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In coming issues . . .

FEMA guidelines to hazard mitigation

Revised wetlands maps proposed
for Putnam and Dutchess

The Electronic EIS: New Law Would Require Internet Posting

A new bill that recently passed the New York State Assembly and is now before the Senate would amend the Environmental Conservation Law to require, unless where impracticable, that draft EIS (Environmental Impact Statement) and EIS documents be posted for public viewing on the Internet. According to the bill (A07063), "the EIS includes a wealth of information that citizens and government officials can use and rely upon to become better informed about a particular project," and that in "this age of electronic communication, the Internet provides a convenient vehicle for enhancing the opportunities for public input in the SEQRA process that the law contemplates."

The bill states that although the law currently requires that these documents be made available to the public, as a practical matter public access is very limited, since individuals must either purchase copies of them at great cost or review the documents at a public library or other depository.

If the new bill becomes law, it should not pose much of an issue for those New York municipalities with sufficient Internet infrastructure in place. Many municipalities, however, do not have a municipal website or Internet infrastructure. They would therefore fall into the impracticable zone and would not be required to post DEIS and EIS documents onto the Internet.

The local planning board, on the other hand, could require as part of the public disclosure requirements under SEQRA that the applicant post a DEIS or EIS to a third-party Internet site. This too would seem to be impracticable.

One solution for those towns without Internet infrastructure could be to require the applicant to provide an electronic copy of the DEIS/EIS (in Adobe PDF format) on a compact disk or DVD to the municipality. Reproduc-

tions of the CD or DVD could be made at low cost and distributed via the U.S. Postal service, again at low cost. Since, as the bill points out, DEIS and EIS documents often run into the hundreds of pages, DVDs, which provide much more storage than CDs, would probably prove to be the storage medium of choice.

As another, even cheaper alternative, the municipality could use a third-party server to host the DEIS/EIS in Adobe PDF format and provide either a hypertext, website link, or, in the case of very large files, an FTP (file transfer protocol) interface allowing users to download the document. Given the size of most EIS documents, the user would need a broadband rather than a dial-up connection to download quickly.



Towns without Internet infrastructure could request an electronic copy of the DEIS/EIS on a compact disk or DVD.

Overall, for those municipalities with Internet infrastructure in place, the proposed law would certainly provide for more public participation in the SEQRA process. It would also reduce the time and costs associated with public viewing of these documents. In keeping with this intent, those communities without sufficient Internet infrastructure should require EIS/DEIS applicants to provide an electronic copy of the document for timely, low-cost distribution.

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Managing Public Relations for Land and Site Development

Today marks a time of increasing competition in land and site development, both among developers and between them and other players who are also concerned with land use. Not only developers, but civil and environmental engineers and the architects and builders they work with, face ever more frequent challenges by public groups, community development boards and environmental forums. To win the approvals they need to proceed with projects, developers both large and small must first win the confidence of boards and communities. Effective public relations can help developers set themselves apart from the pack, by making their views known on a variety of issues. Often, developers must manage public relations campaigns on both statewide and local ballot issues, which can include environmentally responsible land use and development; housing and rent control; capital improvement bonds and taxation; public utilities and transportation. Accordingly, developers need a new approach to public relations to succeed in the marketplace.

Whatever the issue, developers wishing to deliver their messages must use an integrated approach to develop a comprehensive strategy quickly, to organize community support; and to execute an effective field campaign. To ensure success, they must also develop or outsource expertise in strategic planning, field organization, direct mail, fundraising, media relations, and advertising. Key considerations include:

The Need for Broad Community Outreach

When implementing programs to build community support and consensus for issues or projects, developers should create associations with a wide range of community leaders. Special care must be taken, however, when dealing with controversial issues in such areas as land development entitlements, environmental regulation, rent control and utility ownership.

The Need to Prepare for Crises

A reputation can be easily damaged if the wrong action is taken to resolve a crisis. When one occurs, your organization must move quickly to develop the right strategy and implement it through skilled communication with the media, government and other important audiences. It is equally important to avoid crises. The cost of losing your reputation is high, but you can protect it through preventative crisis planning.

Specifics of a public relations campaign include:

Graphic Design and Production – well-designed visual materials are a huge help in delivering your message. From concept to final product, you should create first-rate print and electronic collateral that can include direct mail; brochures; display ads; newsletters, videos; and multimedia presentations.

Media Relations and Event Management

– Getting ink. Driving news. Generating press coverage. These are the goals, but they can be difficult to achieve in a message-saturated society. A thorough knowledge of the needs of journalists and some practical tools are needed to get your message through to information-weary editors and reporters, and to build long-standing relationships with them. Tools can include internal and external communications audits; press kits; editorial writing; public service and talk show placements; media tours and events; feature placements; and media monitoring.



Effective public relations can help developers differentiate themselves in the marketplace, by making their views known on a variety of issues.

The Need for Legislative and Governmental Advocacy

Plan for the long term by developing long-standing, close relationships with elected officials, appointed commissioners and other relevant decision makers at the federal, state, and local government levels. Your firm needs to understand and be able to communicate and advocate on a wide range of public and private-sector issues. Successful developers have expertise in the areas of appropriations; contract procurements; entitlements; grant procurements; legislation; litigation; regulatory approval; and the RFP process. By building coalitions and fostering dialogue, you can communicate your messages to legislative, regulatory, and political representatives. By developing and taking advantage of an expansive network, you can gain a tactical advantage in the competitive and complex political realm. This advantage can be used to build strong awareness and preference for your firm.

Media Training – essential to prevent needless blunders. A half or full day of training can teach you and your team members to use the media to your advantage, whether you're handling urgent calls from newspaper reporters or having an in-depth television interview.

The Bottom Line

Gaining approval for projects ultimately depends on how well you understand the associated political climate and how it affects proposal requirements. Whether you are responding to a request for proposals or seeking approval for private development, you need a politically sensitive strategy that makes optimum use of the tools of media relations and event management; government relations; legislative advocacy; community outreach; and collateral materials.

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Making Your Way Through the SEQRA Process: Part 3, From Draft to Final EIS

Although the SEQRA (State Environmental Quality Review Act) regulations found in 6NYCRR 617 can be confusing, they can be broken down into a series of logical steps which developers can follow through the SEQRA process. This is the third in a series of three articles intended to help developers understand the basics of the process. Further assistance can be obtained from professionals who work with the regulations on a regular basis, including your engineers, environmental specialists and attorneys.

As described in the July issue, the scoping process identifies the issues to be addressed in a draft Environmental Impact Statement. Once scoping is complete, the next steps in the 12-step SEQRA process are as follows:

7. *Prepare the draft EIS.* The applicant always has the right to do so. If the applicant refuses, the lead agency has the option to prepare it or terminate its review of the action. Basic components include:

- a. The draft EIS must be written in plain language that can be read and understood by the public. It should be detailed but not encyclopedic. Highly technical material should be summarized and, if it must be included in its entirety, referenced in the statement and included in an appendix.
- b. The draft EIS must contain a cover sheet that includes the information specified in NYCRR 617.9(b)(3), a table of contents, and a summary of the statement.
- c. The format may be flexible, but the draft EIS must include a concise description of the proposed action (including purpose and public need and benefits) and the environmental setting of the areas to be affected. In accordance with the list of impacts found in NYCRR 617(b)(5)(iii), it must contain an evaluation of only those potentially significant adverse environmental impacts that can be reasonably anticipated and/or have been identified within the scoping process.
- d. The statement must include a description of the mitigation measures to minimize environmental impacts and a description and evaluation of reasonable and feasible alternatives to the action, including the no-action alternative.

8. *Acceptance of the draft EIS.* Upon its receipt, the lead agency has 45 days to determine whether the draft EIS is adequate for public review in terms of scope and content and then issue a Notice of Completion as prescribed in NYCRR 617.12. An inadequate draft EIS may be returned with a written identification of its deficiencies. The lead agency has 30 days to determine the adequacy of a resubmitted draft EIS.

9. *Public comment.* The filing of the Notice of Completion starts the public comment period which must be a minimum of 30 days. During this time all concerned parties should offer their comments to the lead agency, which can extend the comment period if necessary. The period must continue at least 10 days following the close of a public hearing.

10. A *public hearing* is not mandatory, but if the lead agency decides to hold one, it must file a Notice of Public Hearing, as prescribed in section 617.12, which may be contained in the Notice of Completion of the draft EIS and must be published in a relevant newspaper at least 14 days before the hearing date. The hearing cannot start sooner than the 15th day following the Notice of Public Hearing or more than 60 days from the Notice of Completion of the draft EIS.

11. *Prepare the final EIS.* No matter who prepares it, the lead agency is responsible for its adequacy and accuracy. It should be prepared within 45 days after the closing of any hearings or within 60 days after the filing of the draft EIS, whichever occurs last. It must consist of the draft EIS, including any necessary revisions or supplemental copies; a summary of the substantive comments received and their sources; and the lead agency's response to the comments. A Notice of Completion of the final EIS must be prepared in accordance with section 617.12.

12. *SEQRA findings by all involved agencies.* As required by 617.11, each involved agency must prepare its own written SEQR findings after a final EIS has been filed and before the agency makes a final decision. Findings of each agency must be filed with all other involved agencies and the applicant. A findings statement considers the environmental impacts presented in the EIS and weighs and balances them with social, economic and other considerations. A positive statement indicates that the action is approvable and is one that will minimize potential adverse environmental impacts as much as possible. A negative one must document reasons for not approving the action. The findings can be finalized no sooner than 10 days following the filing of the Notice of Completion of the final EIS. If the action involves an applicant, the lead agency's findings must be made within 30 days of the filing.

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SEQRA regulations can seem daunting, but following a series of logical steps can take developers effectively through the SEQRA process.



Q & A with John Folchetti

Q: After scoping is complete, what should development professionals expect from the rest of the SEQRA process?

A: They should expect the possibility of change between the DEIS (draft environmental impact statement) and the final EIS. When the DEIS is presented at a public hearing, the development team must explain how they will satisfactorily mitigate the environmental impacts identified in the document and answer any questions the community may raise. Surprises typically occur when there are differences of opinion between lay and professional people about what constitutes ade-

quate mitigation. Once this happens, development professionals can expect some fairly colorful discussions.

Q: What is the best approach to take when answering questions from the community?

A: The development team should be as honest as possible with their answers. They should show that they propose to do as reasonable a job with mitigation as possible and fully explain their plans to do so, to make sure that everyone present understands them.

Q: What are typical hot-button issues in a DEIS?

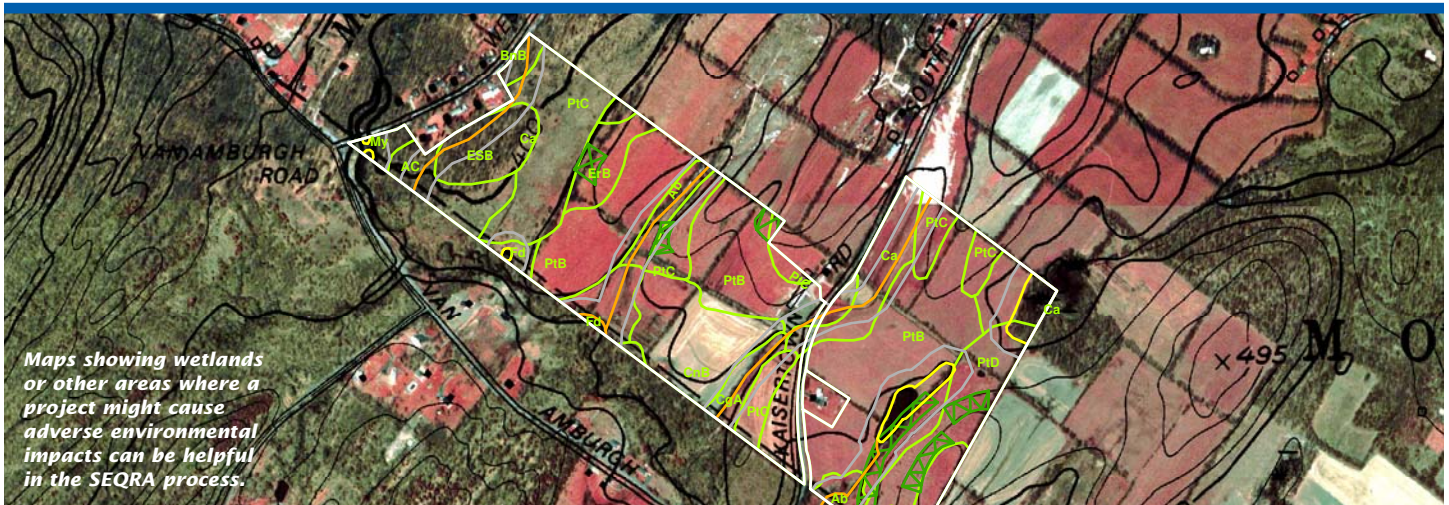
A: School and traffic issues are always hot and, with the additional requirements under the new Phase 2 stormwater regulations, water quality is becoming another major issue for many communities. Aside from these,

it really depends on the community. The greater the development pressure on a community, the broader the scope of topics that can generate disagreement. Communities under less pressure or looking to redevelop may have fewer but different sets of issues.

Q: How can the development team best ensure an approved EIS?

A: By how well they complete all the steps leading up to it. If the scoping document is well laid out, and the proper steps are taken in preparing and revising the DEIS, the development team should be set up for success with the EIS and be able to move forward with the project.

Please give us your suggestions for future Q & A topics and future articles, by emailing them to john.folchetti@jrfa.com.



Maps showing wetlands or other areas where a project might cause adverse environmental impacts can be helpful in the SEQRA process.

THE FUNDING CALENDAR

Grant Name	Funding Agency	Eligible	Deadline	Goals
Snowmobile Trail Grant Program	New York State Office of Parks, Recreation, and Historic Preservation (OPRHP)	Municipalities	September 1, 2005	Development and Maintenance of Snowmobile Trails Designated as Part of the State Snowmobile Trail System
2006 Dutchess County Community Development Block Grant Program	Dutchess County	Municipalities	September 23, 2005	Affordable Housing, Infrastructure, Transportation, Youth Literacy, Economic, Health Services, Disabilities, Public Safety, Substance Abuse, Parks & Recreation, and Historic Preservation
The Laura Jane Musser Fund	Musser Fund	Public or Not-for Profit	September 30, 2005	Environmental Stewardship Program Environmental Dispute Resolution Program
Tiffany & Co. Environmental Program	The Tiffany and Co. Foundation	Not-for-Profit	November 15, 2005	Responsible Mining Coral Reef Conservation Land Protection
Local Government Records Management Improvement Fund	New York State Education Department	Local Governments, Municipalities, Fire Districts, School Districts, Boards of Cooperative Educational Services	December 1, 2005	Records Management: a) Inventory and Planning b) Active Records c) Inactive Records d) Historical Records e) Educational Uses of Local Government Records

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