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One Idea for Protecting a Municipality's Drinking Water

Study of Candor aquifer suggests Critical Environmental Area designation

by Sue Smith-Heavenrich

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Six months ago Steven Winkley, a source water protection specialist from the New York Rural Water Association, met with citizens and officials representing Candor Village, Candor Town and Tioga County to discuss how Candor might best protect its drinking water (see related article in Candor section). Last week Winkley apprised members of the "Catatonk Creek Aquifer Source Water Protection Planning Team" of the status of his study.

Since December, Winkley has been collecting data and mapping the aquifer, noting the topography, surface geology, aquifer and watershed boundaries, water well data, and parcel boundaries from one edge of town to the other. Currently Winkley is defining the recharge areas for the Candor Village wells.

Though he has not finished his study, Winkley has suggested one step that the town and village can take immediately to protect the water source that serves nearly everyone in Candor: designate the aquifer as a Critical Environmental Area (CEA) under State Environmental Quality Review (SEQR). Winkley's suggestion comes on the heels of similar suggestions from the County Department of Health as well as Tioga Investigates Natural Gas (TING).

What CEA Does

Local, county and state agencies use the CEA designation to protect their local and regional natural resources. Identifying CEAs can help distinguish the most – and least – suitable locations for business and development infrastructure, helping town planning boards facilitate effective land-use policies.

Before designating a local wetland, town park or village cemetery as a CEA, an agency must show that the area has an exceptional or unique character with respect to one or more criteria: Does it provide a benefit (or threat) to human health? Is the area a natural setting that provides wildlife habitat, forest and vegetation, or open space with important aesthetic or scenic qualities? Is the area unique for its agricultural, social, cultural, historic, archaeological, recreational, or educational values? Or are there any inherent ecological, geological or hydrological characteristics that may be adversely affected by any change?

"The more clearly you can define the unique traits of the area, the better chance you have of protecting it during development," says Bob Ewing of NY Department of Environmental Conservation (DEC). Ewing works in the permitting department at DEC and explained that, while they don't prohibit development, CEAs play a crucial role in allowing communities to retain control over their most valued resources.

What CEA Does Not Do

Designation as a Critical Environmental Area does not offer the legal protection provided by land use controls such as zoning. Instead, it encourages more thorough examination of

proposed development projects. CEA designation serves to alert development project sponsors to an agency's concern for a particular resource.

For example, designating an aquifer as a CEA means that when development is considered, the agencies filling out the environmental reviews have to give more specific responses to the questions on the SEQR.

“But,” Ewing emphasized, “designation as a CEA does not trigger a SEQR where one would not normally be required.” It helps during the process so that in the end the agencies have a better idea of whether – and how – environmental impacts can be minimized, he explained.

The take-away message, Ewing stressed, is that while CEA designation heightens the awareness of that resource during an environmental review, it does not add more regulation. And it definitely does not act as an avenue for control of development in the same way that zoning does.

The Impact of CEA on Drilling and Other Activities

Even if a town goes through the CEA designation process, that action does not grant the town any permitting authority, zoning restrictions or other jurisdictions that do not already exist. So why should Candor designate the Catatunk Creek Aquifer CEA status?

“The chief reason,” says Winkley, “is to raise awareness about the importance and sensitivity of the aquifer that serves the majority of the population in Candor.” He notes that CEA designation would support any future requests for the DEC to consider site-specific impacts for a particular permit. “CEA designation used to trigger more environmental review, but that is no longer the case,” Winkley added.

So what does that mean for those concerned about how CEA designation might impact drilling? Not much, Winkley says. “Since most drilling will be covered under the state's Generic Environmental Impact Statement (GEIS) and the Supplemental GEIS (currently under review), designation as a CEA would not directly come into play as long as the drillers follow the SGEIS.”

What CEA designation will do, says Winkley, is ensure that the unique characteristics of the aquifer are considered when decisions are made to approve or reject a project. “For example, a review of a site plan by the planning board would proceed as before,” Winkley said, “but the potential impacts upon the aquifer would become an additional issue that the applicant would have to address.”

Designating a CEA

Local municipalities and agencies – not the DEC – are the ones who designate an area as a CEA. The process is open and transparent, involving the public in meetings and hearings. To learn more about CEAs check the DEC website at <http://www.dec.ny.gov/permits/6184.html>