Long Island Water Conference

Legislative Forum

March 10, 2023

Opening Remarks

John Kilpatrick, P.E.

Chairman, Long Island Water Conference

Director of Engineering, Liberty New York Water

Infrastructure Funding, Lead and Copper Updates & Support for NYS DOH & DEC

Paul Granger, P.E.

Legislative Committee Co-Chair,
Long Island Water Conference
Superintendent,
Hicksville Water District

Thank You for Passing Polluters Pay Bill

- We sincerely appreciate Governor Hochul and the New York State Legislature for passing A2620/S0956 into law last year.
- This law is critical to water suppliers in our mission to hold responsible polluters accountable for drinking water contamination.

2023 Legislative Agenda Overview

- Continued need for drinking water infrastructure funding
- Provide adequate funding to NYSDOH Bureau of Public Water Supply Protection & NYSDEC Region 1 Water Division
- Support for S.4350 Hinchey /A.3133 Steck calling for the enactment of the "Safe Water Infrastructure Action Program Act"
- Water conservation legislation to improve lawn irrigation efficiency
- Support for private water utilities accessing state grant funds
- Support for A2996 (Thiele) /S2927 (Cleare) regarding Maximum Contaminant Level Goals

Emerging Contaminant Recap

- Total capital costs island-wide to treat 1,4-dioxane, PFOS and PFOA is at more than $1.5 billion.
- More than 40 wellhead treatment systems for 1,4-dioxane removal are online as of March 2023.
  - Water suppliers have taken swift and determined action to implement treatment as quickly as possible.
- The LIWC appreciates all of the efforts by our state's elected officials for helping secure much needed funding.
- There are still many budget holes to fill and new challenges on the horizon so continued funding is needed to keep our water affordable and of the highest quality.
  - Additional wells need treatment for emerging contaminants
  - Cost to operate and maintain new treatment systems is a significant, on-going expense
  - Supply chain issues continue to impact cost and project timelines

Drinking Water Infrastructure Funding

- 50 public & private water systems provide water to 3+ million people on Long Island.
- 95% of submitted improvement projects to the DWSRF program remain unfunded.
- Estimates for repairing, replacing, and updating drinking water infrastructure adds up to **$38.7 billion** over the next 20 years.
- The addition of emerging contaminant MCL compliance will cost billions over the next 20 years.
- Hundreds of wells impacted by emerging contaminant treatment.
- Funding sources need to be established to help with customer-owned lead service lines when they are found.

Drinking Water Infrastructure Funding

- While we are grateful for the all financial support provided thus far, we implore the Governor and State Legislature to increase the level of funding to sufficient levels that will allow for continued construction of treatment for emerging contaminants and for the replacement of aging critical drinking water infrastructure.

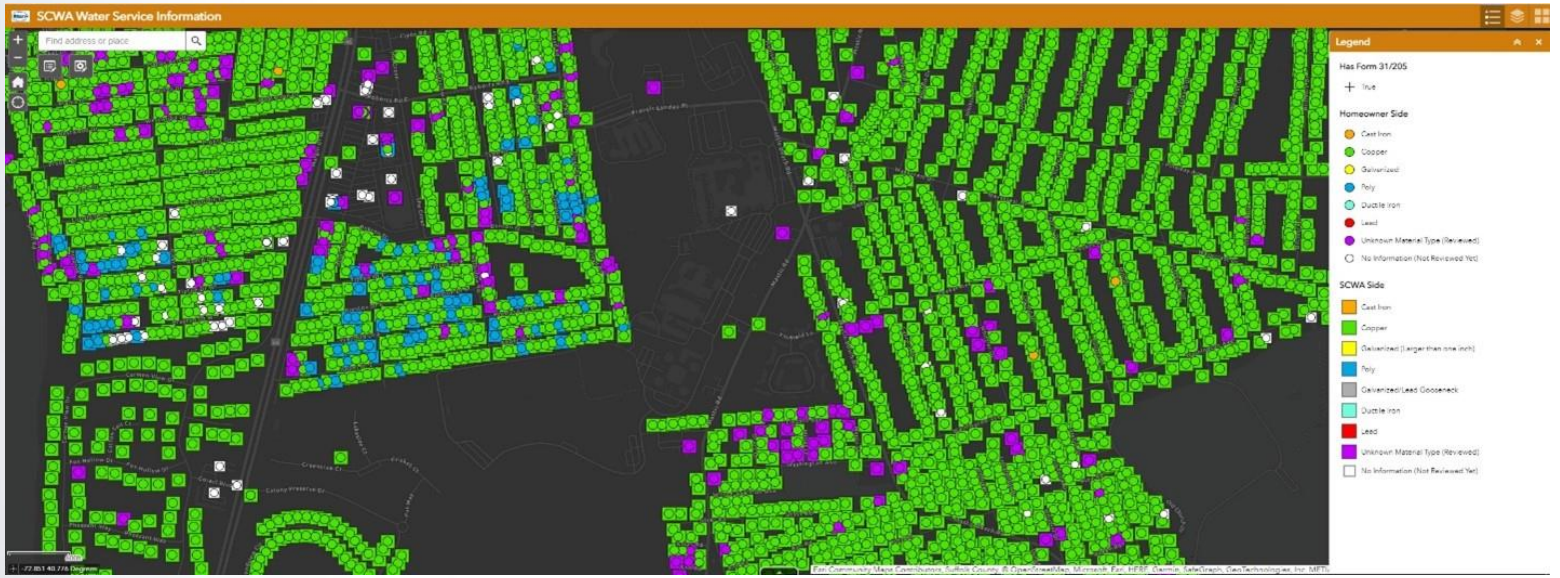
- We also request that the legislature consider measures that, in advance of the promulgation of MCLs for future emerging contaminants, provide measures to minimize ratepayer impact through a more practical implementation timeline coupled with additional funding.

EPA Lead and Copper Rule Revisions

- The U.S. Environmental Protection Agency is in the process of updating its regulations to the Lead and Copper Rule (LCR)
- Long Island water providers continuously meet or surpass all current regulatory requirements to ensure our water is not corrosive and accelerating the leaching of any lead materials.
- When elevated levels of lead are found in a residents' home, it stems from either a water service line or other lead-containing plumbing fixtures.
- While the vast majority of lead-based materials have been phased out and replaced over the years, some residents may still unknowingly have them in their home.
- Replacement of lead service lines and other internal plumbing components in the home may be the homeowners responsibility.

EPA Lead and Copper Rule Revisions

- As part of the revisions to the EPA's LCR, which are expected to be finalized in October of 2024, water providers will be embarking on various education and awareness campaigns about what residents can do to limit lead exposure in their home should they have a lead service line or other lead-based fixtures.
- In addition, water providers have already started an aggressive data-collection initiative, as required by the new rule revisions, to better understand what materials have been used for water service lines throughout their service territories.



Provide Adequate Funding to NYSDOH & NYSDEC

- We would like to thank Governor Hochul and the State Legislature for providing additional funding for the New York State Department of Environmental Conservation (NYSDEC) Region 1 Water Division.
- Heightened public awareness of unregulated contaminants increases the importance of maintaining funding to address spills and protect our vital groundwater source.
- The New York State Department of Health (NYSDOH) requires sufficient funding to regulate health effects and regulatory limits for these emerging compounds.
  - Failure to properly fund the NYSDOH will delay wellhead treatment implementation and adversely impact water supply operations.
- We urge legislators to prioritize funding these vital agencies and their programs for the upcoming state budget.

S.W.A.P Act & Water Conservation Legislation

Tyrand Fuller, P.G.

Legislative Committee Co-Chair,
Long Island Water Conference
Director of Strategic Initiatives,
Suffolk County Water Authority

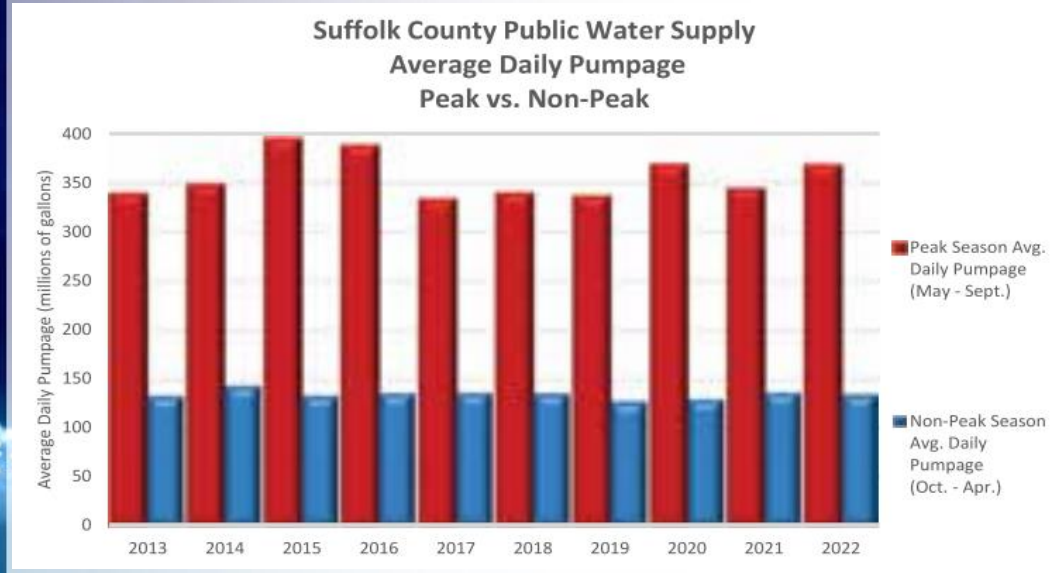
Safe Water Infrastructure Action Program (S.W.A.P.) Act

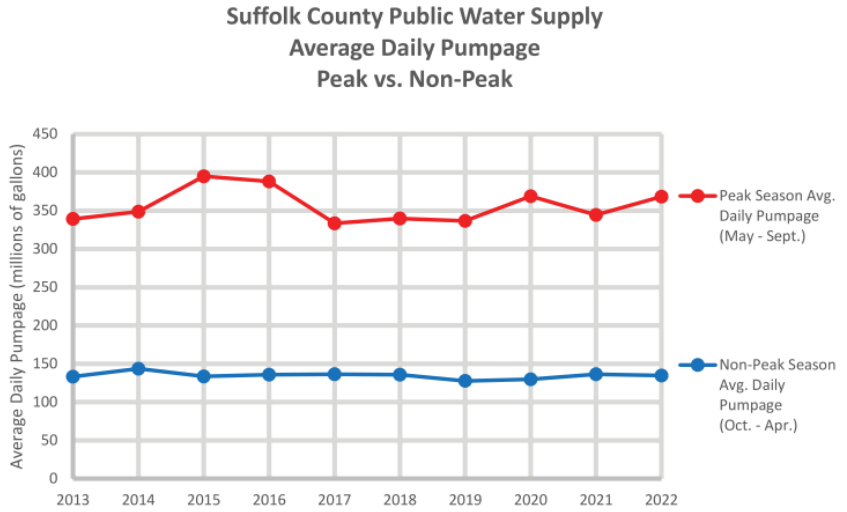
- The bipartisan program is for drinking water, storm water and sanitary sewer and gas line infrastructure.
  - It is modeled on the successful Consolidated Local Street and Highway Improvement Program (CHIPS).
- S.W.A.P. would provide annual funding to all municipalities in the state to identify and swap-out old, deteriorating pipes, water mains and gas lines.
  - Most underground water infrastructure under New York State is aging, and some of Long Island's is more than 100 years old.
  - Aging infrastructure is costly to localities, a threat to public safety and impedes economic development.
- We urge state legislators to take action and pass **S.4350 Hinchey / A.3133 Steck**

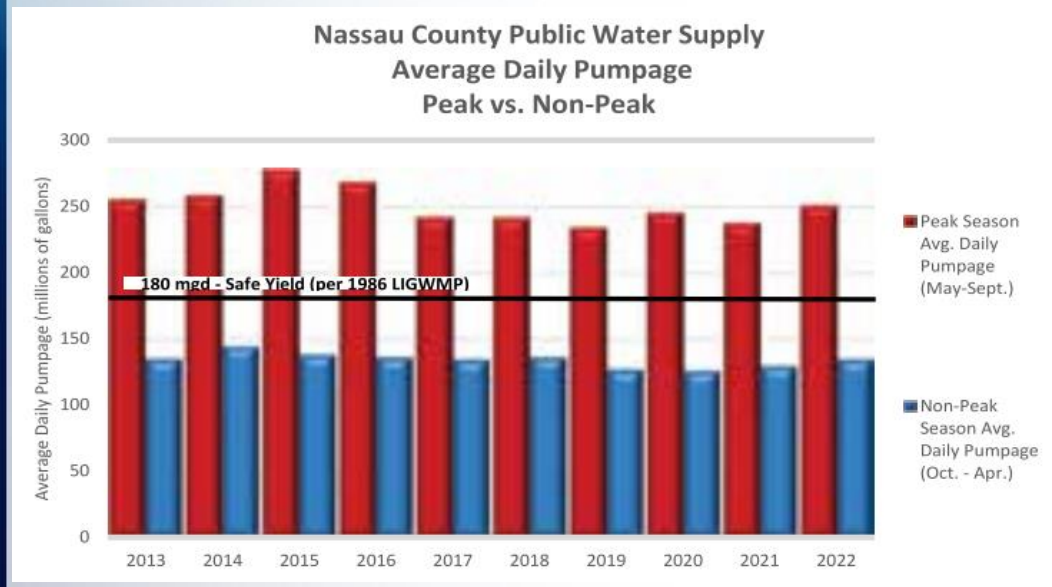
Water Conservation Legislation to Improve Lawn Irrigation Efficiency

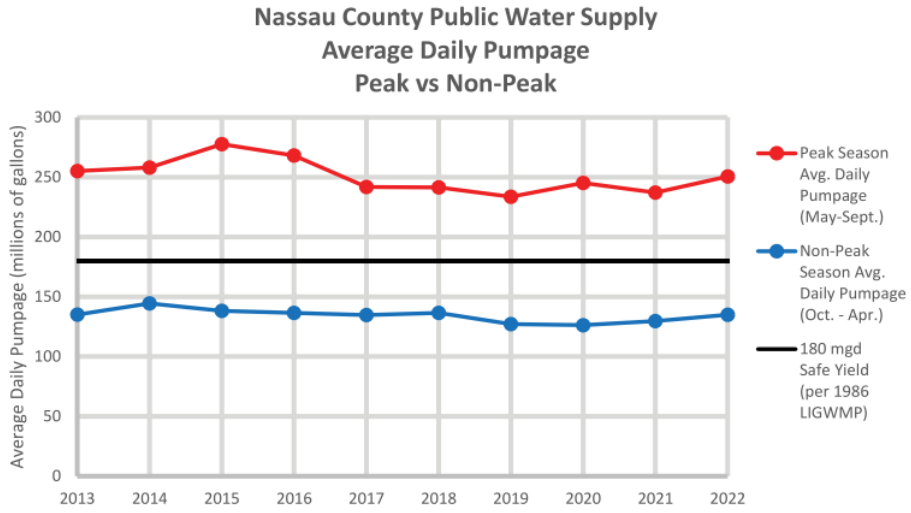
- Significant amounts of water from utilities will be used for irrigation purposes, especially during times of drought.
  - Spray sprinkler bodies without pressure regulators will use the maximum water pressure available and put strain on water systems to meet demand and burden the state's water supply and providers.
- Other states require that all spray sprinkler bodies meet EPA WaterSense standards and come equipped with a pressure regulator.
- The proposed bill extends these standards to New York.
  - Without these requirements, Long Island's sole-source aquifer will continue to be strained and water will be wasted unnecessarily.

Peak vs Non-Peak Pumpage









Why Support Water Conservation?

- It is our most precious natural resource that we simply cannot live without.
- Access to a plentiful supply of high quality water is vital for the continued success of region and economy.
- Mitigate impacts of salt water intrusion and groundwater contamination.
- Majority of infrastructure projects with state and federal funding is taking place to ensure we have capacity to meet demands at peak times (irrigation systems).
- We urge legislators to support legislation that adopts new water conservation measures to stop water waste and protect our most precious and vital natural resource.

Support for Private Water Utilities to Access Infrastructure Funding Sources

Steve Delligatti

Legislative Committee Co-Chair,
Long Island Water Conference
External Affairs Manager,
Liberty New York Water

Support for Private Water Utilities Accessing State Grant Funds

- At present, investor-owned water utilities in New York State are not eligible for public grant funding.
- Liberty New York Water, which serves more than 124,000 customer connections (more than 300,000 Nassau County residents) on Long Island is currently not eligible for state or federal monies and other public funding opportunities.
- Allowing access to grant funding would allow the water system to make needed investments while providing rate relief to these customers.
- Company will see no profit from gaining access to grants – all monies would go directly to necessary infrastructure projects for residents.
- Taxpayer dollars from residents in Liberty New York's service territory are partially funding the current grant programs.
- It is only right that these residents have the benefit from the grant monies pool that they are helping to fund.

Support for A2996 (Thiele)/S2927 (Cleare) Maximum Contaminant Level Goals

Tim Hopkins

Chief Legal Officer

Suffolk County Water Authority

Support for **A2996 (Thiele)/S2927 (Cleare)**

- This will add establish NYSDOH maximum contaminant level goals (MCLGs) for current and future emerging contaminants.
  - MCLGs consider the known health effects of compounds and provide guidance on the appropriate levels suppliers should aim to treat.
- The NYSDOH does not currently have MCLGs, so water suppliers turn to the EPA's MCLGs.
- We urge support for A2996/S2927 in order to provide the public and water suppliers with crucial guidelines for the preservation of public health.

Once EPA decides to regulate a contaminant, how does the Agency develop a regulation?

After reviewing health effects data, EPA sets a maximum contaminant level goal (MCLG). The MCLG is the maximum level of a contaminant in drinking water at which no known or anticipated adverse effect on the health of persons would occur, allowing an adequate margin of safety.

MCLGs are non-enforceable public health goals. MCLGs consider only public health and not the limits of detection and treatment technology effectiveness. Therefore, they sometimes are set at levels which water systems cannot meet because of technological limitations.

When determining an MCLG, EPA considers the adverse health risk to sensitive subpopulations:

- Infants
- Children
- The elderly
- Those with compromised immune systems and chronic diseases

The way EPA determines MCLGs depends on the type of contaminant targeted for regulation:

For **microbial contaminants** that may present public health risk, EPA sets the MCLG at zero. This is because ingesting one protozoan, virus, or bacterium may cause adverse health effects.

For **chemical contaminants that are carcinogens,** EPA sets the MCLG at zero if both of these are the case:

- there is evidence that a chemical may cause cancer
- there is no dose below which the chemical is considered safe.

If a chemical is carcinogenic and a safe dose can be determined, EPA sets the MCLG at a level above zero that is safe.

For **chemical contaminants that are non-carcinogens but can cause adverse non-cancer health effects** (for example, reproductive effects), the MCLG is based on the reference dose. A **reference dose** (RfD) is an estimate of the amount of a chemical that a person can be exposed to on a daily basis that is not anticipated to cause adverse health effects over a lifetime.

- To determine the RfD, the concentration for the non-carcinogenic effects from an epidemiology or toxicology study is divided by uncertainty factors (for example, for sensitive subpopulations). This provides a margin of safety for consumers of drinking water.
- The RfD is multiplied by body weight and divided by daily water consumption to provide a Drinking Water Equivalent Level (DWEL).
- The DWEL is multiplied by the relative source contribution. The relative source contribution is the percentage of total drinking water exposure for the general population, after considering other exposure routes (for example, food, inhalation).

Once the MCLG is determined, EPA sets an enforceable standard. In most cases, the standard is a maximum contaminant level (MCL). The MCL is the maximum level allowed of a contaminant in water which is delivered to any user of a public water system.

When there is no reliable method that is economically and technically feasible to measure a contaminant at concentrations to indicate there is not a public health concern, EPA sets a “treatment technique” rather than an MCL. A treatment technique is an enforceable procedure or level of technological performance which public water systems must follow to ensure control of a contaminant.

Treatment technique rules also list:

- The best available technology for meeting the standard
- Compliance technologies available and affordable for small systems

Examples of treatment technique rules are the:

- Surface Water Treatment Rule (disinfection and filtration)
- Lead and Copper Rule (optimized corrosion control)
- Acrylamide and Epichlorohydrin Rules (purity of treatment chemicals)

The MCL is set as close to the MCLG as feasible. Taking cost into consideration, EPA must determine the feasible MCL or treatment technique. This is defined by SDWA as the level that may be achieved with:

- use of the best available technology or treatment approaches
- other means which EPA finds are available (after examination for efficiency under field conditions, not solely under laboratory conditions)

As a part of the rule analysis, SDWA also requires EPA to prepare a health risk reduction and cost analysis (HRRCA) in support of any NPDWR. EPA must analyze

STATE OF NEW YORK

2996

2023-2024 Regular Sessions

IN ASSEMBLY

February 1, 2023

Introduced by M. of A. THIELE -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to the establishment of maximum contaminant level goals (MCLGs) for emerging contaminants

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 2 of section 1112 of the public health law is amended by adding a new paragraph d to read as follows:

d. "Maximum contaminant level goal" or "MCLG" shall mean the maximum level of a contaminant in drinking water at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. Maximum contaminant level goals are non-enforceable health goals.

§ 2. Section 1112 of the public health law is amended by adding a new subdivision 15 to read as follows:

15. The commissioner shall by regulation establish a maximum contaminant level goal (MCLG) for each emerging contaminant for which the commissioner has established a maximum contaminant level as of the effective date of this subdivision and for which the commissioner establishes a maximum contaminant level after the effective date of this subdivision. When establishing a MCLG, the commissioner shall consider the adverse health risk to sensitive sub-populations, including infants, children, the elderly, and those with compromised immune systems and chronic diseases. For microbial contaminants that may present a public health risk, the commissioner shall set the MCLG at zero. For chemical contaminants that are carcinogens, the commissioner shall set the MCLG at zero if both of these elements are present: (a) there is evidence that a chemical may cause cancer; and (b) there is no dose below which the chemical is considered safe. If a chemical is carcinogenic and a safe dose can be determined, the commissioner shall set the MCLG at a level above zero that is safe. For chemical contaminants that are non-

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

LBD06115-01-3

carcinogens but can cause adverse non-cancer health effects, the commissioner shall set the MCLG based on the chemical's reference dose. A reference dose is an estimate of the amount of a chemical that a person can be exposed to on a daily basis that is not anticipated to cause adverse health effects over a lifetime.

§ 3. Paragraph (b) of subdivision 5 of section 1113 of the public health law, as added by section 1 of part R of chapter 57 of the laws of 2017, is amended to read as follows:

(b) a review of substances identified as emerging contaminants pursuant to section one thousand one hundred twelve of this title. Where appropriate the council shall recommend either a maximum contaminant level (MCL) and maximum contaminant level goal (MCLG), or the removal of the substance from the list of emerging contaminants, on the basis of available scientific evidence and any other relevant factors. The council shall also recommend a MCLG for each emerging contaminant for which it has already recommended an MCL as of the effective date of this paragraph;

§ 4. This act shall take effect immediately.

Q & A

Closing Remarks

Hon. Michael Kosinsky

Treasurer, Nassau Suffolk Water Commissioners Association

Commissioner, Roslyn Water District

Thank you for coming!

We look forward to addressing these issues with you on behalf of all the Long Islanders we collectively serve.

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