

8806

2009-2010 Regular Sessions

I N A S S E M B L Y

June 9, 2009

Introduced by M. of A. SWEENEY -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to water withdrawal reporting and water withdrawal permits

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

1 Section 1. Subdivision 1 of section 15-3301 of the environmental
2 conservation law, as added by section 1 of part CCC of chapter 59 of the
3 laws of 2009, is amended to read as follows:
4 1. Any person who withdraws or is operating any system or method of
5 withdrawal that has the capacity to withdraw more than [100,000] 50,000
6 gallons of groundwater or surface water per day at a single tract of
7 land, water source or place of business shall file a report with the
8 department. Such report shall be filed on or before February first, two
9 thousand ten and every February first thereafter. Any report filed in
10 two thousand ten shall be based on those calendar months commencing
11 after the effective date of this section. The report shall be made on a
12 form and contain such information as may be prescribed by the department
13 and shall be based on the water withdrawals for the previous calendar
14 year, and shall include but not be limited to:
15 (a) the water source, the location of the water source and the source
16 capacity if known;
17 (b) the amount AND FREQUENCY of water withdrawn for the reporting
18 period, including the average or peak withdrawals for intervals specified by the department;
19 (c) a description of the use of the water withdrawn; and
20 (d) estimated amounts of water to be returned, if any, the locations
21 of such returns and the method of such returns.
22 S 2. The environmental conservation law is amended by adding a new
23 section 15-3303 to read as follows:
24 S 15-3303. WATER WITHDRAWAL PERMITS.
25

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

LBD14092-01-9

1 1. (A) BEGINNING SEPTEMBER FIRST, TWO THOUSAND TEN, NO PERSON OR ENTI-
2 TY SHALL UNDERTAKE ANY NEW ACTION THAT MAY CAUSE OR CONTRIBUTE TO THE
3 WITHDRAWAL OF MORE THAN 100,000 GALLONS PER DAY OF GROUNDWATER OR
4 SURFACE WATER OR BOTH, UNLESS SUCH PERSON OR ENTITY HAS OBTAINED A WATER
5 WITHDRAWAL PERMIT FROM THE DEPARTMENT.

6 (B) BEGINNING SEPTEMBER FIRST, TWO THOUSAND THIRTEEN, NO PERSON OR
7 ENTITY SHALL UNDERTAKE ANY ACTION THAT MAY CAUSE OR CONTRIBUTE TO THE
8 WITHDRAWAL OF MORE THAN 100,000 GALLONS OF WATER PER DAY OF GROUNDWATER
9 OR SURFACE WATER OR BOTH, UNLESS SUCH PERSON OR ENTITY HAS OBTAINED A
10 WATER WITHDRAWAL PERMIT FROM THE DEPARTMENT.

11 (C) A PERMIT ISSUED PURSUANT TO THIS SECTION SHALL BE VALID FOR FIVE
12 YEARS FROM THE DATE OF ISSUANCE. THE DEPARTMENT SHALL CHARGE A FEE FOR
13 SUCH PERMIT IN THE FOLLOWING AMOUNTS:

14 (I) \$1,000 FOR WITHDRAWALS OF 100,000 OR MORE GALLONS PER DAY;

15 (II) \$2,000 FOR WITHDRAWALS OF 250,000 OR MORE GALLONS PER DAY;

16 (III) \$3,000 FOR WITHDRAWALS OF 500,000 OR MORE GALLONS PER DAY;

17 (IV) \$4,000 FOR WITHDRAWALS OF 750,000 OR MORE GALLONS PER DAY;

18 (V) \$5,000 FOR WITHDRAWALS OF 1,000,000 OR MORE GALLONS PER DAY.

19 2. THE FOLLOWING WATER WITHDRAWALS ARE EXEMPT FROM THE PERMIT REQUIRE-
20 MENT ESTABLISHED BY SUBDIVISION ONE OF THIS SECTION:

21 (A) A WITHDRAWAL FOR EMERGENCY FIRE SUPPRESSION OR OTHER PUBLIC EMER-
22 GENCY PURPOSES;

23 (B) A WITHDRAWAL REPORTED TO THE DEPARTMENT UNDER ANY PROGRAM THAT
24 REQUIRES THE REPORTING OF SUBSTANTIALLY SIMILAR DATA, INCLUDING WITH-
25 DRAWALS REGULATED BY THE SUSQUEHANNA RIVER BASIN COMPACT, THE DELAWARE
26 RIVER BASIN COMPACT, THE GREAT LAKES-ST. LAWRENCE RIVER BASIN WATER
27 RESOURCES COMPACT, VALID PUBLIC WATER SUPPLY PERMITS, PERMITS FOR LONG
28 ISLAND WATER WELLS AND PERMITS ISSUED PURSUANT TO SECTION 15-1505 OF
29 THIS ARTICLE;

30 (C) A WITHDRAWAL FOR DOMESTIC, RESIDENTIAL USE;

31 (D) WITHDRAWAL FOR AGRICULTURAL PURPOSES, PUBLIC WATER SYSTEMS,
32 PROVIDED HOWEVER THAT WITHDRAWALS FOR SUCH PURPOSES SHALL BE SUBJECT TO
33 THE REPORTING REQUIREMENTS OF SECTION 15-3301 OF THIS TITLE;

34 (E) CLOSED LOOP, STANDING COLUMN, OR SIMILAR NON-EXTRACTIVE GEOTHERMAL
35 HEAT PUMPS; AND

36 (F) RECLAIMED WASTEWATER WITHDRAWN FOR REUSE.

37 3. THE DEPARTMENT SHALL ONLY APPROVE A WATER WITHDRAWAL PERMIT APPLI-
38 CATION IF IT MEETS THE FOLLOWING CRITERIA:

39 (A) THE PROPOSED USE WILL NOT DAMAGE EXISTING WATER RIGHTS;

40 (B) THE WATER SOURCE IS SUFFICIENT FOR THE PURPOSE OF THE PROPOSED
41 WITHDRAWAL AND WILL NOT ADVERSELY IMPACT THE NATURAL REPLENISHMENT OR
42 SAFE YIELD OF THE WATER RESOURCES;

43 (C) THE PROPOSED WITHDRAWAL WILL NOT VIOLATE STATE WATER QUALITY STAN-
44 DARDS;

45 (D) THE PROPOSED WITHDRAWAL WILL NOT ADVERSELY AFFECT EXISTING GROUND
46 OR SURFACE WATER USERS;

47 (E) THE PROPOSED WITHDRAWAL WILL NOT ADVERSELY IMPACT THE STATE'S
48 NATURAL RESOURCES, INCLUDING WETLANDS, RIVERS, STREAMS, AND AQUIFERS,
49 NOR ADVERSELY IMPACT THE PROPAGATION AND MANAGEMENT OF FISH AND OTHER
50 AQUATIC LIFE, WILDLIFE AND THE PRESERVATION OF ENDANGERED SPECIES;

51 (F) THE PROPOSED WITHDRAWAL WILL NOT HAVE A SIGNIFICANT IMPACT ON THE
52 QUALITY OF THE WATER AND WATER DEPENDENT RESOURCES; AND

53 (G) THE WITHDRAWAL IS CONSISTENT WITH THE STATE'S WATER CONSERVATION
54 GOALS INCLUDING THE FOLLOWING:

55 (I) APPLICATION OF BEST MANAGEMENT PRACTICES TO DETECT AND REPAIR
56 WATER LEAKS;

1 (II) IDENTIFICATION AND INSTALLATION OF STATE-OF-THE-ART WATER-CON-
2 SERVING FIXTURES;

3 (III) EMPLOYEE TRAINING REGARDING APPROPRIATE WATER CONSERVATION TECH-
4 Niques;

5 (IV) PUBLIC EDUCATION REGARDING WATER CONSERVATION IN CONNECTION WITH
6 THE USE OF WATER FOR WHICH THE APPLICANT'S PERMIT IS GRANTED; AND

7 (V) OTHER WATER CONSERVATION MEASURES AND GOALS AS PROSCRIBED INCLUD-
8 ING PRICING, CONSERVATION MEASURES, DROUGHT PROTECTION MEASURES, AND
9 LIMITING UNACCOUNTED-FOR WATER.

10 4. REVENUE RECEIVED FROM THE PERMITS ISSUED PURSUANT TO THIS SECTION
11 SHALL BE DEPOSITED TO THE CREDIT OF THE ENVIRONMENTAL PROTECTION FUND
12 ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

13 S 3. The department of environmental conservation shall adopt rules
14 that establish water use standards for maintaining in-stream flows that
15 are protective of aquatic life and other uses and that establish crite-
16 ria for designating watersheds most at risk from cumulative water use.
17 Standards adopted under this section must be based on the natural vari-
18 ation of flows and water levels, allowing variances if use will still be
19 protective of water quality within that classification.

20 S 4. This act shall take effect immediately.