

S T A T E   O F   N E W   Y O R K

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8280--A

Cal. No. 1174

I N   S E N A T E

June 19, 2010

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Introduced by Sens. THOMPSON, OPPENHEIMER, SCHNEIDERMAN -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the environmental conservation law, in relation to regulating the use of the state's water resources; and to repeal titles 16 and 33 of article 15 of such law relating to Great Lakes water conservation and management and water withdrawal reporting

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

1     Section 1. Section 15-1501 of the environmental conservation law, as  
2     amended by chapter 233 of the laws of 1979, is amended to read as  
3     follows:  
4     S 15-1501. [New or additional sources of water supply] WATER  
5                 WITHDRAWALS; permit.  
6     1. Except as otherwise provided in this title, no person [or public  
7     corporation] who is [authorized and] engaged in, or proposing to engage  
8     in, the [acquisition, conservation, development, use and distribution of  
9     water for potable purposes, for the irrigation of agricultural lands,  
10    for projects taken pursuant to Article 5-D of the County Law, or for  
11    multi-purpose projects authorized by a general plan adopted and approved  
12    pursuant to title 11 of this article,] OPERATION OF A WATER WITHDRAWAL  
13    SYSTEM WITH A CAPACITY OF GREATER THAN OR EQUAL TO THE THRESHOLD VOLUME,  
14    shall have any power to do the following until such person [or public  
15    corporation] has first obtained a permit OR PERMIT MODIFICATION from the  
16    department pursuant to this title:  
17    a. To [acquire or take] MAKE a water [supply] WITHDRAWAL FROM AN  
18    EXISTING OR NEW SOURCE or an [additional] INCREASED water [supply] WITH-  
19    DRAWAL from an existing [approved] PERMITTED source; [or]  
20    b. To take or condemn lands for THE PROTECTION OF ANY EXISTING SOURCES  
21    OF PUBLIC WATER SUPPLY; OR FOR THE DEVELOPMENT OR PROTECTION OF any new  
22    or additional sources of PUBLIC water supply [or for the utilization of  
23    such supplies]; [or]

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

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1 c. To commence or undertake the construction of any works or projects  
2 in connection with the proposed [plans] WITHDRAWAL; or  
3 d. [To exercise any franchise hereafter granted to supply water to any  
4 inhabitants of the state; or  
5 e. To extend its supply or distribution mains into [a municipality,  
6 water district, water supply district, or other civil division of the  
7 state wherein it] ANY NEW WATER SERVICE AREA OR EXTENSION THAT has not  
8 [heretofore legally supplied water] BEEN APPROVED BY THE DEPARTMENT OR A  
9 PREDECESSOR COMMISSION; or  
10 f. [To construct any extension of its supply mains except within a  
11 service area approved by the department after public hearing; or  
12 g. To extend the boundaries of a water district; or  
13 h. To supply water in or for use in any other municipality or civil  
14 division of the state which owns and operates a water supply system  
15 therein, or in any duly organized water supply or fire district supplied  
16 with water by another person or public corporation] TO MAKE A SIGNIF-  
17 ICANT CHANGE IN THE PRINCIPAL USE OF THE WATER WITHDRAWAL SYSTEM FROM  
18 THAT SPECIFIED IN THE PERMIT, OR PERMIT APPLICATION.

19 2. [A permit shall not be necessary for the extension of supply or  
20 distributing mains or pipes of a municipal water supply plant into and  
21 for the purpose of supplying water in any territory within the limits of  
22 the municipality owning such plant, including territory which has not  
23 been heretofore supplied with water by such plant, nor for the recon-  
24 struction or replacement of existing facilities in connection with an  
25 existing plant wherein the capacity of the plant is in no way increased,  
26 nor for the construction of filtration or other treatment facilities  
27 which will not in any way increase the amount of water which can be made  
28 available from the present sources of supply. A permit shall not be  
29 necessary for the extension of supply or distributing mains or pipes of  
30 a county water authority into and for the purpose of supplying water in  
31 any territory assigned to such county water authority within the limits  
32 of the county but excluding territory specifically assigned to private  
33 or other municipal water companies by the department which has not been  
34 heretofore supplied with water by such county water authority, nor for  
35 the reconstruction or replacement of existing facilities in connection  
36 with an existing plant wherein the capacity of the plant is in no way  
37 increased, nor for the construction of filtration or other treatment  
38 facilities which will not in any way increase the amount of water which  
39 can be made available from the present sources of supply, provided,  
40 however, that nothing herein contained shall be held to authorize such  
41 county water authority to enter into competition with, for the purpose  
42 of service in the area served by the mains, the transmission or distrib-  
43 ution mains of any other water works system, either publicly or private-  
44 ly owned, already legally established in said county for the sale of  
45 water at wholesale or retail, or which hereafter may legally be estab-  
46 lished for said purpose; or to sell water to any other water works  
47 system, either publicly or privately owned, and not now served by said  
48 county authority] ALL VALID PUBLIC WATER SUPPLY PERMITS AND APPROVALS  
49 ISSUED BY THE DEPARTMENT OR ITS PREDECESSORS SHALL REMAIN IN FULL FORCE  
50 AND EFFECT AND SHALL BE DEEMED TO SATISFY THE PERMIT REQUIREMENTS OF  
51 SUBDIVISION ONE OF THIS SECTION FOR EXISTING WATER WITHDRAWALS FROM A  
52 SOURCE AND IN AN AMOUNT AUTHORIZED BY SUCH PERMIT OR APPROVAL. UNTIL  
53 THE DEPARTMENT PROMULGATES REGULATIONS PURSUANT TO SUBDIVISION FOUR OF  
54 THIS SECTION, NOTHING CONTAINED IN SUBDIVISION ONE OF THIS SECTION  
55 CONCERNING PERMITS FROM THE DEPARTMENT SHALL BE APPLICABLE TO WATER  
56 WITHDRAWALS OTHER THAN FOR A PUBLIC WATER SUPPLY SYSTEM.

1     3. Nothing CONTAINED in this [section provided] TITLE CONCERNING  
2 PERMITS FROM THE DEPARTMENT FOR WATER WITHDRAWALS shall be deemed to  
3 nullify the requirements [of Regulation 2, Chapter V] of the State Sani-  
4 tary Code[, as] APPLICABLE TO DRINKING WATER SUPPLIES, INCLUDING PUBLIC  
5 WATER SYSTEMS, in effect on [January 1, 1960, that plans for a new water  
6 treatment plant for the treatment of an existing public water supply or  
7 for any addition to or modification of an existing water treatment  
8 plant, or for any addition to or modification of a public water supply  
9 system which will or may affect the quality of the public water supply,  
10 shall be submitted to and approved by the Commissioner of Health, which  
11 regulation has no application to a new or additional source or sources  
12 of public water supply of a permanent character which require a permit  
13 from the Department of Environmental Conservation under the provisions  
14 of this article] APRIL 1, 2011, AS MAY BE AMENDED FROM TIME TO TIME. NO  
15 SUPPLIER OF WATER SHALL MAKE, INSTALL OR CONSTRUCT, OR ALLOW TO BE MADE,  
16 INSTALLED OR CONSTRUCTED, A PUBLIC WATER SUPPLY SYSTEM OR ANY ADDITION  
17 OR DELETION TO OR MODIFICATION OF A PUBLIC WATER SUPPLY SYSTEM UNTIL THE  
18 PLANS AND SPECIFICATIONS THEREFOR HAVE BEEN SUBMITTED TO AND APPROVED BY  
19 THE COMMISSIONER OF HEALTH OR HIS OR HER DESIGNEE AS MAY BE REQUIRED BY  
20 THE STATE SANITARY CODE.

21     4. THE DEPARTMENT SHALL PROMULGATE REGULATIONS TO IMPLEMENT A PERMIT-  
22 TING PROGRAM FOR WATER WITHDRAWALS EQUAL TO OR GREATER THAN THE THRESH-  
23 OLD VOLUME CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION WHICH SHALL  
24 ESTABLISH: (A) MINIMUM STANDARDS FOR OPERATION AND NEW CONSTRUCTION OF  
25 WATER WITHDRAWAL SYSTEMS; (B) MONITORING, REPORTING AND RECORDKEEPING  
26 REQUIREMENTS; AND (C) PROTECTIONS FOR PRESENT AND FUTURE NEEDS FOR  
27 SOURCES OF POTABLE WATER SUPPLY. SUCH REGULATIONS MAY ESTABLISH QUANTI-  
28 TATIVE STANDARDS THAT MAINTAIN STREAM FLOWS PROTECTIVE OF AQUATIC LIFE,  
29 CONSISTENT WITH THE POLICY OBJECTIVES OF THIS ARTICLE AND ANY OTHER  
30 CONDITIONS, LIMITATIONS AND RESTRICTIONS THAT THE DEPARTMENT DETERMINES  
31 ARE NECESSARY TO PROTECT THE ENVIRONMENT AND THE PUBLIC HEALTH, SAFETY  
32 AND WELFARE AND TO ENSURE THE PROPER MANAGEMENT OF THE WATERS OF THE  
33 STATE. THE REGULATIONS MAY ESTABLISH EXEMPTIONS FROM PERMITTING  
34 REQUIREMENTS IN ADDITION TO THOSE EXEMPTIONS SPECIFIED IN THIS SECTION.

35     5. THE DEPARTMENT IS AUTHORIZED TO CONSOLIDATE EXISTING WATER SUPPLY  
36 PERMITS FOR A PUBLIC WATER SUPPLY SYSTEM INTO ONE PERMIT, AND MAY  
37 REQUIRE SUBMISSION OF AN APPLICATION FOR SUCH PERMIT WHERE THE DEPART-  
38 MENT DETERMINES THAT SUCH ACTIONS ARE NECESSARY TO PROTECT THE ENVIRON-  
39 MENT AND THE PUBLIC HEALTH, SAFETY AND WELFARE AND TO ENSURE THE PROPER  
40 MANAGEMENT OF THE WATERS OF THE STATE.

41     6. EACH PERSON WHO IS REQUIRED UNDER THIS SECTION TO OBTAIN A PERMIT  
42 SHALL ANNUALLY, ON A FORM PRESCRIBED BY THE DEPARTMENT, REPORT ALL  
43 INFORMATION REQUESTED BY THE DEPARTMENT, INCLUDING BUT NOT LIMITED TO  
44 WATER USAGE AND WATER CONSERVATION MEASURES UNDERTAKEN DURING THE  
45 REPORTING PERIOD. INFORMATION ON WATER USAGE AND WATER CONSERVATION  
46 MEASURES SHALL BE POSTED ON THE DEPARTMENT'S WEBSITE.

47     7. THE FOLLOWING WATER WITHDRAWALS ARE EXEMPT FROM THE PERMIT REQUIRE-  
48 MENTS ESTABLISHED BY THIS SECTION: (A) WITHDRAWALS USED FOR FIRE  
49 SUPPRESSION OR PUBLIC EMERGENCY PURPOSES; (B) WITHDRAWALS THAT HAVE  
50 RECEIVED AN APPROVAL FROM A COMPACT BASIN COMMISSION WHICH ADMINISTERS A  
51 PROGRAM GOVERNING WATER WITHDRAWALS; (C) CLOSED LOOP, STANDING COLUMN,  
52 OR SIMILAR NON-EXTRACTIVE GEOTHERMAL HEAT PUMPS; (D) WITHDRAWALS FOR  
53 WHICH A PERMIT HAS BEEN ISSUED PURSUANT TO THE REQUIREMENTS OF SECTION  
54 15-1527 OF THIS TITLE; (E) EXISTING WITHDRAWALS FOR AGRICULTURAL  
55 PURPOSES PROVIDED THE WITHDRAWAL HAS BEEN REGISTERED WITH THE DEPARTMENT  
56 PURSUANT TO THE REQUIREMENTS OF TITLE SIXTEEN OF THIS ARTICLE OR

1 REPORTED TO THE DEPARTMENT PURSUANT TO THE REQUIREMENTS OF TITLE THIR-  
2 TY-THREE OF THIS ARTICLE ON OR BEFORE APRIL FIRST, TWO THOUSAND ELEVEN;  
3 AND (F) WITHDRAWALS AT REMEDIATION SITES CONDUCTED PURSUANT TO A FEDERAL  
4 OR STATE COURT ORDER OR FEDERAL OR STATE GOVERNMENT AGENCY AGREEMENT OR  
5 ORDER.

6 8. THE DEPARTMENT SHALL ESTABLISH A WATER CONSERVATION AND EFFICIENCY  
7 PROGRAM WITH THE GOALS OF (A) ENSURING IMPROVEMENT OF THE WATERS AND  
8 WATER DEPENDENT NATURAL RESOURCES, (B) PROTECTING AND RESTORING THE  
9 HYDROLOGIC AND ECOSYSTEM INTEGRITY OF WATERSHEDS THROUGHOUT THE STATE,  
10 (C) RETAINING THE QUANTITY OF SURFACE WATER AND GROUNDWATER IN THE  
11 STATE, (D) ENSURING SUSTAINABLE USE OF STATE WATERS, AND (E) PROMOTING  
12 THE EFFICIENCY OF USE AND REDUCING LOSSES AND WASTE OF WATER.

13 9. THE DEPARTMENT SHALL ISSUE AN INITIAL PERMIT, SUBJECT TO APPROPRI-  
14 ATE TERMS AND CONDITIONS AS REQUIRED UNDER THIS ARTICLE, TO ANY PERSON  
15 NOT EXEMPT FROM THE PERMITTING REQUIREMENTS OF THIS SECTION, FOR THE  
16 MAXIMUM WATER WITHDRAWAL CAPACITY REPORTED TO THE DEPARTMENT PURSUANT TO  
17 THE REQUIREMENTS OF TITLE SIXTEEN OR TITLE THIRTY-THREE OF THIS ARTICLE  
18 ON OR BEFORE APRIL FIRST, TWO THOUSAND ELEVEN.

19 S 2. Section 15-1502 of the environmental conservation law is amended  
20 by adding ten new subdivisions 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 to  
21 read as follows:

22 7. "AGRICULTURAL PURPOSE" SHALL MEAN THE PRACTICE OF FARMING FOR  
23 CROPS, PLANTS, VINES AND TREES, AND THE KEEPING, GRAZING, OR FEEDING OF  
24 LIVESTOCK FOR SALE OF LIVESTOCK OR LIVESTOCK PRODUCTS, AND THE ON-FARM  
25 PROCESSING OF CROPS, LIVESTOCK AND LIVESTOCK PRODUCTS.

26 8. "COMPACT BASIN COMMISSION" SHALL MEAN AN INTERSTATE COMMISSION  
27 HAVING JURISDICTION WITH RESPECT TO THE REGULATION OF WATER RESOURCES  
28 WITHIN A BASIN IN THE STATE, CREATED BY INTERSTATE COMPACT OR  
29 FEDERAL-INTERSTATE COMPACT, INCLUDING BUT NOT LIMITED TO, THE SUSQUEHAN-  
30 NA RIVER BASIN COMMISSION AND THE DELAWARE RIVER BASIN COMMISSION.

31 9. "ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVATION  
32 MEASURES" SHALL MEAN THOSE MEASURES, METHODS, TECHNOLOGIES OR PRACTICES  
33 FOR EFFICIENT WATER USE AND FOR REDUCTION OF WATER LOSS AND WASTE OR FOR  
34 REDUCING A WITHDRAWAL, CONSUMPTIVE USE OR DIVERSION THAT: (I) ARE ENVI-  
35 RONMENTALLY SOUND; (II) REFLECT BEST PRACTICES APPLICABLE TO THE WATER  
36 USE SECTOR; (III) ARE TECHNICALLY FEASIBLE AND AVAILABLE; (IV) ARE  
37 ECONOMICALLY FEASIBLE AND COST EFFECTIVE BASED ON AN ANALYSIS THAT  
38 CONSIDERS DIRECT AND AVOIDED ECONOMIC AND ENVIRONMENTAL COSTS; AND (V)  
39 CONSIDER THE PARTICULAR FACILITIES AND PROCESSES INVOLVED, TAKING INTO  
40 ACCOUNT THE ENVIRONMENTAL IMPACT, AGE OF EQUIPMENT AND FACILITIES  
41 INVOLVED, THE PROCESSES EMPLOYED, ENERGY IMPACTS AND OTHER APPROPRIATE  
42 FACTORS.

43 10. "INTERBASIN DIVERSION" SHALL MEAN THE TRANSFER OF WATER OR WASTE-  
44 WATER FROM ONE NEW YORK MAJOR DRAINAGE BASIN TO ANOTHER DRAINAGE BASIN.

45 11. "PERSON" SHALL MEAN ANY INDIVIDUAL, PUBLIC OR PRIVATE CORPORATION,  
46 POLITICAL SUBDIVISION, GOVERNMENT AGENCY, DEPARTMENT OR BUREAU OF THE  
47 STATE, MUNICIPALITY, INDUSTRY, CO-PARTNERSHIP, ASSOCIATION, FIRM, TRUST,  
48 ESTATE OR ANY OTHER LEGAL ENTITY WHATSOEVER.

49 12. "POTABLE WATER" SHALL MEAN WATER INTENDED FOR HUMAN CONSUMPTION  
50 THAT MEETS THE REQUIREMENTS FOR A PUBLIC WATER SYSTEM AS SET FORTH IN  
51 THE STATE SANITARY CODE.

52 13. "PUBLIC WATER SUPPLY SYSTEM" SHALL MEAN A PERMANENTLY INSTALLED  
53 WATER WITHDRAWAL SYSTEM INCLUDING ITS SOURCE, COLLECTION, PUMPING,  
54 TREATMENT, TRANSMISSION, STORAGE AND DISTRIBUTION FACILITIES USED IN  
55 CONNECTION WITH SUCH SYSTEM, WHICH PROVIDES PIPED POTABLE WATER TO THE

1 PUBLIC FOR POTABLE PURPOSES, IF SUCH SYSTEM HAS AT LEAST FIVE SERVICE  
2 CONNECTIONS USED BY YEAR-ROUND RESIDENTS.

3 14. "THRESHOLD VOLUME" SHALL MEAN THE WITHDRAWAL OF WATER OF A VOLUME  
4 OF ONE HUNDRED THOUSAND GALLONS OR MORE PER DAY, DETERMINED BY THE  
5 LIMITING MAXIMUM CAPACITY OF THE WATER WITHDRAWAL, TREATMENT, OR CONVEY-  
6 ANCE SYSTEM; PROVIDED THAT FOR AGRICULTURAL PURPOSES THE THRESHOLD  
7 VOLUME SHALL MEAN A WITHDRAWAL OF WATER OF A VOLUME IN EXCESS OF AN  
8 AVERAGE OF ONE HUNDRED THOUSAND GALLONS PER DAY IN ANY CONSECUTIVE THIR-  
9 TY-DAY PERIOD.

10 15. "WATER WITHDRAWAL SYSTEM" SHALL MEAN ANY EQUIPMENT OR INFRASTRUC-  
11 TURE OPERATED OR MAINTAINED FOR THE PROVISION OR WITHDRAWAL OF WATER  
12 INCLUDING, BUT NOT LIMITED TO, COLLECTION, PUMPING, TREATMENT, TRANSPOR-  
13 TATION, TRANSMISSION, STORAGE, AND DISTRIBUTION.

14 16. "WITHDRAWAL" OR "WITHDRAWAL OF WATER" SHALL MEAN THE REMOVAL OR  
15 TAKING OF WATER FOR ANY PURPOSE FROM THE WATERS OF THE STATE.

16 S 3. Section 15-1503 of the environmental conservation law, as amended  
17 by chapter 364 of the laws of 1988, is amended to read as follows:  
18 S 15-1503. Permits.

19 1. A permit application or request for a permit renewal or modifica-  
20 tion shall be made on forms [provided] PRESCRIBED by the department and  
21 shall [be accompanied by] CONTAIN ALL INFORMATION REQUESTED BY THE  
22 DEPARTMENT RELATIVE TO THE WITHDRAWAL, USE AND DISCHARGE OF WATER,  
23 INCLUDING:

24 A. WITH RESPECT TO A PUBLIC WATER SUPPLY SYSTEM, proof of adequate  
25 authorization for the proposed project[,];

26 B. such exhibits as may be necessary clearly to indicate the scope of  
27 the proposed project[,];

28 C. a map of any lands to be acquired [and];

29 D. project plans[. The application shall also indicate];

30 E. A STATEMENT OF the need for and the reasons why the proposed source  
31 or sources of supply were selected among the alternative sources which  
32 are or may become available[,] AND the adequacy of the supply selected  
33 [and the method proposed to determine and provide for the proper compen-  
34 sation for any direct and indirect legal damages to persons or property  
35 that will result from the acquisition of any lands in connection with  
36 the proposed project or from the execution of the proposed project. The  
37 application shall also contain, in accordance with local water resource  
38 needs and conditions,]; AND

39 F. a description of the applicant's PROPOSED near term and long range  
40 water conservation program THAT INCORPORATES ENVIRONMENTALLY SOUND AND  
41 ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES, including implementa-  
42 tion and enforcement procedures, effectiveness to date and any planned  
43 modifications for the future. [Such] FOR A PUBLIC WATER SUPPLY SYSTEM,  
44 THE WATER CONSERVATION program may include but [shall] NEED not be  
45 limited to:

46 [a.] I. the identification of and cost effectiveness of distribution  
47 system rehabilitation to correct sources of lost water;

48 [b.] II. measures which encourage proper maintenance and water conser-  
49 vation;

50 [c.] III. a public information program to promote water conservation,  
51 including industrial and commercial recycling and reuse;

52 [d.] IV. household conservation measures; and

53 [e.] V. contingency measures for limiting water use during seasonal or  
54 drought shortages. [If the proposed project provides for the use of  
55 water for potable purposes, the application shall also include adequate

1 proof of the character and purity of the water supply to be acquired or  
2 used and the proposed method of treatment.]

3 2. In making its decision to grant or deny a permit or to grant a  
4 permit with conditions, the department shall determine whether:

5 A. the proposed [project is justified by the public necessity, whether  
6 it] WATER WITHDRAWAL takes proper consideration of other sources of  
7 supply that are or may become available[, whether all work connected  
8 with the project will be proper and construction safe, whether];

9 B. the QUANTITY OF supply will be adequate[, whether there will be  
10 proper protection of the supply and watershed or whether there will be  
11 proper treatment of any additional supply, whether] FOR THE PROPOSED  
12 USE;

13 C. the project is just and equitable to all affected municipalities  
14 and their inhabitants [and in particular] with regard to their present  
15 and future needs for sources of POTABLE water supply[, whether there is  
16 provision for fair and equitable determinations of and payments of any  
17 direct and indirect legal damages to persons or property that will  
18 result from the acquisition of any lands in connection with the proposed  
19 project or from the execution of the proposed project, and whether the  
20 applicant has developed and implemented a water conservation program in  
21 accordance with local water resource needs and conditions. If the  
22 proposed project is a multi-purpose project, in whole or in part author-  
23 ized by a general plan adopted and approved pursuant to title 11 of this  
24 article, the department in addition shall determine if the proposed  
25 project is in conformity with the general plan];

26 D. THE NEED FOR ALL OR PART OF THE PROPOSED WATER WITHDRAWAL CANNOT BE  
27 REASONABLY AVOIDED THROUGH THE EFFICIENT USE AND CONSERVATION OF EXIST-  
28 ING WATER SUPPLIES;

29 E. THE PROPOSED WATER WITHDRAWAL IS LIMITED TO QUANTITIES THAT ARE  
30 CONSIDERED REASONABLE FOR THE PURPOSES FOR WHICH THE WATER USE IS  
31 PROPOSED;

32 F. THE PROPOSED WATER WITHDRAWAL WILL BE IMPLEMENTED IN A MANNER TO  
33 ENSURE IT WILL RESULT IN NO SIGNIFICANT INDIVIDUAL OR CUMULATIVE ADVERSE  
34 IMPACTS ON THE QUANTITY OR QUALITY OF THE WATER SOURCE AND WATER DEPEND-  
35 ENT NATURAL RESOURCES;

36 G. THE PROPOSED WATER WITHDRAWAL WILL BE IMPLEMENTED IN A MANNER THAT  
37 INCORPORATES ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER  
38 CONSERVATION MEASURES; AND

39 H. THE PROPOSED WATER WITHDRAWAL WILL BE IMPLEMENTED IN A MANNER THAT  
40 IS CONSISTENT WITH APPLICABLE MUNICIPAL, STATE AND FEDERAL LAWS AS WELL  
41 AS REGIONAL INTERSTATE AND INTERNATIONAL AGREEMENTS.

42 3. In order to assist the development of local water conservation  
43 [plans] PROGRAMS FOR PUBLIC WATER SUPPLY SYSTEMS, the department shall[,  
44 by the effective date of this subdivision,] CONTINUE TO publish and  
45 distribute a [model local water conservation plan] WATER CONSERVATION  
46 MANUAL that includes beneficial near term and long range water conserva-  
47 tion procedures which reflect local water resource needs and conditions.  
48 Such [plan] MANUAL shall include examples of:

49 a. methods of identifying and determining the cost effectiveness of  
50 distribution system rehabilitation to correct sources of lost water;

51 b. measures which encourage proper maintenance and water conservation;

52 c. a public information program to promote water conservation, includ-  
53 ing industrial and commercial recycling and reuse;

54 d. household conservation measures; and

55 e. contingency measures for limiting water use during seasonal or  
56 drought shortages.

1 4. The department may grant or deny a permit or grant a permit with  
2 such conditions as may be necessary to provide satisfactory compliance  
3 by the applicant with the matters subject to department determination  
4 pursuant to subdivision 2 of this section, or to bring into cooperation  
5 all persons [or public corporations] that may be affected by the  
6 project, but it shall make a reasonable effort to meet the needs of the  
7 applicant, with due regard to the actual or prospective needs, interests  
8 and rights of others that may be affected by the project.

9 5. The rules and regulations adopted by the department to implement  
10 this title and the provisions of article 70 of this chapter and rules  
11 and regulations adopted thereunder shall govern permit applications,  
12 renewals, modifications, suspensions and revocations under this title.

13 6. A NEW PERMIT FOR A WATER WITHDRAWAL SYSTEM SHALL BE VALID FOR A  
14 PERIOD OF TIME NOT TO EXCEED TEN YEARS FROM THE DATE OF ISSUANCE, UPON  
15 WHICH TIME A REQUEST FOR A RENEWAL MUST BE FILED WITH THE DEPARTMENT. A  
16 RENEWAL SHALL BE VALID FOR A PERIOD OF TIME SPECIFIED BY THE DEPARTMENT  
17 NOT TO EXCEED TEN YEARS. A NEW PERMIT OR PERMIT MODIFICATION MUST BE  
18 OBTAINED FROM THE DEPARTMENT PRIOR TO ANY TRANSFER OR CHANGE OF OWNER-  
19 SHIP OF A WATER WITHDRAWAL SYSTEM.

20 S 4. The environmental conservation law is amended by adding a new  
21 section 15-1504 to read as follows:

22 S 15-1504. WATER WITHDRAWALS FOR AGRICULTURAL PURPOSES.

23 1. APPLICABILITY.

24 A. THIS SECTION APPLIES TO WITHDRAWALS OF WATER FOR AGRICULTURAL  
25 PURPOSES THAT HAVE BEEN REGISTERED WITH THE DEPARTMENT PURSUANT TO THE  
26 REQUIREMENTS OF TITLE SIXTEEN OF THIS ARTICLE OR REPORTED TO THE DEPART-  
27 MENT PURSUANT TO THE REQUIREMENTS OF TITLE THIRTY-THREE OF THIS ARTICLE  
28 ON OR BEFORE APRIL FIRST, TWO THOUSAND ELEVEN.

29 B. ALL PERSONS MAKING A WITHDRAWAL OF WATER FOR AGRICULTURAL PURPOSES  
30 SHALL ANNUALLY REGISTER OR REPORT THE WITHDRAWAL TO THE DEPARTMENT UNDER  
31 THE PROVISIONS OF THIS SECTION BY MARCH THIRTY-FIRST OF EACH YEAR.

32 2. WHEN USED IN THIS SECTION:

33 A. "GREAT LAKES BASIN" SHALL MEAN THE WATERSHED OF THE GREAT LAKES AND  
34 THE ST. LAWRENCE RIVER, UPSTREAM FROM TROIS-RIVIERES, QUEBEC, CONSISTING  
35 IN NEW YORK STATE OF THE LAKE ERIE-NIAGARA RIVER, LAKE ONTARIO MINOR  
36 TRIBUTARIES, GENESEE RIVER, SENECA-ONEIDA-OSWEGO RIVER, BLACK RIVER, ST.  
37 LAWRENCE RIVER AND LAKE CHAMPLAIN DRAINAGE BASINS.

38 B. "GREAT LAKES WATER" SHALL MEAN THE WATER CONTAINED IN THE  
39 WATERSHED, INCLUDING THE LAKES AND RIVERS, OF THE GREAT LAKES BASIN.

40 3. REGISTRATION OF WATER WITHDRAWALS IN THE GREAT LAKES BASIN.

41 A. ALL PERSONS WITHDRAWING GREAT LAKES WATER FOR AGRICULTURAL PURPOSES  
42 IN EXCESS OF AN AVERAGE OF ONE HUNDRED THOUSAND GALLONS PER DAY IN ANY  
43 CONSECUTIVE THIRTY-DAY PERIOD SHALL ANNUALLY REGISTER SUCH WITHDRAWAL  
44 WITH THE DEPARTMENT.

45 B. EACH REGISTRATION SHALL BE ON A FORM AND CONTAIN SUCH INFORMATION  
46 AS MAY BE PRESCRIBED BY THE DEPARTMENT AND CONSIST OF A STATEMENT OF AND  
47 SUPPORTING DOCUMENTATION WHICH SHALL INCLUDE BUT NOT BE LIMITED TO THE  
48 FOLLOWING:

49 (1) THE PLACE AND SOURCE OF THE PROPOSED OR EXISTING WITHDRAWAL;

50 (2) THE LOCATION OF ANY DISCHARGE OR RETURN FLOW;

51 (3) THE LOCATION AND NATURE OF THE PROPOSED OR EXISTING WATER USE;

52 (4) THE ACTUAL OR ESTIMATED AVERAGE ANNUAL AND MONTHLY VOLUMES AND  
53 RATES OF WITHDRAWAL; AND

54 (5) THE ACTUAL OR ESTIMATED AVERAGE ANNUAL AND MONTHLY VOLUMES AND  
55 RATES OF WATER LOSS FROM THE WITHDRAWAL.

C. IN CALCULATING THE TOTAL AMOUNT OF AN EXISTING OR PROPOSED WITHDRAWAL FOR THE PURPOSE OF DETERMINING THE APPLICABILITY OF THIS SUBDIVISION, A PERSON SHALL COMBINE ALL SEPARATE WITHDRAWALS WHICH THE PERSON MAKES OR PROPOSES TO MAKE, WHETHER OR NOT SUCH WITHDRAWALS ARE FOR A SINGLE AGRICULTURAL PURPOSE OR ARE FOR RELATED BUT SEPARATE AGRICULTURAL PURPOSES.

D. REGISTRATIONS SHALL BE VALID FOR A PERIOD OF ONE YEAR.

E. A REGISTRATION MAY BE TRANSFERRED BY SUBMITTING A NOTICE OF TRANSFER TO THE DEPARTMENT PRIOR TO THE DATE OF A TRANSFER OR CHANGE OF OWNERSHIP OF A WATER WITHDRAWAL SYSTEM ASSOCIATED WITH A REGISTERED WITHDRAWAL.

F. THE DEPARTMENT MAY COOPERATE WITH STATE SOIL AND WATER CONSERVATION DISTRICTS FOR THE PREPARATION AND DISTRIBUTION OF INFORMATIONAL MATERIALS TO PERSONS WHO WITHDRAW WATER FOR AGRICULTURAL PURPOSES, REGARDING THE PURPOSES, BENEFITS AND REQUIREMENTS OF THIS SECTION, AND WHICH MAY ALSO PROVIDE INFORMATION ON COMPLYING WITH THE REGISTRATION PROGRAM AND ON ANY GENERAL OR APPLICABLE METHODS FOR CALCULATING OR ESTIMATING WATER WITHDRAWALS OR WATER LOSS.

#### 4. WATER WITHDRAWAL REPORTING.

A. ANY PERSON WHO WITHDRAWS WATER FOR AGRICULTURAL PURPOSES IN EXCESS OF AN AVERAGE OF ONE HUNDRED THOUSAND GALLONS PER DAY IN ANY CONSECUTIVE THIRTY-DAY PERIOD SHALL ANNUALLY REPORT TO THE DEPARTMENT. 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:

(1) THE WATER SOURCE, THE LOCATION OF THE WATER SOURCE AND THE SOURCE CAPACITY IF KNOWN;

(2) THE AMOUNT OF WATER WITHDRAWN FOR THE REPORTING PERIOD, INCLUDING THE AVERAGE OR PEAK WITHDRAWALS FOR INTERVALS SPECIFIED BY THE DEPARTMENT;

(3) A DESCRIPTION OF THE USE OF THE WATER WITHDRAWN; AND

(4) ESTIMATED AMOUNTS OF WATER TO BE RETURNED, IF ANY, THE LOCATIONS OF SUCH RETURNS AND THE METHOD OF SUCH RETURNS.

B. THE FOLLOWING WATER WITHDRAWALS ARE EXEMPT FROM THE REPORTING REQUIREMENTS OF THIS SUBDIVISION:

(1) A WITHDRAWAL REGISTERED WITH THE DEPARTMENT UNDER SUBDIVISION THREE OF THIS SECTION;

(2) A WITHDRAWAL PERMITTED PURSUANT TO SECTION 15-1501 OF THIS TITLE;

(3) 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 COMMISSION AND THE DELAWARE RIVER BASIN COMMISSION;

(4) A WITHDRAWAL PERMITTED UNDER SECTION 15-1527 OF THIS TITLE;

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

(6) RECLAIMED WASTEWATER WITHDRAWN FOR REUSE.

5. WITHDRAWALS OF WATER FOR AGRICULTURAL PURPOSES REGISTERED OR REPORTED TO THE DEPARTMENT UNDER THE REQUIREMENTS OF THIS SECTION SHALL BE DEEMED TO BE IN COMPLIANCE WITH THE REQUIREMENTS OF TITLE SIXTEEN AND TITLE THIRTY-THREE OF THIS ARTICLE, AS APPLICABLE.

S 5. Section 15-1505 of the environmental conservation law, as amended by chapter 233 of the laws of 1979, is amended to read as follows:

S 15-1505. [Water] INTERBASIN DIVERSIONS AND WATER supply to other states.

1. No person [or public corporation] shall transport or carry through pipes, conduits, ditches or canals the waters of any fresh water lake,

1 pond, brook, river, stream, or creek in this state or any well, subsur-  
2 face or percolating waters of this state into any other state for use  
3 therein without first obtaining a permit from the department pursuant to  
4 this title.

5 2. NO PERSON SHALL MAKE A NEW OR INCREASED INTERBASIN DIVERSION WHICH  
6 RESULTS IN A DIVERSION IN EXCESS OF ONE MILLION GALLONS PER DAY, AS  
7 DETERMINED BY THE LIMITING MAXIMUM CAPACITY OF THE TREATMENT OR CONVEY-  
8 ANCE SYSTEM, OR CONSTRUCT FACILITIES OR EQUIPMENT THEREFOR, UNTIL SUCH  
9 PERSON HAS REGISTERED THE DIVERSION WITH THE DEPARTMENT. NO LATER THAN  
10 APRIL FIRST, TWO THOUSAND TWELVE, ALL EXISTING INTERBASIN DIVERSIONS IN  
11 EXCESS OF ONE MILLION GALLONS PER DAY, AS DETERMINED BY THE LIMITING  
12 MAXIMUM CAPACITY OF THE TREATMENT OR CONVEYANCE SYSTEM, SHALL BE REGIS-  
13 TERED WITH THE DEPARTMENT.

14 3. REGISTRATION IS NOT REQUIRED FOR AN INTERBASIN DIVERSION WHICH IS  
15 PART OF A WATER WITHDRAWAL SYSTEM FOR WHICH THE DEPARTMENT HAS ISSUED A  
16 PERMIT UNDER THIS TITLE, OR WHICH IS OPERATING PURSUANT TO A DULY  
17 AUTHORIZED PERMIT ISSUED BY THE DEPARTMENT OR ITS PREDECESSORS.

18 4. REGISTRATION SHALL BE RENEWED EVERY YEAR OR WHENEVER OWNERSHIP OF  
19 THE FACILITIES WHICH CREATE AN INTERBASIN DIVERSION IS TRANSFERRED,  
20 WHICHEVER OCCURS FIRST. REGISTRATION SHALL BE MADE ON FORMS PRESCRIBED  
21 BY THE DEPARTMENT AND SHALL CONTAIN ALL INFORMATION REQUESTED BY THE  
22 DEPARTMENT RELATIVE TO THE WATER WITHDRAWAL, USE AND DISCHARGE. EACH  
23 PERSON WHO IS REQUIRED UNDER THIS SECTION TO REGISTER SHALL ANNUALLY, ON  
24 A FORM PRESCRIBED BY THE DEPARTMENT, REPORT ALL INFORMATION REQUESTED BY  
25 THE DEPARTMENT, INCLUDING THE AMOUNT OF WATER DIVERTED. INFORMATION ON  
26 INTERBASIN DIVERSIONS SHALL BE POSTED ON THE DEPARTMENT'S WEBSITE.

27 5. NO PERSON SHALL MAKE A NEW OR INCREASED INTERBASIN DIVERSION WHICH  
28 RESULTS IN A SIGNIFICANT ADVERSE IMPACT ON THE WATER QUANTITY OF THE  
29 SOURCE NEW YORK MAJOR DRAINAGE BASIN.

30 6. DIVERSIONS FROM THE GREAT LAKES-ST. LAWRENCE RIVER BASIN ARE  
31 PROHIBITED BY THE GREAT LAKES-ST. LAWRENCE RIVER BASIN WATER RESOURCES  
32 COMPACT, AS ENACTED IN TITLE TEN OF ARTICLE TWENTY-ONE OF THIS CHAPTER.  
33 LIMITED EXCEPTIONS FOR PUBLIC WATER SUPPLY SYSTEMS WILL ONLY BE CONSID-  
34 ERED WHEN IN COMPLIANCE WITH THAT COMPACT.

35 S 6. Section 15-1521 of the environmental conservation law, as amended  
36 by chapter 233 of the laws of 1979, is amended to read as follows:

37 S 15-1521. Supply of water to other public water supply systems.

38 On any application for a new or [additional] INCREASED WITHDRAWAL OF  
39 WATER FOR A PUBLIC water supply [or source of water supply] SYSTEM, the  
40 department may require or authorize [any] THE applicant to make  
41 provisions for the supply and to supply water to any area of the state  
42 which as determined by the department in its decision on that applica-  
43 tion properly should be supplied with water from the source or sources  
44 of water supply sought by the applicant. The owner or operator of any  
45 existing or proposed [water works] PUBLIC WATER SUPPLY system within  
46 such area may apply to the department for a permit to take water from  
47 that source of water supply or from any part of the PUBLIC water supply  
48 system of the applicant supplied in whole or in part from that source.  
49 If the department so requires, or if it grants a permit, it shall be the  
50 duty of the applicant so to supply water, subject to such requirements  
51 as the department may impose. The PRICE TO BE PAID FOR THE amount of  
52 water so to be taken [and the price to be paid therefor] may be agreed  
53 upon between the applicant and the taker of the water, or if they cannot  
54 agree, fair and reasonable amounts and rates shall be, after due hear-  
55 ings thereon, fixed by the [department, provided however, that such  
56 department shall have no power to fix rates in any case where the Public

1 Service Commission has such power, and provided further, that nothing in  
2 this section contained shall be construed as diminishing the powers of  
3 said Public Service Commission in respect to rates of water works compa-  
4 nies subject to its jurisdiction] PUBLIC SERVICE COMMISSION. Any such  
5 agreement or determination of the [department] PUBLIC SERVICE COMMISSION  
6 may from time to time be modified by further agreement between the  
7 parties affected thereby or by the further order of the [department]  
8 COMMISSION.

9 S 7. Section 15-1529 of the environmental conservation law is amended  
10 to read as follows:

11 S 15-1529. [Final approval of work] APPROVAL OF COMPLETED WATER WITH-  
12 DRAWAL SYSTEMS.

13 [Before any project authorized to be developed or carried out under  
14 this title 15 shall be operated, it must, as completed, have been  
15 approved by the department] THE CONSTRUCTION OF ANY NEW OR MODIFIED  
16 WATER WITHDRAWAL SYSTEM AUTHORIZED UNDER THIS TITLE SHALL BE UNDER THE  
17 GENERAL SUPERVISION OF A PERSON OR FIRM LICENSED TO PRACTICE PROFES-  
18 SIONAL ENGINEERING IN THE STATE. UPON COMPLETION OF CONSTRUCTION, SUCH  
19 PERSON OR FIRM SHALL CERTIFY TO THE DEPARTMENT THAT THE WATER WITHDRAWAL  
20 SYSTEM HAS BEEN FULLY COMPLETED IN ACCORDANCE WITH THE APPROVED ENGI-  
21 NEERING REPORT, PLANS AND SPECIFICATIONS, AND THE PERMIT ISSUED BY THE  
22 DEPARTMENT PURSUANT TO THIS TITLE. THE OWNER SHALL NOT COMMENCE OPERA-  
23 TION OF THE NEW OR MODIFIED WATER WITHDRAWAL SYSTEM PRIOR TO THE DEPART-  
24 MENT RECEIVING SUCH CERTIFICATE AND PRIOR TO APPROVAL OF THE SYSTEM BY  
25 THE DEPARTMENT OF HEALTH OR ITS DESIGNEE AS MAY BE REQUIRED BY THE STATE  
26 SANITARY CODE.

27 S 8. Title 16 of article 15 of the environmental conservation law is  
28 REPEALED.

29 S 9. Title 33 of article 15 of the environmental conservation law is  
30 REPEALED.

31 S 10. Subdivision 1 of section 71-1127 of the environmental conserva-  
32 tion law, as amended by chapter 640 of the laws of 1977, is amended to  
33 read as follows:

34 1. Any person who violates any of the provisions of, or who fails to  
35 perform any duty imposed by article 15 except section 15-1713, or who  
36 violates or who fails to comply with any rule, regulation, determination  
37 or order of the department heretofore or hereafter promulgated pursuant  
38 to article 15 except section 15-1713, or any condition of a permit  
39 issued pursuant to article 15 of this chapter, or any determination or  
40 order of the former water resources commission or the [Department of  
41 Environmental Conservation] DEPARTMENT heretofore promulgated pursuant  
42 to former article 5 of the Conservation Law, shall be liable for a civil  
43 penalty of not more than TWO THOUSAND five hundred dollars for such  
44 violation and an additional civil penalty of not more than [one] FIVE  
45 hundred dollars for each day during which such violation continues, and,  
46 in addition thereto, such person may be enjoined from continuing such  
47 violation as otherwise provided in article 15 except section 15-1713.

48 S 11. This act shall take effect April 1, 2011; provided, however that  
49 section four of this act shall take effect immediately; and provided,  
50 further that sections eight and nine of this act shall take effect  
51 December 31, 2013.