

OFFICE OF THE SUFFOLK COUNTY LEGISLATURE

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County Legislator Krupski Calls for Re-evaluating The Process for Closing Creeks to Shellfishing

Hauppauge, NY: During a presentation to the Suffolk County Legislature's Environment Planning and Agriculture (EPA) Committee on Monday, Southold Town Engineer Michael Collins outlined reasons why waterbodies are closed for shellfishing and how a misunderstanding of this process has resulted in the over-regulation of municipal stormwater runoff on the East End. Based on this analysis, many towns and villages could reduce their regulatory burden or be entirely exempt from federal and state processes which regulate municipal stormwater runoff.

Legislator Krupski invited Mr. Collins to speak before the EPA Committee because he worked closely with Mr. Collins during his tenure as a Southold Town Councilman and was "very impressed with his evaluation of the MS4 requirements and how they were being misapplied in Southold and other East End communities."

MS4s, an acronym for Municipal Separate Storm Sewer Systems, are regulated under the National Pollutant Discharge and Elimination System (NPDES) permit process at the federal level. In New York State, MS4s are regulated by the New York State Department of Environmental Conservation (NYSDEC) through the State Pollution Discharge and Elimination System (SPDES) permitting process.

NYSDEC's general SPDES permit for municipalities includes a number of EPA-approved pathogen Total Maximum Daily Loads (TMDLs), which are required reductions in pathogen loadings to shellfishing waters that are currently classified as impaired by pathogens. The goal of TDML implementation is to reopen impaired waters to shellfishing, but according to Mr. Collins' research, some waterbodies on the East End were closed for reasons other than stormwater run-off, like close proximity to a marina or sewage treatment plant discharge pipes. In other cases, the required pathogen load reduction was calculated based on insufficient or

outdated data and grossly overestimated contributory areas. The net result was the establishment of mandatory municipal pathogen load reductions that in most cases are either unnecessary or cannot be achieved.

“The burden of MS4 requirements have significant implications for Towns and Villages, and when misapplied, take resources, both in terms of money and staff time, away from projects that could better protect the East End’s surface waters,” said Legislator Krupski.

Southold has taken the initiative to quantify the current quality of the Town’s waters by having staff members trained in obtaining water samples, which were then tested by the NYSDEC. This program has resulted in two areas being recommended for reopening for shellfishing: Wickham’s Creek in Cutchogue was recommended to be completely recertified and portions of Mattituck Creek were recommended for an upgrade from conditionally certified to seasonally certified for shellfishing.

According to Legislator Krupski “government has to communicate more efficiently across all levels” and added, “mandates from ‘higher levels’ of government eliminate the options of local governments and don’t always accomplish their goals.”