

# Our Water, Our Future

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Croton Watershed Clean Water Coalition Newsletter



Issue #6, November/December 2001

***Our Water, Our Future*** is the newsletter that keeps you, our valuable members, on the leading edge of watershed protection activities. Through the generosity of the Noyes Foundation, both this newsletter and our website, { **HYPERLINK** "<http://www.newyorkwater.org>" }, have been made possible.

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## ARE CRISIS MANAGEMENT AND A POLITICAL LEADERSHIP VACUUM ONE AND THE SAME ?

*By John Keane  
Member, CWCWC Advisory Board  
Conservation Chairman, Trout Unlimited-Croton  
Watershed chapter*

According to *The New York Times* on October 21, 2001, "terrorism experts warned for years that federal, state and local governments were ill prepared to handle a biological attack. This month proved them correct."

Clean drinking water warnings have been issued for years to federal, state and local governments that they are ill-prepared to handle the looming crisis of pollution to our drinking water. Do we want to wait until it is too late and prove those warnings correct?

In the Croton Watershed, which lies in the heart of Westchester County, N.Y., neither Westchester nor New York City has any storm water pollution prevention or elimination system in place around the reservoirs, or the streams that feed those reservoirs, to deal with the existing infrastructure pollution problem. The report issued (*cont., page 2*)

## HELPING TO REDUCE POLLUTION IN NYC DRINKING WATER

*By Marc A. Yaggi  
Senior Attorney, Riverkeeper*

Stormwater is the greatest contributor of pollutants in the New York City drinking-water-supply watershed. Rain falling on hard-top, or impervious, surfaces scours up motor oil, brake linings, antifreeze, animal waste, litter, pesticides, and fertilizers, carrying them off into the nearest body of water. In most communities, woefully, very little is being done to address this public-health threat. There are, however, hopes that the U.S. Environmental Protection Agency's (USEPA) Phase II Stormwater Regulations will help reduce stormwater runoff.

Clean Water Act §402(p) requires EPA to regulate stormwater discharges into waters of the U.S. through its national pollutant discharge elimination system. The magnitude of this undertaking led EPA to phase the process. The Phase I program was promulgated in 1990 to provide a NPDES stormwater permit scheme for (*cont., page 2*)

*REDUCIN' POLLUTION, cont.*

(1) medium and large MS4s (municipal separate storm sewer systems), leaving small systems untouched for the moment; (2) construction activities disturbing 5 or more acres of land; and (3) ten categories of industrial activity.

The impending Phase II regulations are expected to impact significantly the East-of-Hudson (EOH) watershed. Phase II requires a permit for operators of small MS4s located in "urbanized areas." The small MS4 designation depends on overall population and population density. Certain communities in the East-of-Hudson watershed fit squarely within EPA's definition of a small MS4. New York State, however, has indicated an intent to designate all the East-of-Hudson watershed as a regulated small MS4.

An MS4 is a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, or storm drains) that discharge into waters of the United States. EPA's regulations state that, despite its name, an MS4 is more than a municipal program; it also can include departments of transportation, universities, local sewer districts, hospitals, military bases, and prisons. In addition to requiring permits for small MS4s, the Phase II regulations also set forth a permit requirement for operators of construction activities that disturb one to five acres.

Although the State has authority over the permit program, EPA has set forth certain minimum requirements. They are:

1. Public education and outreach: The town or permittee should distribute educational materials regarding stormwater runoff impacts.
  2. Public participation/involvement: The town or permittee should publicize public hearings and encourage citizen involvement.
  3. Illicit discharge detection & elimination: The town or permittee must develop and implement a plan to detect and eliminate illicit discharges, which are any discharge to an MS4 that is not composed entirely of stormwater (sanitary wastewater, car wash wastewater, improper oil disposal, etc.).
  4. Construction-site runoff control: The town or permittee must develop, implement, and enforce an erosion- and sediment-control program.
  5. Post-construction runoff control: The town or permittee must develop, implement, and enforce a
- (cont., page 3)*

jointly by Trout Unlimited (TU), Croton Watershed Clean Water Coalition (CWCWC), and N.Y. Water Watch (NYWW), in August, 2000, entitled "A Study of Storm Water..." validated that premise.

In short, pollutants are allowed to enter waterways and drinking-water-supply reservoirs in Westchester, and no one has done one thing, on the ground, to prevent or eliminate that pollution. All the agencies concerned with water quality speciously state that the Croton meets all current drinking-water quality standards. What they don't mention is that the pollutants are allowed into the reservoirs because none of the simple-to-accomplish stormwater remediation work is being implemented, and, as a result, pollution levels are on their way to reaching violation thresholds.

Are they saying that they won't take any action until the violation threshold has been reached? By their current actions or the lack thereof, one can conclude they're going to do just that. As to the Croton Watershed, we get many regulatory governmental reports about pollution problems. The U.S. Environmental Protection Agency (USEPA) and the N.Y. State Department of Health (DOH) tell us that the Croton must be filtered at the cost of \$1 billion or more because of increasing urban pollution. N.Y. State Department of Environmental Conservation (DEC), in issuing two water-quality reports to USEPA, characterizes the Croton as "impaired" -- one step away from being disqualified as a drinking-water supply -- due to urban runoff (stormwater). New York City, on the other hand, disagrees with the filtration requirement but complains that the pollutant, phosphorus, is affecting the quality of Croton water. USEPA tells us that non-point source pollution (stormwater) is the largest water-pollution problem facing us today, a finding that that DEC also agrees with.

Do the watershed town governments know that there is a problem? Of course they do. All received the Trout Unlimited 2000 report, and all received follow-up letters from TU requesting a response. All but one, Yorktown, responded. The responses ranged from mild interest to no interest at all in resolving the urban runoff pollution problem they've created in their respective towns. Interestingly, the USEPA, in a letter to TU, agrees with the TU 2000 report by stating that the identification of the many stormwater erosion sites is a call to action, a call that must be heeded by all Croton watershed stakeholders.

*(cont., page 3)*

CRISIS OR A VACUUM? cont.

REDUCIN' POLLUTION, cont.

runoff control program (i.e. protecting wetlands, using porous pavement, using grassed swales).

6. Pollution prevention/good housekeeping: The town or permittee must develop and implement a program to prevent or reduce pollutant runoff.

The state's Phase II general permits must be issued by December 9, 2002. Then, operators of Phase II MS4s and small construction activities must obtain permit coverage by March 10, 2003. Once permitted, the permittee must fully implement the program within five years.

In addition to the MS4 coverage, under Phase II, all construction-site activities that result in a land disturbance of equal to or greater than 1 and less than 5 acres must have a permit. To comply with Phase II, applicants must develop and implement a stormwater pollution-prevention plan and comply with any specific requirements defined by the state, using Phase I materials as guidance.

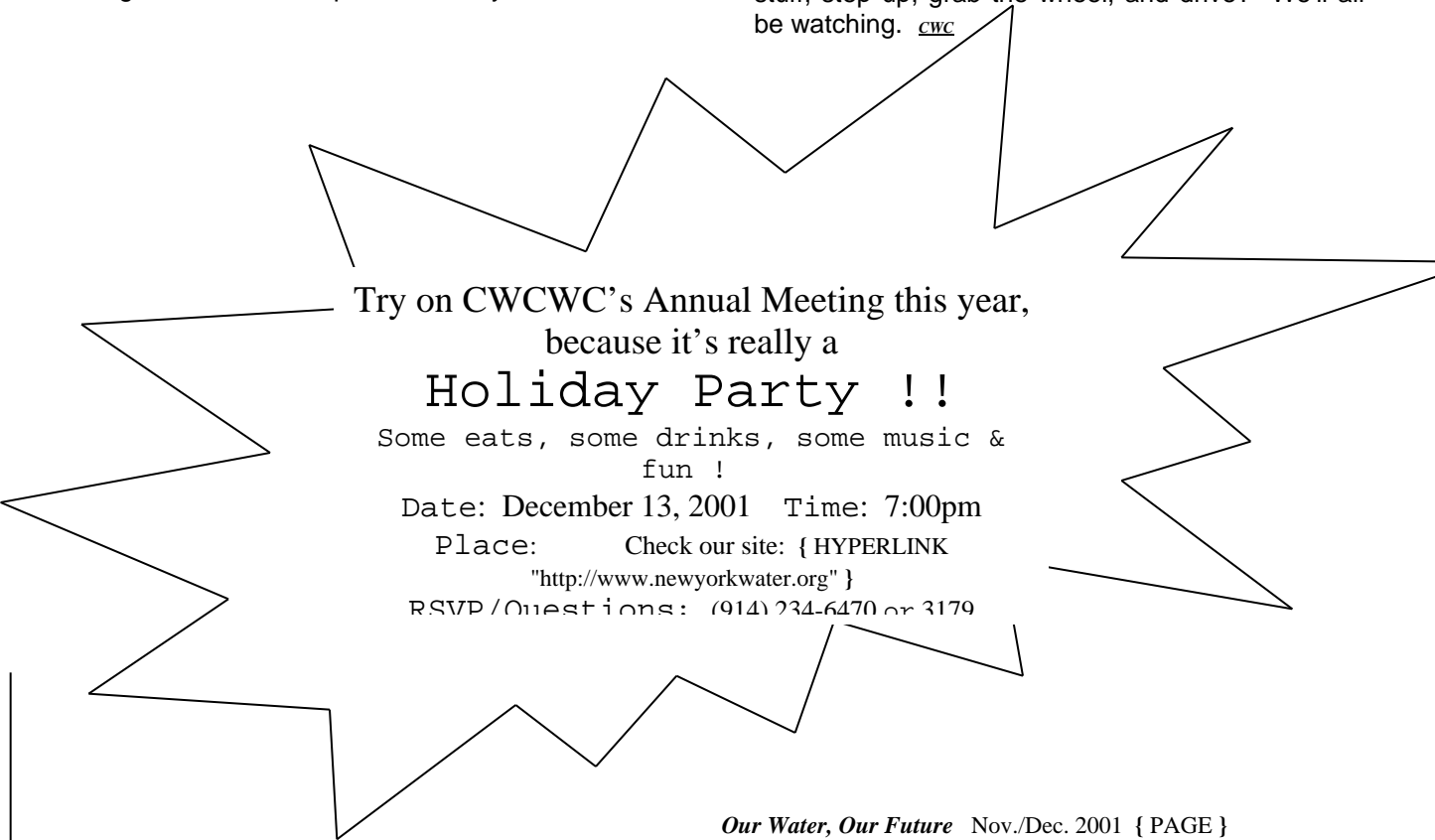
Clearly, stormwater is a grave threat to the continued viability of a clean, unfiltered drinking-water system. With a serious permit plan and meaningful implementation and enforcement, the Phase II stormwater regulations can address many of the current water-quality problems caused by stormwater. However, it is not necessary to wait until 2003 -- communities should start aggressively dealing with stormwater pollution today. CWC

CRISIS OR A VACUUM?, cont.

EPA has now issued several warnings, directly and indirectly, to state, county, city, and local watershed town governments that there is a pollution problem. Will New York State, Westchester County and the Westchester watershed towns act to prevent or eliminate pollution from entering waterways and reservoirs via stormwater, or will they sit on their hands and wait for the crisis to fully emerge?

In private conversations with several watershed town supervisors, they state they are willing to take action but the major impediment is money. However, upon investigation, money is not an issue. In fact, Westchester County is holding \$48 million it received from New York City that could be used, in part, for prevention/elimination, and the state has considerable funds through several programs that these towns can access. In fact, there will be a bond act RFP issued shortly where additional funds can be obtained.

If all the impediments are now taken away, and it comes down to the actions of local, county and watershed-town political leadership, will the result be a political leadership vacuum emerging concurrently with a fully developed crisis? So far, the political leadership is willing to get on the bus, but none of them is willing to drive it. Will there be a leadership void or will someone, made of sterner stuff, step up, grab the wheel, and drive? We'll all be watching. CWC



Try on CWCWC's Annual Meeting this year,  
because it's really a  
**Holiday Party !!**

Some eats, some drinks, some music &  
fun !

Date: December 13, 2001 Time: 7:00pm

Place: Check our site: { HYPERLINK  
"http://www.newyorkwater.org" }

RSVP / Questions: (914) 234-6470 or 3179