results of these leaks? No, he pushed that off on the city comptroller."

Also on Monday, Smith said, "[Rush] can't tell you, yes, the water's coming from [the tunnel], which I understand, but they didn't have a lot of answers. They had a 'proposed' this, and 'if' this, and 'inconclusive' — those are all words that mean, 'oh, we're guilty as hell, but we can't tell you other words.' We'll go from there. We had a couple of attorneys there, and we're waiting to hear from them and their thoughts on everything...this isn't going to be a quick fix. It's going to be a while."

"It was kind of a shame that it took as long as it did, through the meeting, for them to finally admit that there were properties that tested positive fifteen years ago and nothing was done," said Julianne. "That's the toughest part about all of it — that we in this area have totally been forgotten about by the DEP."

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Wawarsing Residents Remain On Flood Watch

By Brian Rubin

At a press conference held at the Ellenville Regional Hospital on Monday, State Senator John Bonacic (R/I/C - Mount Hope) pledged his support to Wawarsing residents on or near the section of Route 209 who are flooded every year due to cracks and leaks within the Delaware Aqueduct which runs 700 feet underneath the town.

"This is a problem that's been caused by the Department of Environmental Protection in New York City," said the senator of the flooding. "I've spoken to Emily Lloyd, the commissioner. I said, 'if this was your house, you would make sure you would get this aqueduct fixed in a minute... And Emily Lloyd admitted the aqueduct is leaking — admitted it."

Senator Bonacic discussed \$10 million in state funds that were allocated to his senate district — which spans most of Ulster, parts of Orange, and all of Sullivan and Delaware Counties — for the purpose of home-buyouts for those affected by flooding that's caused by natural disasters, such as flooding rivers. Unfortunately, because the flooded Wawarsing residents who held last Friday's meeting at the Napanoch Fire House believe that the leaking Delaware Aqueduct is the culprit of their flooding problems, such funding would not be available for similar home-buyouts for those residents. In essence, the supposed cause of their flooding is unnatural, caused by human error, and as such, according to Senator Bonacic, litigation against New York City's Department of Environmental Protection (NYCDEP) is the only way these residents can receive funds and financial aid to cover the money they've lost on pumping and damaged or destroyed property.

Even still, Senator Bonacic was adamant about holding NYCDEP accountable for finding a solution to the residents' flooding problems.



"We cannot wait for the Federal government to step up because if we do that we will drown in both bureaucracy and water," said the senator in a press release distributed at the conference. "We need the DEC, in cooperation with local soil and water conservation districts to spend the money necessary to clean out streams, widen culverts, and obtain the results people need."

Residents Julianne Lennon and Laura Smith—who were the two main organizer's of last Friday's meeting—appeared at the press conference beside Senator Bonacic. They thanked the senator for his support, saying that they are grateful for his help in shedding light on their situation. Lennon also provided an update regarding what effects NYCDEP's shutoff of the aqueduct had on her property; she reported that within an hour of the tunnel's shutoff, her well's water level sank two feet, eventually lowering a total of three feet, one inch. Such results seem to show that the affected area's wells are tapping the leaked water from the aqueduct, and that NYCDEP's fixing the flooding problem by sealing the tunnel's cracks would only create the new problem of homes without access to running water via wells. If nothing else, however, the sinking well-levels seem to implicate the aqueduct's leaking water as the culprit of the floods, therefore vindicating Lennon and Smith's claims against NYCDEP.

Town of Wawarsing Deputy Supervisor Terry Houck was on hand to discuss what the town board will do to try and help, saying that NYCDEP Deputy Commissioner Paul Rush will appear before the Town Board on June 19. Rush will share all of NYCDEP's findings from the aqueduct shutoff last week, and the town will then act accordingly based on that information. Part of their action will be asking NYCDEP to allocate money for the town to hire an engineer to further study the problem and offer suggestions to the town regarding implementing new drainage systems. Until more information is gathered, however, Houck said the town and its afflicted residents would not be best served if they were to rush into funding drainage projects without as much information as possible, because such projects might wind up not helping or possibly even making the problem worse.

"The town is going to entertain a resolution for gathering funds to get an engineer to ascertain what area is affected by this aqueduct. That's the town's responsibility," said Houck of what the town should do before it begins to work in the area. "I believe it's the town's responsibility to find out exactly what homes in what area in the town

of Wawarsing are affected by the aqueduct...if we go out and start doing, making a culvert here, a culvert there, we feel we've fixed it, then all of a sudden the water comes and ruins what we've done, we're wasting money."

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