

PUBLIC WATER SYSTEM OWNERSHIP AND CONTROL AREAS

By Steven Winkley

Introduction

In New York State's Draft Framework for Creating a Drinking Water Source Protection Program Plan, available at: https://www.dec.ny.gov/docs/water_pdf/dwsp2draftframework.pdf, required and recommended groundwater protection areas for a community's wells or wellfield are outlined. Based on Part 5, Subpart 5-1 - Appendix 5D of the State Sanitary Code, the owner of the water system must possess 100 feet ownership around the well and control land activities within 200 feet of the well. This area is known as the Ownership and Control Area. For new wells, the Ownership and Control Area must be in place before a New York State Environmental Conservation (NYSDEC) water withdrawal permit is granted and New York State Department of Health (NYSDOH) approval is given.

However, I have visited many wellheads throughout New York State and the reality is that many wells that were permitted at least 30 years or so ago do not have an adequate Ownership and Control Area. One can argue why this is the case, and I am not here to pass judgement. The real question is how public water suppliers can proactively take steps to own and/or control more of the land area around their supply well(s) to meet the Ownership and Control Area requirements and thereby enhance source water protection. Fortunately, there are some funding options available to public water systems accomplish this.

Water Quality Improvement Project (WQIP) Program

New York State offers grant assistance for protecting public water supply sources through the Water Quality Improvement Project (WQIP) Program. The WQIP Land Acquisition Projects for Source Water Protection provides funds for the outright purchase of land and/or the purchase of conservation easements for land. Note that a conservation easement is a legally binding agreement that permanently restricts future land use and/or development on a property.

The WQIP Land Acquisition Projects for Source Water Protection has a 25% local share match. Grant funding is available to municipalities, land trusts, and soil and water conservation districts. NYSDEC recently indicated that it had awarded over \$60 million to more than 25 municipalities and land trusts for source water protection through land acquisition. These acquisitions have ranged in size from 1 acre to over 700 acres. Sometimes local water suppliers and municipalities partner with local land trusts. To find about which land trusts are near you, visit <https://www.findalandtrust.org/land-trusts>.

To research more information about the WQIP Land Acquisition Program go to <https://www.dec.ny.gov/pubs/115920.html>. This grant program is typically available in the Spring through the Regional Economic Development Council's (REDC) Consolidated Funding Application (CFA) program. Check <https://regionalcouncils.ny.gov/cfa> to see when the grant application is available and how to apply.

Drinking Water State Revolving Fund (DWSRF)

Many of you are familiar with the Drinking Water State Revolving Fund (DWSRF) administered by the New York State Department of Health (NYSDOH) and the New York State Environmental Facilities Corporation (NYSEFC). It provides financial assistance to public water systems to undertake needed infrastructure improvements. As the latest DWSRF Intended Use Plan indicates, "projects eligible for DWSRF financing include investments to upgrade or replace infrastructure, address noncompliance with federal or state health standards, prevent future violations of such standards, and provide the public with safe drinking water."

I recently learned that the purchase of land that is required to meet the State Sanitary Code requirements for wellhead protection is considered a source improvement. Thus, it could be an eligible project for funding under the DWSRF and would not require any additional infrastructure construction. Interested water systems should investigate this option along with the WQIP Land Acquisition Projects for Source Water Protection if they have insufficient ownership and/or control of land around their well(s).

As always, contact me at winkley@nyruralwater.org or 1-888-NYRURAL, ext. 170 with questions on this topic! 💧💧💧

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