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

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:

Section 1. Subdivision 1 of section 15-3301 of the environmental conservation law, as added by section 1 of part CCC of chapter 59 of the laws of 2009, is amended to read as follows:

1. Any person who withdraws or is operating any system or method of withdrawal that has the capacity to withdraw more than [100,000] 50,000 gallons of groundwater or surface water per day at a single tract of land, water source or place of business shall file a report with the department. Such report shall be filed on or before February first, two thousand ten and every February first thereafter. Any report filed in two thousand ten shall be based on those calendar months commencing after the effective date of this section. The report shall be made on a form and contain such information as may be prescribed by the department and shall be based on the water withdrawals for the previous calendar year, and shall include but not be limited to:

(a) the water source, the location of the water source and the source capacity if known;

(b) the amount AND FREQUENCY of water withdrawn for the reporting period, including the average or peak withdrawals for intervals specified by the department;

(c) a description of the use of the water withdrawn; and

(d) estimated amounts of water to be returned, if any, the locations of such returns and the method of such returns.

S 2. The environmental conservation law is amended by adding a new section 15-3303 to read as follows:

S 15-3303. WATER WITHDRAWAL PERMITS.

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

LBD14092-01-9

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

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

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

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

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

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

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

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

2. THE FOLLOWING WATER WITHDRAWALS ARE EXEMPT FROM THE PERMIT REQUIREMENT ESTABLISHED BY SUBDIVISION ONE OF THIS SECTION:

(A) A WITHDRAWAL FOR EMERGENCY FIRE SUPPRESSION OR OTHER PUBLIC EMERGENCY PURPOSES;

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

(C) A WITHDRAWAL FOR DOMESTIC, RESIDENTIAL USE;

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

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

(F) RECLAIMED WASTEWATER WITHDRAWN FOR REUSE.

3. THE DEPARTMENT SHALL ONLY APPROVE A WATER WITHDRAWAL PERMIT APPLICATION IF IT MEETS THE FOLLOWING CRITERIA:

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

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

(C) THE PROPOSED WITHDRAWAL WILL NOT VIOLATE STATE WATER QUALITY STANDARDS;

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

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

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

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

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

(II) IDENTIFICATION AND INSTALLATION OF STATE-OF-THE-ART WATER-CONSERVING FIXTURES;

(III) EMPLOYEE TRAINING REGARDING APPROPRIATE WATER CONSERVATION TECHNIQUES;

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

(V) OTHER WATER CONSERVATION MEASURES AND GOALS AS PROSCRIBED INCLUDING PRICING, CONSERVATION MEASURES, DROUGHT PROTECTION MEASURES, AND LIMITING UNACCOUNTED-FOR WATER.

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

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

S 4. This act shall take effect immediately.