

# DELAWARE CLEAN WATER ADVISORY COUNCIL NEWS

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## COUNCILMAN ANDY BURGER REPRESENTS CONSERVATION DISTRICTS

Josef A. (Andy) Burger was born in Efrizweiler, Germany in 1935 and immigrated to the US in 1951. He became a U.S. Citizen on September 3, 1956.

Andy, as most people know him, has been owner/operator of Level End Farm since 1961, retiring from active farming in 2005. The farm operated as a dairy farm until 1989 and then as a grain operation.

Andy was a member of the New Castle County Planning Board from 1972 until 1989. He has been a member of the New Castle Conservation District Board of Supervisors since 1972 and has served as its Chairman since 1975. He is also a member of the Delaware State

Fair Board, Harrington Raceway Board, Knights of Columbus, Middletown–Odessa Rotary Club, Delaware Agriculture Museum, DE Farm Bureau, and is a Board member of the Water Resource Association of the Delaware River Basin.

He has served as President of many community and church related organizations. He presently serves as President of DE Assoc. of Conservation Districts.

He was appointed to the Waste Water Advisory Council in 2000 and has continued to serve on the Clean Water Advisory Council.

Andy served as an Executive Assistant to New Castle County

Executive Dennis Greenhouse for almost eight years. He also worked at DelDOT as a Community Liaison for Canal & North District for nine years, retiring in 2007.

His basic education was completed in Germany and he received his high school diploma from James H. Groves High School in 1981. He also attended the University of Delaware's continuing education program.

Andy resides in Townsend with his wife, Brunhilde. He has three daughters and four grandchildren from his first marriage to Vera, who passed away from cancer in 2003.



Councilman Andy Burger

### 2009 CLEAN WATER ADVISORY COUNCIL MEETINGS

*Meetings are held the third Wednesday every other month or as necessary at Delaware Technical and Community College-Terry Campus, on South DuPont Highway in Dover at 9 a.m. Meetings are open to the public.*

**February 18**

**April 15**

**June 17**

**August 19**

**October 21**

**December 16**

### INSIDE THIS ISSUE:

NEW TAX DITCH LEGISLATION 2

SUSSEX COUNTY REDUCING WATER 3

LIDAR DATA NOW AVAILABLE 3

COUNCIL MEMBERS 4

## COUNCILMAN BOB STICKELS REPRESENTS SUSSEX

Robert L. "Bob" Stickels is the Director of External Affairs at George, Miles & Buhr, a leading engineer and architectural firm headquartered in Salisbury, Maryland. At GMB, he actively visits municipal and county clients, participates in local government organizations, assists in developing plans to address water, wastewater and housing needs in Sussex and Wicomico counties, helps to develop and present formal presentations, addresses client concerns and leads the research and initiation of non-traditional services. Prior to joining GMB, Bob served more than 18 years as Sussex County Administrator. While

County Administrator he encouraged and supported comprehensive sewer, land use planning, in addition to improving housing standards. Bob was responsible for over \$250 million of infrastructure projects. During his term the county adopted the first single family building code, setting standards for construction.

His broad public service activities include membership in the Clean Water Advisory Council, Sussex Land Trust and the Board of Directors of First Shore Federal Savings and Loan. Bob also served in the U.S. Army including a year in Vietnam.

Among the many awards Bob has received are the American Planning Association Distinguished Leadership Award, Environmental Achievement Award by the Positive Growth Alliance, the Stanford L. Bratton Award First State Community Action, Who's Who in Executive and Professionals and Outstanding Young Men of America, Leon N. Weiner Fair Housing Award.

Bob lives in Georgetown with his wife, Janice, who is a retired educator. They have two grown sons.

## NEW TAX DITCH LEGISLATION: HOUSE BILL #452 SIGNED

The Clean Water Advisory Council is charged with providing guidance and policy advice to the Governor and DNREC Secretary for programs related to drainage, stormwater and flood management.

Governor Ruth Ann Minner signed House Bill 452, an Act to amend Title 7 of the Delaware Code relating to tax ditches, on July 17, 2008. The Bill clarifies the reduction in the tax ditch right-of-way and defines construction and major maintenance rights-of-way and minor maintenance rights-of-way. The Bill also provides for a 'grandfathering' of existing permanent structures in the right-of-way.

There are 233 tax ditch organizations in the state with over 2,000 miles of channels providing surface water management benefits to almost one-half of state maintained roads and to over 37,000 land parcels. Of these parcels, more than 15,000 have a tax ditch right-of-way. As a result of increased growth and development many landowners were unknowingly encroaching within tax ditch rights-of-way, resulting in maintenance concerns. Landowners were not aware of the restrictions associated with the rights-of-way. Tax ditch records are filed in the Prothonotary's Office and are typically not searched by title searchers, realtors, attorneys, or landowners. To address these issues uniform recording of tax ditch records in the Recorder of Deeds Office in each county was implemented.

As landowners, legislators, and property rights groups became increasingly aware of tax



*Governor Minner signs Tax Ditch legislation at the State Fair in July.*

ditch rights-of-way they began requesting the reduction of the large construction rights-of-way. Existing tax ditch law provided a means to reduce tax ditch rights-of-way, but only on a case-by-case basis at the request of the landowner. There was a desire to reduce tax ditch rights-of-way on a larger scale which led to the establishment of the Tax Ditch Right-of-Way Task Force.

The Tax Ditch Right-of-Way Task Force was charged with addressing the need for updating the widths of tax ditch rights-of-way and for providing relief for existing structures located within tax ditch rights-of-way. Ensuring that rights-of-way are suitable for maintenance and respecting private property rights were important issues to be considered.

After 10 meetings, in May 2008, the Task Force submitted a report of its findings and recommendations to the General Assembly. Highlights of the accepted Task Force recommendations in House Bill 452 are as follows:

- ◆ Major maintenance rights-of-way (which allow for the piling of debris and allow spoil to be leveled as part of

construction operations and major maintenance activities such as 'dipping out') shall have the maximum extents as follows:

- ⇒ 80' from top of bank or the existing construction right-of-way, whichever is less, for tax ditches with a designed bottom width of 0' – 4'

- ⇒ 120' from top of bank or the existing construction right-of-way, whichever is less, for tax ditches with a designed bottom width of 4' – 10'

- ⇒ Existing construction and major maintenance right-of-way as filed in the original Court Order will remain in effect for tax ditches with a designed bottom width of greater than 10'

- ◆ Minor maintenance rights-of-way (which allow for maintenance activities, i.e. inspection, mowing, using specialized equipment for vegetative management, debris and obstruction removal, pipe repair and installations, etc.) will remain unchanged.

- ◆ The reference point for all tax ditch rights-of-way is the nearest top of ditch bank which is defined as the point

where the side slope of the ditch intersects the existing grade of the adjacent land. The centerline of the pipe will serve as the reference point for ditch sections that have been piped.

- ◆ As a result of changing right-of-way limits, which could affect up to 90 percent of the state's tax ditches, the deadline for implementing the uniform recordation of tax ditch records in the Recorder of Deeds Office in each county was extended.

- ◆ As of the effective date of the Act, permanent structures, i.e. residential, agricultural, or commercial structures or any permanent accessory structure or associated septic systems, driveways or parking areas that are still found to be built within a tax ditch right-of-way are exempt from the new tax ditch right-of-way limits and identified as a 'Legal Non-Conforming Use'.

The Tax Ditch Right-of-Way Task Force formally recognizes tax ditch organizations as vital elements of the state's surface water infrastructure and their need for proactive management. Task Force Chairperson Representative Pamela Thornburg, wrote in a letter accompanying the Task Force Report that implementation of Task Force recommendations "will preserve and facilitate maintenance of tax ditch channels throughout the State, as well as safeguard and protect individual property rights."

*Article contributed by Michelle Jacobs, Community Relations Officer, Division of Soil and Water Conservation.*

**SUSSEX COUNTY REDUCING WATER POLLUTION IN THE INDIAN RIVER BAY**

The Sussex County Council has recently completed construction of three new sanitary sewer districts. The three districts are South Ocean View, Oak Orchard, and Miller Creek. All three of these sewer districts are located in the Indian River Bay Watershed. Construction of these projects is a significant step in reducing the nutrients plaguing the Indian River Bay Watershed. The total nitrogen load to the watershed will be reduced by 48,496 pounds per day and the total phosphorus load will be reduced by 3,706 pounds per day. The cost of the three projects combined was \$30,479,000 with the State providing \$20,573,000 in low cost loans and grants to the County through DNREC and the Clean Water Advisory Council.

The South Ocean View project consisted of approximately 26,000 feet of gravity sewer, 1 lift station, and approximately 2,900 feet of force main which connects to the various lift stations. Wastewater from the system is being treated at the existing South Coastal Regional Wastewater Facility located at the intersection of County Roads 362 and 368.

The Oak Orchard Sanitary Sewer District (phase 1) project

included a gravity wastewater collection system with transmission facilities. Wastewater from the system is being treated at the existing Inland Bays Regional Wastewater Facility located at the intersection of County Roads 303 and 306.

The Miller Creek Sanitary Sewer system is a gravity wastewater collection system with transmission facilities (i.e. pumping stations and force

mains). The project consisted of the installation of approximately 50,000 feet of gravity sewer, 3 lift stations, and approximately 6100 feet of force main. Wastewater from the system is also being treated at the existing South Coastal Regional Bays Regional Wastewater Facility located at the intersection of County Roads 362 and 368.

Sewer District	# Septics Eliminated	# Septics Pre-vented	Total Nitrogen (lbs)	Total Phosphorus (lbs)
South Ocean View	309	59	6,571	502
Oak Orchard (Phase 1)	893	288	21,088	1,612
Miller Creek	483	684	20,837	1,592
<b>TOTAL</b>	<b>1,685</b>	<b>1,031</b>	<b>48,496</b>	<b>3,706</b>

**LIDAR DATA NOW AVAILABLE**

In FY2007, the Clean Water Advisory Council provided funding to the Office of State Planning and Coordination to contract with the Sanborn company to collect aerial photography, elevation data, impervious surface data, and land use/land cover data. The project is funded jointly by the state, counties, the city of Dover and the federal government. Most of the data from the project is now available for use by anyone with the necessary tools. Some of the elevation data products are still under review, but are expected to be published in the fall of 2008.

The photography and data will provide a cost savings for

future surface water projects by multiple state programs and divisions by reducing the need for field survey in the development of watershed models and engineering based studies. The photography's highly sensitive resolution provides higher quality information and data than before. Practitioners will be able to use the data to develop cross sectional models for stream crossings. The land use/land cover and impervious cover data sets can be used for planners at all levels to aid decision making for future growth in the state.

The aerial photography has been published at a map scale of 1:2400 with a pixel resolution of

¼-meter. Selected areas have been down-sampled to 1-meter resolution for security reasons.

The ortho-photography is maintained at the Delaware Office of Management and Budget as 2010 individual tiles that can be viewed as color, black and white, or infrared imagery. They are also available as regional mosaics compressed using both MrSID and JPEG2000 software, which reduces data storage to about 30 gigabytes each. The ortho-photography is also served as an ArcIMS image service on the Delaware DataMIL at [datamil.delaware.gov](http://datamil.delaware.gov).

The ortho-photography was used to update the 2002 Land Use/Land Cover data set. This

update is available at [stateplanning.delaware.gov/info/lulcdata/2007\\_lulc.shtml](http://stateplanning.delaware.gov/info/lulcdata/2007_lulc.shtml) and as an ArcIMS feature service on the Delaware DataMIL. This update includes a wetlands/wooded areas enhancement designed by state forestry and natural resources managers. A simplified cartographic symbology for this data set was developed by land use planning and environmental resources managers under the leadership of Delaware Geological Survey staff and is published on the 2007\_LULC web page.

As a byproduct of the Land Use/Land Cover data set, Sanborn produced an Impervious Surface data set based on

DELAWARE CLEAN WATER ADVISORY  
COUNCIL  
ADVISORY COUNCIL TO THE DEPARTMENT OF  
NATURAL RESOURCES AND ENVIRONMENTAL  
CONTROL

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**CLEAN WATER  
ADVISORY COUNCIL  
SUBCOMMITTEES**

*The Advisory Council has four subcommittees. Subcommittees meet as needed and report back to the full Advisory Council. Subcommittee meetings are open to the public.*

◆ **Wastewater**  
Chair: **Lee Beetschen**

◆ **Surface Water**  
Chair: **Jeff Bross**

◆ **Public Outreach**  
Chair: **Andrew Manus**

◆ **Finance**  
Chair: **Andy Burger**

**CLEAN WATER  
ADVISORY COUNCIL  
MEMBERS**

1. **Roger P. Roy**  
Chairperson  
Appointed: March 27, 2007

2. **Jeffrey M. Bross, P.E.**  
Vice-Chairperson.  
New Castle County  
Appointed: March 14, 2002  
Expiration: March 19, 2011

3. **Lee Beetschen, P.E.**  
Kent County  
Appointed: June 25, 1995  
Expiration: June 28, 2008

4. **Gary L. Burcham**  
Delaware Institute of  
Planning and Design  
Appointed: November 8, 2005  
Expiration: November 8, 2008

5. **Josef A. (Andy) Burger**  
Conservation Districts  
Appointed: August 29, 2000  
Expiration: March 19, 2011

6. **Manubhai (Mike) Karia**  
No Affiliation  
Appointed: June 25, 1997  
Expiration: June 28, 2008

7. **Andrew T. Manus**  
The Nature Conservancy  
Appointed: November 8, 2005  
Expiration: November 8, 2008

8. **Brian M. McGlinchey**  
City of Wilmington  
Appointed: November 8, 2005  
Expiration: November 8, 2008

9. **Christopher M. O'Keefe**  
ACEC  
Appointed: November 8, 2005  
Expiration: November 8, 2008

10. **Hans Medlarz**  
Delaware Association of  
Counties  
Appointed: May 17, 2007  
Expiration: November 8, 2008

11. **Robert L. Stickels**  
Sussex County  
Appointed: March 27, 2007  
Expiration: June 28, 2010

12. **VACANT**  
League of Local Governments  
Appointed:  
Expiration:

**LIDAR (CONT'D FROM PAGE 3)**

automated analysis of the 2007 ortho-photography. This data set is not intended to be completely accurate or to be used as the sole basis for regulatory activities. An automated system determined whether, based on the spectral signature of the photography, individual 1-meter square grid cells were more likely pervious or impervious. This was created to guide land use/land cover interpreters to areas that have been developed since the 2002 project. The data is available at [stateplanning.delaware.gov/info/impervious/2007\\_impervious.shtml](http://stateplanning.delaware.gov/info/impervious/2007_impervious.shtml).

The 2007 project collected elevation data for Kent and New Castle Counties only. Elevation data for Sussex County was collected in 2005 by a partnership of several federal agencies including NOAA and USGS. This project produced LiDAR point data, a digital elevation model, and 2-foot interval contours for Sussex

County. Access to the 2005 Sussex County elevation data is through the Delaware Geological Survey (contact Sandy Schenk, at 302-381-8262). The 2007 project was designed to create data products that will match the 2005 data products for Sussex County.

"Raw" LiDAR point data for Kent and New Castle Counties is now available in shapefile format for those with the GIS tools, and network storage, to use it. It takes about 350 gigabytes. DNREC and the USGS Dover field office have copies and they have been submitted to the USGS for planned future distribution via the USGS Center for LiDAR Information Coordination and Knowledge (CLICK) at [lidar.cr.usgs.gov](http://lidar.cr.usgs.gov).

State and USGS staff are now reviewing a Digital Elevation Model (DEM) and 2-foot interval contour data set for Kent and New Castle Counties. These data products will be integrated with

the DEM and contour data for Sussex County and served jointly via the DataMIL when complete. There will also be provision made for download of at least the contour data set and perhaps the DEM, depending on the size of the data files. Information on these data sets will be included on the Delaware Spatial Data Framework web site when available: [stateplanning.delaware.gov/information/gis\\_data.shtml](http://stateplanning.delaware.gov/information/gis_data.shtml).

*Article contributed by Michael Mahaffie, Office of State Planning and Coordination.*

**Drainage and Stormwater Assistance**

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