FOR IMMEDIATE RELEASE:
January 21, 1997

EXHIBIT A

Governor Pataki Signs Historic Agreement on NYC Watershed

After a four-month public review period during which nearly 150 public meetings were held, Governor George E. Pataki, New York City Mayor Rudolph W. Giuliani, U.S. Environmental Protection Agency (EPA) Region 2 Administrator Jeanne Fox and representatives of New York's environmental community and officials from throughout the Hudson Valley and Catskill regions today signed the agreement protecting the drinking water of nine million New Yorkers while protecting the economic vitality of the New York City Watershed communities into the 21st century.

The agreement, released for public review and comment on September 10, has received the support of seven counties, sixty towns, ten villages and some of New York's most significant environmental organizations.

"This Agreement is a great victory for New Yorkers who believe, as I do, that environmental protection and economic growth go hand in hand," Governor Pataki. "Today marks another important step in our ongoing effort to protect and preserve the drinking water for nine million New Yorkers, while saving New York City ratepayers billions of dollars and allowing the Watershed communities to grow and prosper.

"This historic agreement marks a new and productive relationship between the city and its upstate neighbors, but it is only the beginning," the Governor said. "With this agreement, we all take a pledge to work every day to ensure that New Yorkers have clean and healthy water as the Watershed communities shake off the years of uncertainty that stifled economic opportunity."

As a result of the public comments received, the parties agreed to make close to thirty changes to the agreement, including providing more opportunities for public involvement in the development of recommendations by the newly created Watershed Protection and Partnership Council concerning the protection of the Watershed and extending USEPA's primary enforcement authority over the Catskill and Delaware systems until 2007.

"I am extremely pleased to join Governor Pataki, EPA Region 2 Administrator Jeanne Fox and my colleagues from the watershed and environmental communities in signing this historic agreement," Mayor Giuliani said. "New York City is extremely fortunate to have access to one of the world's finest water supplies. -more-

"This agreement will ensure that this extraordinary legacy is preserved and protected into the 21st Century," the Mayor said. "Working with our upstate partners, the programs and actions that will flow from this agreement will be an important investment in the well-being of future generations of New Yorkers who depend on receiving safe drinking water."

The Watershed Agreement identifies the elements of the City's comprehensive Watershed protection program and includes a land acquisition program, new Watershed regulations, and a host of Watershed protection and partnership programs.

The EPA will issue a four-month Interim Filtration Avoidance Determination and a revised Filtration Avoidance Determination later in 1997. Provided certain milestones are reached by the City, the agreement allows the City to avoid filtering its Catskill & Delaware drinking water supply until at least April 15, 2002. The Agreement now provides USEPA's and the State's intention that if the Catskill and Delaware systems continue to meet the objective criteria for filtration avoidance and the City continues to meet its obligations under the filtration avoidance determination, the Catskill and Delaware systems will continue to be used under filtration avoidance determinations as unfiltered public drinking water

supplies for at least twenty years.

"Today's action offers the promise of protecting public health while saving billions of dollars for ratepayers," EPA Region 2 Administrator Jeanne Fox said.

"This agreement makes environmental and economic sense for the people of New York -- but we must be ever vigilant," Administrator Fox said. "Safe, clean water is the first line of defense for public health. Our commitment is to safe, clean tap water for all, including the most vulnerable among us. EPA will carefully monitor the implementation of today's agreement and evaluate its effectiveness in protecting public health."

Governor Pataki convened the Ad Hoc Watershed Committee in the Spring 1995 to aid the City and the Watershed communities in the development of a program for protecting New York City's water supply as well as the economic vitality and rights of the residents in Schoharie, Greene, Delaware, Sullivan, Ulster, Dutchess, Westchester and Putnam counties.

"Today's signing begins much more than a new era of watershed protection for New York City. It begins a period of hard work, research and scrutiny that we hope will ultimately yield the best watershed protection program in the nation," Robert F. Kennedy Jr., chief prosecuting attorney for Hudson Riverkeeper, said.

"The communities of the Catskill and Delaware watersheds look forward to the implementation of the many water quality and economic programs set forth in the Watershed Agreement," said Perry Shelton, Chairman of the Coalition of Watershed Towns. "The economic assistance available will help bring jobs to our people and stability to the region which has long protected the quality of the City's drinking water. We are thankful to Governor Pataki for his intervention and persistence in getting all the parties together to reach this landmark Agreement. We are also grateful to Senator Charlie Cook for his support and guidance of the Coalition for the past six years." Putnam County Executive Robert J. Bondi said, "This has been an incredibly difficult and sensitive undertaking. Despite the problems, we have managed to break through the distrust and to reconcile the competing interests, something I don't think could have been accomplished without the good offices of Governor Pataki, the dedication of his staff, and the entire cast of negotiators. They have given us a blueprint for the future of the Watershed. It is up to the rest of us to make it work."

Westchester County Executive Andrew O'Rourke said, "I commend Governor Pataki, the representatives of the watershed communities, and all the other participants in this arduous process for their perseverance and dedication. This unprecedented, historic agreement will help preserve the reservoirs that provide drinking water for millions of people, including 85 percent of Westchester residents."

The Safe Drinking Water Act Amendments of 1996 provide $105 million through the federal EPA for watershed protection programs, including enhanced monitoring projects.

Land Acquisition Program

The NYS Department of Environmental Conservation will issue a 10-year water supply permit to enable the City to acquire, through the purchase of fee title to, or conservation easements on, water quality sensitive, undeveloped land from willing sellers. The City will not acquire property through their power of eminent domain.

The City will pay fair market value for property and continue to pay taxes on property it acquires. The Land Acquisition Program also includes a community consultation process for property the City intends to purchase.

The City will spend $250 million in the Catskill & Delaware Watershed and $10 million in the Croton Watershed to acquire property deemed important for drinking water quality protection. The City will commit an additional $50 million to land acquisition in the Catskill & Delaware Watershed if determined necessary by USEPA in 2002. The State will invest an additional $7.5 million in Croton

Watershed land acquisition.

Property in the Catskill & Delaware Watershed has been prioritized into five categories (1A, 1B, 2, 3, and 4) for acquisition, and property in the Croton Watershed has been prioritized into three categories (A, B, and C) for acquisition. The Agreement defines the priority areas which are ranked according to their proximity to reservoir intakes and their distance from the City's distribution system. The City is not required to purchase a specific amount of acreage in the Watershed, however, it must contact the owners of 350,050 acres of eligible land in the Catskill & Delaware Watershed. The Agreement also sets out the multi-year schedule for the City to contact landowners in each priority area.

Watershed Regulations

New Watershed Regulations are an important part of the Agreement. The new Watershed Regulations replace the existing two page Watershed regulations last updated in 1954. The City and the State will adopt the new Regulations which are anticipated to become effective in April 1997.

The Watershed Regulations are designed to ensure the continued, long-term protection of the City's drinking water supply and minimize, to the extent feasible, the adverse impacts on the Watershed communities. The Watershed Regulations work in conjunction with existing federal and state regulations and provide additional regulations tailored to this unique living watershed. The Watershed Regulations are designed to reduce current contaminants and prevent the introduction of new sources of contamination to the drinking water supply. The Watershed Regulations provide for the City's regulation of a myriad of activities undertaken in the Watershed, including:

Wastewater Treatment Plants -- Stringent requirements on the construction and operation of wastewater treatment plants, prohibitions and restrictions on locating or expanding wastewater treatment plants in stressed reservoir basins, prohibitions and restrictions on the discharge of treated wastewater effluent;

Septic Systems -- Prohibitions and restrictions on new septic systems located within buffer distances around reservoirs and watercourses, and stringent operational standards;

Stormwater Controls -- Prohibitions and restrictions on new impervious surfaces (i.e. roads, roofs) within buffer distances around reservoirs, watercourses and wetlands; requirement of project sponsors to develop stormwater pollution prevention plans for certain activities;

Regulation of Hazardous Substances -- Prohibitions and restrictions on new hazardous substance storage tanks within buffer distances around reservoirs and watercourses;

`Regulation of Petroleum Storage -- Restrictions on the location of new petroleum storage tanks within buffer distances of reservoirs and watercourses;

Establishment of a Pesticide & Fertilizer Working Group --A working group w ill be established to analyze the State's regulations on the storage, use and application of fertilizers and pesticides, and to recommend any changes to the State's regulations or enhancements to the City's ability to monitor impacts from storage and use;

Watershed Planning -- Croton Watershed Planning -- A comprehensive Croton Watershed planning effort can be undertaken at the request of any county located East of Hudson, and in partnership with the localities in the counties and the City to identify significant sources of pollution; recommend measures to be undertaken that, in conjunction with other water quality protection programs, will prevent degradation to, and improve water quality with the long-term goal of attaining water quality standards in the Croton System; and recommend strategies to protect the character and special needs of the communities.

West of Hudson Comprehensive Strategy -- Incentives are provided to encourage the development of a comprehensive strategy by the City, a county, and the locality to identify existing economi c resources and water quality problems, potential remedies for such problems. and recommend economic

development initiatives that could be undertaken to sustain local economies while protecting the water supply.

Establishment of Administrative Appeals Process -- Includes procedural protections, specific timeframes for decisions, and a list of adjudicable issues.

Watershed Protection and Partnership Programs

The Watershed Protection and Partnership Programs include the City's and State's investment in the Watershed, including the City's investment in a host of programs designed to remediate existing adverse impacts to water quality and programs to prevent adverse impacts to water quality in the future.

The City has committed more than $270 million West of Hudson for water quality protection and partnership programs. East of Hudson, the City has committed more than $126 million for investment in water quality improvement and partnership programs.

Together, these water quality protection and partnership programs include nearly $300 million for pollution prevention efforts, such as the upgrade of all 105 public and privately-owned sewage treatment plants; septic system maintenance and rehabilitation; the construction of new centralized sewage systems and extension of sewer systems to correct existing problems; stormwater management measures; public education; improved storage of sand, salt and de-icing materials; and stream corridor protection projects.

Enhanced Monitoring Program

An enhanced monitoring program will be implemented to assess, on a continuing basis, the ambient conditions of the Watershed. The State and USEPA have committed to give priority to monitoring projects in their determination of projects that will receive any federal funds appropriated under the Safe Drinking Water Act Amendments of 1996.

Under the leadership of Senators D'Amato and Moynihan and Congressman Boehlert, the Safe Drinking Water Act Amendments of 1996 include an authorization for EPA to spend up to $15 million in federal fiscal years 1997 through 2001 in the Watershed to fund monitoring and other projects which aid the City in continuing to avoid filtering the drinking water supply. The State of New York will administer the federal funds.

Watershed Protection & Partnership Council

A Watershed Protection and Partnership Council has also been created to be a permanent, regional forum to aid in the long-term protection of drinking water quality and the economic vitality of the Watershed communities.

The Council will represent a broad-based diverse group of interests that share the common goal of protecting and enhancing the environmental integrity of the Watershed and the social and economic vitality of the Watershed communities. The Council will be a forum for the discussion and review of water quality concerns and related Watershed issues, and to make recommendations on future actions to be taken by the City, federal government, and State to enhance Watershed protection.

Return to the Press Releases
Return to the Office of the Governor

EXHIBIT B

DEPARTMENT OF ENVIRONMENTAL PROTECTION

EXECUTIVE OFFICES
59-17 JUNCTION BLVD., 19TH FLOOR, CORONA, NEW YORK 11368-5107

JOEL A. MIELE, SR., P.E., COMMISSIONER

(718) 595-6565 FAX: (718) 595-3525

MEMO

September 18, 1998

TO: Distribution

FROM: Edwin Polese, P.E.,
Chief, Engineering Section

RE: Installation of Subsurface Septic System Absorption Fields

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Since March 13, 1998, the New York City Department of Environmental Protection (the Department) has required that Subsurface Septic System (SSTS) absorption fields be installed on natural slopes of fifteen percent or less.

As of September 9, 1998, in accordance with the New York State Department of Health interpretation of Appendix 75-A.4(a)(1), the Department will permit the modification of the natural slope of between fifteen and twenty percent down to fifteen percent by the use of fill. This will apply to all applications pending with the Department as of that date. If the Department disapproved any applications between March 13, 1998, and September 9, 1998, based solely on slope, the applicant may reapply in accordance with the above requirements.

Suitable fill material shall consist of only run-of-bank sand and gravel. Fill stabilization may be achieved by mechanical compaction in six inch lifts or by a natural settling period of at least six months which includes a freeze-thaw cycle. Percolation tests must be conducted in the stabilized fill and range from three to thirty minutes per inch. The slower percolation rate (natural soil vs. fill) should be used in determining the size of the absorption field.

All other design criteria outlined in Appendix 75-A must be met for a SSTS design to be approvable by the Department.

5TH DOCUMENT of Level 1 printed in FULL format.

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EXHIBIT C

*** THIS DOCUMENT IS CURRENT THROUGH CHAPTER 107 OF THE 1998 REGULAR ***
*** LEGISLATIVE SESSION AND LOCAL LAW 1998, NO. 22 OF THE CITY OF NEW YORK ***

NEW YORK CITY CHARTER
CHAPTER 45 CITY ADMINISTRATIVE PROCEDURE ACT

NYC Charter @ 1043 (1998)

@ 1043 Rulemaking.

a. Authority. Each agency is empowered to adopt rules necessary to carry out the powers and duties delegated to it by or pursuant to federal, state or local law. No agency shall adopt a rule except pursuant to this section. Each such rule shall be simply written, using ordinary langauge where possible.

b. Notice.

1. Each agency shall publish the full text of the proposed rule in the City Record at least thirty days prior to the date set for a public hearing to be held pursuant to the requirements of subdivision d of this section or the final date for receipt of written comments, whichever is earlier. A proposed rule amending an existing rule shall contain in brackets any part to be deleted and shall have underlined or italicized any new part to be added. A proposed rule repealing an existing rule shall contain in brackets the rule to be repealed, or if the full text of the rule was published in the Compilation required to be published pursuant to section one thousand forty-five, shall give the citation of the rule to be repealed and a summary of its contents. Such published notice shall include a draft statement of the basis and purpose of the proposed rule, the statutory authority, including the particular sections and subdivisions upon which the action is based, the time and place of public hearing, if any, to be held or the reason that a public hearing will not be held, and the final date for receipt of written comments. If the proposed rule was not included in the regulatory agenda, such notice shall also include the reason the rule was not anticipated, as required in subdivision c of section one thousand forty-two of this chapter.

2. Copies of the notice shall be transmitted to the council and the corporation counsel and mailed to each council member, the chairs of all community boards, the news media and civic organizations; provided that an inadvertent failure to fully comply with the notice requirements of this paragraph shall not serve to invalidate any rule.

3.

(a) News media, for the purposes of this subdivision, shall include (i) all radio and television stations broadcasting in the city of New York, all newspapers published in the city of New York having a city-wide or borough-wide circulation, and any newspaper of any labor union or trade association representing an industry affected by such rule, and (ii) any community newspaper or any other publication that requests such notification on an annual basis.

(b) Civic organizations, for the purposes of this subdivision, shall include any city-wide or borough-wide organization or any labor union, trade association or other group that requests such notification on an annual basis.

c. Review of statutory authority. The corporation counsel shall review the proposed rule to determine whether it is within the authority delegated by law to the agency proposing the rule. If the corporation counsel deter-mines that the proposed rule is not within the agency's delegated authority, the corporation counsel shall notify the agency in writing prior to the publication of the final rule in the City Record.

d. Opportunity for and consideration of agency and public comment. The agency shall provide the public an opportunity to comment on the proposed rule (i) through submission of written data, views, or arguments, and (ii) at a public hearing unless it is determined by the agency in writing, which shall be published in the notice of proposed rulemaking in the City Record, that such a public hearing on a proposed rule would serve no public purpose. All written comments and a summary of oral comments concerning a proposed rule received from the public or any agency shall be placed in a public record and be made readily available to the public as soon as practicable and in any event within a reasonable time, not to be delayed because of the continued pendency of consideration of the proposed rule. After consideration of the relevant comments presented, the agency may adopt a final rule pursuant to subdivision e of this section. Such final rule may include revisions of the proposed rule, and such adoption of revisions based on the consideration of relevant agency or public comments shall not require further notice and comment pursuant to this section.

e. Effective date.

1. No rule shall be effective until

(a) the rule is filed by the agency with the corporation counsel for publication in the Compilation,

(b) the rule and a statement of basis and purpose is transmitted to the council for its information, and

(c) the rule and a statement of basis and purpose have been published in the City Record and thirty days have elapsed after such publication. The requirement that thirty days shall first elapse after such publication shall not apply where a finding that a substantial need for the earlier implementation of a program or policy has been made by the agency in writing and has been approved by the mayor prior to the effective date of the rule and such finding and approval is contained in the notice.

2. A rule shall be void if it is not published in the next supplement to the Compilation in which its publication is practicable; provided, however, that in the case of an inadvertent failure to publish a rule in such supplement, the rule shall become effective as of the date of its publication, if it is published within six months of the date the corporation counsel receives notice of its omission; and further provided that any judicial or administrative action or proceeding, whether criminal or civil, commenced under or by virtue of any provision of a rule voided pursuant to this section and pending prior to such voidance, may be prosecuted and defended to final effect in the same manner as they might if such rule had not been so voided.

f. Petition for rules. Any person may petition an agency to consider the adoption of any rule. Within sixty days after the submission of a petition, the agency shall either deny such petition in writing, stating the reasons for denial, or state the agency's intention to initiate rulemaking, by a specified date, concerning the subject of such petition. Each agency shall prescribe byrule the procedure for submission, consideration and disposition of such petitions. In the case of a board, commission or other body that is not headed by a single person, such rules of procedure may authorize such body to delegate to its chair the authority to reject such petitions. Such decision shall be within the discretion of the agency and shall not be subject to judicial review.

g. Maintenance of comments. Each agency shall establish a system for maintaining and making available for public inspection all written comments received in response to each notice of rulemaking.

h. Emergency procedures.

1. Notwithstanding any other provision of this section, an agency may adopt a rule prior to the notice and comment otherwise required by this section if the immediate effectiveness of such rule is necessary to address an imminent threat to health, safety, property or a necessary service. A finding of such imminent threat and the specific reasons for the finding must be made in writing by the agency adopting such rule and shall be approved by the mayor before such rule may be made effective. In the event that an elected official other than the mayor has the authority to promulgate rules, such official may make such findings without prior mayoral approval. The rule and accompanying finding shall be made public forthwith and shall be published in the City Record as soon as practicable.

2. A rule adopted on an emergency basis shall not remain in effect for longer than sixty days unless the agency has initiated notice and comment otherwise required by this section within such sixty day period and publishes with such notice a statement that an extension of such rule on an emergency basis is necessary for an additional sixty days to afford an opportunity for notice and comment and to adopt a final rule as required by this section; provided that no further such finding of an emergency may be made with respect to the same or a substantially similar rule.

HISTORICAL NOTES:

add by Election Nov 8, 1988, eff immediately.

amd by LL 1989 No 42, @2, eff Jun 28, 1989.

amd by LL 1989 No 42, @2, eff Jun 28, 1989; amd by LL 1991 No 18, @1, eff Feb 28, 1991.

amd by LL 1989 No 42, @2, eff Jun 28, 1989.

amd by LL 1989 No 42, @2, eff Jun 28, 1989.

ANNOTATIONS:

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*** THIS SECTION IS CURRENT THROUGH 1998 CH. 657, 12/23/98 ***
*** WITH THE EXCEPTION OF CHS. 4, 10, 628 AND 635 ***

ENVIRONMENTAL CONSERVATION LAW
ARTICLE 8. ENVIRONMENTAL QUALITY REVIEW

NY CLS ECL @ 8-0109 (1998)

@ 8-0109. Preparation of environmental impact statement

1. Agencies shall use all practicable means to realize the policies and goals set forth in this article, and shall act and choose alternatives which, consistent with social, economic and other essential considerations, to the maximum extent practicable, minimize or avoid adverse environmental effects, including effects revealed in the environmental impact statement process.

2. All agencies (or applicant as hereinafter provided) shall prepare, or cause to be prepared by contract or otherwise an environmental impact statement on any action they propose or approve which may have a significant effect on the environment. Such a statement shall include a detailed statement setting forth the following:

(a) a description of the proposed action and its environmental setting;

(b) the environmental impact of the proposed action including short-term and long-term effects;

(c) any adverse environmental effects which cannot be avoided should the proposal be implemented;

(d) alternatives to the proposed action;

(e) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

(f) mitigation measures proposed to minimize the environmental impact;

(g) the growth-inducing aspects of the proposed action, where applicable and significant;

(h) effects of the proposed action on the use and conservation of energy resources, where applicable and significant, provided that in the case of an electric generating facility, the statement shall include a demonstration that the facility will satisfy electric generating capacity needs or other electric systems needs in a manner reasonably consistent with the most recent state energy plan;

(i) (Added, L 1990, ch 182) *effects of proposed action on solid waste management where applicable and significant; and

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* There are two paragraphs (i).

- - - - - - - - - - - - - - - - - END FOOTNOTES - - - - - - - - - - - - - - - - -

(i) *effects of any proposed action on, and its consistency with, the comprehensive management plan of the special groundwater protection area program, as implemented by the commissioner pursuant to [fig 1] article fifty-five of this chapter; and

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* There are two paragraphs (i).

- - - - - - - - - - - - - - - - - END FOOTNOTES - - - - - - - - - - - - - - - - -

(j) such other information consistent with the purposes of this article as may be prescribed in guidelines issued by the commissioner pursuant to section 8-0113 of this chapter.

Such a statement shall also include copies or a summary of the substantive comments received by the agency pursuant to subdivision four of this section, and the agency response to such comments. The purpose of an environmental impact statement is to provide detailed information about the effect which a proposed action is likely to have on the environment, to list ways in which any adverse effects of such an action might be minimized, and to suggest alternatives to such an action so as to form the basis for a decision whether or not to undertake or approve such action. Such statement should be clearly written in a concise manner capable of being read and understood by the public, should deal with the specific significant environmental impacts which can be reasonably anticipated and should not contain more detail than is appropriate considering the nature and magnitude of the proposed action and the significance of its potential impacts.

3. An agency may require an applicant to submit an environmental report to assist the agency in carrying out its responsibilities, including the initial determination and, (where the applicant does not prepare the environmental impact statement), the preparation of an environmental impact statement under this article. The agency may request such other information from an applicant necessary for the review of environmental impacts. Notwithstanding any use of outside resources or work, agencies shall make their own independent judgment of the scope, contents and adequacy of an environmental impact statement.

4. As early as possible in the formulation of a proposal for an action, the responsible agency shall make an initial determination whether an environmental impact statement need be prepared for the action. When an action is to be carried out or approved by two or more agencies, such determination shall be made as early as possible after the designation of the lead agency.

With respect to actions involving the issuance to an applicant of a permit or other entitlement, the agency shall notify the applicant in writing of its initial determination specifying therein the basis for such determination. Notice of the initial determination along with appropriate supporting findings on agency actions shall be kept on file in the main office of the agency for public inspection.

If the agency determines that such statement is required, the agency or the applicant at its option shall prepare or cause to be prepared a draft environmental impact statement. If the applicant does not exercise the option to prepare such statement, the agency shall prepare it, cause it to be prepared, or terminate its review of the proposed action. Such statement shall describe the proposed action and reasonable alternatives to the action, and briefly discuss, on the basis of information then available, the remaining items required to be submitted by subdivision two of this section. The purpose of a draft environmental statement is to relate environmental considerations to the inception of the planning process, to inform the public and other public agencies as early as possible about proposed actions that may significantly affect the quality of the environment, and to solicit comments which will assist the agency in the decision making process in determining the environmental consequences of the proposed action. The draft statement should resemble in form and content the environmental impact statement to be prepared after comments have been received and considered pursuant to subdivision two of this section; however, the length and detail of the draft environmental statement will necessarily reflect the preliminary nature of the proposal and the early stage at which it is prepared.

For any action for which the agency determines that such statement is not required and which would take place in a special groundwater protection area, as defined in section 55-0107 of this chapter, the agency shall show how such action would or would not be consistent with the comprehensive management plan of the special groundwater protection program, as implemented by the commissioner pursuant to [fig 1] article fifty-five of this chapter.

The draft statement shall be filed with the department or other designated agencies and shall be circulated to federal, state, regional and local agencies having an interest in the proposed action and to interested members of the public for comment, as may be prescribed by the commissioner pursuant to section 8-0113.

5. After the filing of a draft environmental impact statement the agency shall determine whether or not to conduct a public hearing on the environmental impact of the proposed action. If the agency determines to hold such a hearing [fig 1] , it shall commence the hearing within sixty days of the filing and unless the proposed action is withdrawn from consideration shall prepare the environmental impact statement within forty-five days after the close of the hearing, except as otherwise provided. The need for such a hearing shall be determined in accordance with procedures adopted by the agency pursuant to section 8-0113 of this article. If no hearing is held, the agency shall prepare and make available the environmental impact statement within sixty days after the filing of the draft, except as otherwise provided.

Notwithstanding the specified time periods established by this article, an agency shall vary the times so established herein for preparation, review and public hearings to coordinate the environmental review process with other procedures relating to review and approval of an action. An application for a permit or authorization for an action upon which a draft environmental impact statment is determined to be required shall not be complete until such draft statement has been filed and accepted by the agency as satisfactory with respect to scope, content and adequacy for purposes of paragraph four of this section. Commencing upon such acceptance, the environmental impact statement process shall run concurrently with other procedures relating to the review and

approval of the action so long as reasonable time is provided for preparation, review and public hearings with respect to the draft environmental impact statement.

6. To the extent as may be prescribed by the commissioner pursuant to section 8-0113, the environmental impact statement prepared pursuant to subdivision two of this section together with the comments of public and federal agencies and members of the public, shall be filed with the commissioner and made available to the public prior to acting on the proposal which is the subject of the environmental impact statement.

7. a. An agency may charge a fee to an applicant in order to recover the costs incurred in preparing or causing to be prepared or reviewing a draft environmental impact statement or an environmental impact statement on the action which the applicant requests from the agency; provided, however, that an applicant may not be charged a separate fee for both the preparation and review of such statements. The technical services of the department may be made available on a fee basis reflecting the costs thereof, to a requesting agency, which fee or fees may appropriately be charged by the agency to the applicant under rules and regulations to be issued under section 8-0113.

b. (Added, L 1987) Such rules and regulations shall require the applicant to reimburse the conservation fund, as established pursuant to subdivision (a) of section eighty-three of the state finance law, in order to recover all costs incurred in preparing or causing to be prepared or reviewing a draft environmental impact statement or an environmental impact statement by employees of the department, whose salary and expenses are paid, in whole or in part, from the conservation fund.

8. When an agency decides to carry out or approve an action which has been the subject of an environmental impact statement, it shall make an explicit finding that the requirements of this section have been met and that consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided.

9. (Added, L 1990) An environmental impact statement shall be prepared for any action found to have a significant impact on the special groundwater protection area, as defined in section 55-0107 of this chapter. Such statement shall meet the requirements of the most detailed environmental impact statement required by this section or by any such rule or regulation promulgated pursuant to this section.

HISTORY: Add, L 1975, ch 612, amd, L 1976, ch 228, @ 4, L 1977, ch 252, @ 3, eff June 10, 1977.
Sub 1, amd, L 1977, ch 252, @ 3, eff June 10, 1977.
Sub 3, amd, L 1977, ch 252, @ 3, eff Jun 10, 1977.
Sub 4, amd, L 1977, ch 252, @ 3, eff June 10, 1977.
Sub 4, second par, add, L 1977, ch 252, @ 3, eff June 10, 1977.
Sub 5, second par, add, L 1977, ch 252, @ 3, eff June 10, 1977.
Sub 8, amd, L 1977, ch 252, @ 3, eff June 10, 1977.
See 1976 note under Article heading.
Sub 2, amd, L 1990, ch 219, @ 1, eff June 11, 1990.
Sub 2, par (h), amd, L 1990, ch 219, @ 1, eff June 11, 1990, L 1992, ch 519, @ 7, eff July 24, 1992 (see 1992 note below).

Dec 29 '98 11:12 P.02
NYC DEP ENGINEERING Fax:914-773-0343

Preventing the paving of Putnam County

COMMUNITY VIEW:
Legislators should look at more than profits

ROBERT F. KENNEDY Jr.

Putnam County Legislator Vincent Tamagna takes me to task for representing 10 environmental and civic groups in a lawsuit to force the New York City Department of Environmental Protection to revoke its policy allowing construction of septic systems on steep slopes in the New York City watershed.

Robert F. Kennedy Jr.

Construction of septics on slopes steeper than 15 percent has long been prohibited under state health laws that seek to protect water quality. The City of New York recently adopted a dubious state Health Department policy, first published in 1996, that nevertheless allows construction of septic systems on slopes up to 20 percent so long as the developer flattens the hill down to 15 percent by bulldozing or importing fill. Both of these practices are known to lead to dangerous erosion and possibly septic-system failure. Steep slopes may also aggravate the water-quality injuries caused by septic systems that have already failed. Recent data indicates that as many as half the septic systems in the Catskill watershed are failed.

The suit is not trivial. Putnam is experiencing an unprecedented construction boom that has made it the fastest growing county in the state. The city action is largely a reaction to clamoring by Putnam's powerful real estate industry, which used up most of the suitable land in the 1980s and now seeks to move up Putnam's rocky hillsides. Twenty-five percent of new home construction is taking advantage of the new city policy.

Mr. Tamagna complains that our lawsuit will create "bedroom communities and a tax hell" in Putnam. The opposite is true. As Mr. Tamagna acknowledges, high taxes in watershed towns are attributable to residential development. New homes cost Putnam taxpayers $1.38 for each dollar they contribute in taxes. Since the city policy does not apply to commercial development, Riverkeeper's lawsuit targets the residential subdivisions that are driving Putnam's taxes through the roof. Small property owners won't be inconvenienced by a Riverkeeper victory; the public health law allows such individuals "special exemption" wherever an ordinance would prevent them from developing their land. Only large tract housing developments will be impacted. These are the special interests who are turning Putnam into a "bedroom community tax hell." With the protection of county leaders like Mr. Tamagna, such actors are free to trade high standards of living for themselves for lower quality of life for the rest of us.

Mr. Tamagna and other advocates of unrestrained sprawl look at the green vistas and wooded hills of Putnam County and see a commodity that can be liquidated for cash. This strategy might produce a short-term illusion of prosperity and longer-term loot for the county's boom-crazed real estate industry and the politicians who accept their largess, but it hardly benefits the public.

People move to Putnam for its fresh air, clean water and the cultural and spiritual values of small-town America. Not all growth is bad, but unchecked growth of the kind we are seeing in Putnam damages the entire region. Many Putnam residents are watching in horror as sprawl wastefully and relentlessly pushes development into its open countryside, destroying the soothing aesthetic of its working landscapes; devouring wetlands and wildlife habitat, causing traffic, air and water pollution; raising taxes; increasing flooding; killing town centers and eroding civic life. Through unplanned growth, we are inexorably building a Putnam County that contrasts with our idea of what makes a place worthwhile.

Instead of fixating on quick profits, Putnam's leaders must do the hard work of planning a physical setting that will support a healthy economy and that is worthy of the affections of county residents. This can be done through the creation of urban boundaries that force towns to grow upward, not outward, and encourage us all to live within the existing infrastructure for sewage, schools, police and fire, and to maintain population densities within towns sufficient to support downtown business and to preserve property values and the environment.

Mr. Tamagna and his friends try to seduce us into believing the public will profit from paving Putnam County. But over the long term, only the real estate industry barons will benefit. And they will have made enough money from our misery to move away from a county bereft of the benefits that lured most of us to the area in the first place.

The writer is chief attorney for the Hudson Riverkeeper Fund and supervising attorney, Pace Environmental Litigation Clinic Inc., White Plains.

→ Study by DEP
→ RFK group
→ any evidence pro/con by DEP

EXHIBIT D