

Statement of Bridget Fleming Suffolk County Legislator, Second District

Water Quality and Contamination Public Hearing

Senate Standing Committee on Health

Senate Standing Committee on Environmental Conservation

Assembly Standing Committee on Environmental Conservation

Assembly Standing Committee on Health

Long Island
September 12, 2016

Good morning. I'm Suffolk County Legislator Bridget Fleming. I represent Suffolk County's Second Legislative District, the South Fork of Eastern Long Island, from East Moriches to Montauk, including Shelter Island. I thank you for the opportunity to address the Joint Committee, and I particularly appreciate the Joint Committee's choice to hold a public hearing here in Suffolk County, where we drink the water from a sole source aquifer beneath our feet, and where we are particularly hard hit by the red tides, harvest impacts, and fish kills that have increasingly resulted from contamination, as, particularly for the East End community, the vitality of our bays, ponds, creeks and harbors is the primary driver of our economy.

The Peconic Estuary is a designated Estuary of National Significance. The South Shore Estuary Reserve is a designated Estuary of Statewide Significance. Long Island's East End is home to some of the most stunningly beautiful and ecologically significant water bodies in New York State. And yet, of the 79 waterbodies with Harmful Algal Blooms currently subject to DEC notifications statewide, more than 10% are in my district.

While we must always be vigilant against every contaminant that can threaten our water supply, and I will speak to PFC's in a moment, I'd like to address the Committee first on the critical issue of nutrient loading. By now, it has been well documented that the bulk of Long Island's waterbodies are either impaired or under threat of impairment by nutrient overload, and the East End is home to a number of academic institutions, estuary programs and environmental advocacy organizations who will no doubt provide comprehensive evidence of the dire condition of our surface waters and the ultimate threats that could be

imposed on our sole source aquifer. The problem of nutrient loading is currently upon us and poses a growing threat. Its impacts are currently seen in recurring harmful algal blooms resulting in brown and red tides, cyanobacteria contamination, loss of submerged aquatic vegetation and wetlands which degrades marine habitat and leaves our shorelines vulnerable to coastal erosion, declining populations of shellfish and other marine species, and closure days for beaches and marine-based recreation. The primary culprit of the nutrient overload is widely recognized as inadequate septic treatment. "While all sources of water pollution are concerning, nitrogen pollution from septic systems has clearly emerged as the most widespread and least well addressed of the region's growing list of water pollutants."ⁱ With a few small-scale and important exceptions, sewers are by-and-large unworkable and not desired on the East End.

In part because of the immediacy of the threat, and its dramatic impact on East End communities and threat to our economy, towns have already devoted significant time and resources to the issue in recent years.ⁱⁱ Indeed, many jurisdictions at all levels of government on Long Island have begun to respond with various initiatives. It should therefore be a key goal, to achieve cooperation and coordination among all levels of government, in order to arrive at outcomes that are optimum because they are the result of mutually- supportive and interdependent roles.

Within the interdependent structure, Suffolk County serves as the regional regulatory agency for wastewater management. In March 2015, the County adopted a Comprehensive Water Resources Management Plan and is aggressively undertaking recommendations of the Plan. The County is currently working on a

Subwatersheds Wastewater Plan that will set specific nitrogen load reduction targets and nitrogen concentration targets to meet water quality goals tied directly to current conditions.

On Long Island, we are truly appreciative of the support of the New York State Legislature and the Governor for recent efforts that stem from a recognition of the critical nature of the water contamination threat to our economy and wellbeing. The Long Island Nitrogen Action Plan (LINAP), which is currently being formulated by the NYSDEC and Long Island Regional Planning Council sets a framework for management strategies that wisely draws substantially from local input. DEC staffing must be adequate to fully realize the promise of this excellent initiative.

Additionally, and critically important to my district on the East End, is the recent enactment of Chapter 551 of the Laws of 2015 which, if approved by popular referendum in November this year, will extend the Community Preservation Fund through 2050. The law provides that funds that are raised through a 2% property transfer tax be used to protect open space, farmland, and historic resources in support of community character. If approved, the extension will allow towns to use up to 20% of the revenues of the CPF program toward water quality projects.

The law extending the CPF requires that each of the five towns adopt an implementation plan to support the initiative. The East End Towns in District 2 (Southampton, East Hampton and Shelter Island) have accordingly adopted thorough Water Quality Plans which serve as blueprints for action, based on the thoughtful input of town planners, engineers, attorneys and others who have

hands-on experience with the challenges that threaten our way of life. Anyone interested in understanding the water quality concerns of eastern Long Island would be well-served to review each of the plans which can be found on the websites for the towns.

The goals of the towns include watershed plans for safeguarding groundwater resources, reducing nutrient loading, preserving ecosystem diversity, protecting marine habitat, restoring wetlands that serve in part as buffer zones contributing to coastal resilience, and pollution prevention programs. All plans focus on upgrading septic treatment systems at residential and commercial locations. Priority areas have been identified for the upgrading of sanitary systems, including locations with no public water, older communities served by cesspools instead of septic systems, small lots, sites that have shallow depths to groundwater, sites under threat of flooding or storm surge, areas where groundwater reaches surface water bodies quickly, and sites near impaired water bodies. The needs are great, and the towns have shown the willingness to attack them intelligently, and with approval of the popular referendum, the CPF will provide some funding.

But the ability of local towns to implement programs to remediate and restore water quality are necessarily subject to County action, as the County serves as the regulatory agency regarding wastewater, providing approvals based on performance requirements and evaluation of performance standards. Once systems are installed, it will be critically important to monitor and ensure proper maintenance of them, a responsibility that will likely be borne by the County.

A recent revision of the Sanitary Code, which added a new Article 19, enables the County to act as the Responsible Management Entity for advanced nitrogen-removing on-site residential treatment systems. Technologies for residential use are currently being piloted, with approval of particular systems expected soon. Further revisions of the Sanitary Code are being developed, in order to regulate mid-sized systems. It cannot be overemphasized that NYS support for SCDHS staffing needs has been appreciated and, in fact, critically important to these advances. As the County continues to experience fiscal constraints, State support for SCDHS will be increasingly necessary, as municipalities roll out planned rebate and incentive programs by towns for septic system upgrades, placing additional strain on already stressed staffing levels at the SCDHS. Consideration should also be given to assisting local government with modernizing information management, and streamlining and clarifying interrelated roles of various actors and agencies.

CPF funding, if approved, will be available only to the 5 East End Towns. A 2014 IBM study estimates that the cost to achieve necessary septic upgrades county-wide will be \$8 billion.ⁱⁱⁱ A regional funding source including all levels of government must be developed for county-wide replacement programs to meet the need.

I would also like to note that, with regard to the prioritization of goals and target projects, it cannot be over-emphasized that population density must not be the only or even the primary consideration. It would be a grave mistake to fail to prioritize the East End, where our resort and marine-based economy depend so heavily on water quality, or to consider our needs less pressing than those of

western Suffolk and Nassau Counties, because our population is less dense. If we are going to continue to be a world class resort destination, an area of nationally and state recognized environmental significance, a source of pride statewide, and to continue to generate significant economic benefits for the region as a whole, we must find a solution to the degradation of our marine resources.

Of course water quality considerations must continue to include contamination from other sources, including fertilizer application, pharmaceuticals, pesticides, road runoff, and salt water intrusion from sea level rise. These additional concerns continue to be addressed at the local level, and state support for infrastructure, planning and staffing have been and will continue to be necessary to successful efforts to address current and emerging threats.

Homes served by local water authorities currently enjoy excellent water quality in Suffolk County. It should remain a goal to maintain drinking water standards. A challenge exists in the region based on the number of homes that are on private wells and do not have access to public water supplies. The recent discovery near Gabreski Airport in Westhampton of contaminant PFC's, recently listed by EPA, was quickly neutralized in the public water supply. However, eliminating potential concerns for homes on private wells posed more of a challenge. Outreach is ongoing, and individual upgrades of private wells may not be feasible. Extending water mains to vulnerable areas on private wells must be an immediate priority.

In summary, the primary challenges we as local government face in addressing what the scientists and the natural world are clearly telling us requires bold action are twofold: first, coordination that takes advantage of the vast body

of hands-on knowledge, particularly at the local level; and secondly, in marshalling the funding to act quickly and effectively, to implement programs, and importantly to ensure adequate staffing of the NYSDEC and the SCDHS. The State's efforts to date have been greatly appreciated and continued mutual support and collaboration has the potential to yield invaluable results for our region.

I thank you for your time and attention.

¹ Suffolk County Comprehensive Water Resources Management Plan 2015

² E.g., "Southampton 400+" Sustainability Plan, which was adopted as an element to the Comprehensive Plan in December 2013;

Southampton Town Coastal Resources and Water Protection Plan adopted as a Comprehensive Plan element in April 2016;

East Hampton Town Comprehensive Wastewater Management Plan 2014;

Shelter Island Planned Pilot Project with Suffolk County for on-site wastewater treatment at Sylvester Manor and Shelter Island School District/American Legion

