

October 27, 2007

Dear Commissioner Meyerson:

Reference is made to your letter to me dated September 25, 2007. My schedule has not permitted an earlier response. For the reasons set forth below, I believe your response is disappointingly inadequate, misleading and not in the best interest of the residents of Westchester.

MOSQUITO CONTROL

Your state that “the mosquito species that breeds in this environment is predominately *ochlerotatus sollicitaris* not associated with the West Nile virus.” That is, you concede there exists, at Hen Island, other types of mosquitoes which do carry West Nile virus, although you maintain they are outnumbered by the non West Nile virus carriers. That is, your statement confirms the existence of mosquitoes on Hen Island that could carry the West Nile virus. Your failure to protect the residents and guests of Hen Island from these potentially deadly mosquitoes is still unexplained and, quite frankly, shameful.¹

In addition, the fact that your department has never applied “the elimination clause” to mosquitoes is simply no excuse or justification not doing so, when you admit there are present, at Hen Island, a population of mosquitoes you concede are potential carriers of West Nile virus.

SEWAGE DISPOSAL

To begin, your statement that “several systems were inspected”², again reveals the inadequacy of your Department’s inspections. How many were actually “inspected” and why did you not inspect all, when there are only 34 such systems? Furthermore, your statement that those few systems you inspected “pre-exist the . . . Code” is simply inaccurate and you know it. To begin, 5 of the cottages were recently rebuilt and were, just last year, issued Certificates of Occupancy. Furthermore, many, if not all of the other cottages (which have no Certificates of Occupancy) have undergone major renovations or repairs, including changing the then existing sewage disposal systems. These renovations were all completed during the last 15 years; well after the Code was enacted in 1959. You know this to be true. Finally, in 1989 there were eleven

¹ Revealingly, your Department has woefully failed to do any trappings, nor did it take any larval samples, type samples or test counts at any of the so-called “inspections”. Furthermore, your statement that *ochlerotatus sollicitaris* “has not been associated with West Nile virus” is inaccurate and misleading. Rather, recent studies, as you evidently are unaware, reveal this species capable of transmitting the deadly virus, although other species more often do so. Finally, the “predominant species” of mosquito on Hen Island you speak of are also known to harbor and transmit other harmful arboviruses. Your failure to even comment on this is also regrettable.

² Your reference to a sewage “system” is also clearly a misnomer, as these so-called systems are largely comprised of hand-dug holes in the ground with pipes leading from the cottages.

outhouses on Hen Island. Today there remains only one. The other ten outhouses were removed, after 1989, and replaced with different non-compliant polluting systems, all without the required Health Department inspection and approval. Your excuse for not requiring compliance based upon “pre-dating the Code” is factually without basis and again, shameful.

Furthermore, your statement that “systems are violative only if the systems seep and overflow” and “inspectors did not find any evidence of sewage seepage or overflow” is an interpretation of the Code that finds no support in law, logic or common sense. As you know, it is a violation of the Code to erect or maintain a sewage disposal system without a permit. None of the sewage disposal systems, including those few your department inspected, have such a permit.

Revealingly, your department’s “inspections” did not include conducting any of the dye tests which are performed as a normal protocol of your Department when they are attempting to determine whether there is leakage or seepage. Nor were those cottages you inspected occupied at the time of your inspection. Nor was any sewage system inspected while the system was in use. How could you possibly determine whether the few sewage systems your department “inspected” did leak or seep when your department neglected to perform any test or witness their operation? Why did you choose not to do so? Why did your Department not follow protocol? Why did your department’s “inspections” consist of only a visual inspection of the outside portion of a few of the offending sewage systems?

Also, you totally fail to address my concerns regarding the fact that some of these systems are within 15 feet of the shoreline or are located under the cottage and/or within 10 feet of neighboring cottages. Each of these conditions exists and are clear violations of the Code.

I agree with your statement “the connection of water stored in cistern tanks to residential faucets is an issue of concern.” I do not agree that your department should sit idly by, recommending only the “advisory” that notices be posted to the effect that the water is not safe to drink. This response to this obvious health “issue of concern” is, quite frankly, puzzling and inadequate. You are aware the water in these cisterns was tested and found to have an E coli and other contaminants from bird droppings in it. Is it safe to shower or bathe in? Is it safe to wash dishes or clothes in? Is it safe to brush your teeth in? Do you expect children who cannot read to obey such a written notice? In the event you truly believe your department, although “concerned”, should do nothing to prevent the obvious health hazards associated therewith, at least a referral to the appropriate agency would be less negligent.

In conclusion, Mr. Meyerson, I am disturbed by the content of your response as I believe the other residents of Hen Island and the citizens of Westchester County should be. Furthermore, I believe your actions and your explanations are being controlled and dictated by others in the County Administration for reasons unrelated to the merits of the conditions existing on Hen Island. I look forward to exposing the inaccurate and improperly motivated actions and statements your department has undertaken, in Court when my attorneys examine you, under oath.

As always, I remain available to further discuss my concerns for the safety, health and welfare of the residents and guests of Hen Island and the Westchester community of citizens at large.

Very truly yours,

Raymond Tartaglione

P.S. Below I quote from Robert F. Kennedy Jr's recent writings and ask you to consider these words as they relate to our situation on Hen Island.

"Around the world, water supplies face relentless threats from industrial waste, agricultural pollution and poor sewage treatment. The battle to protect water purity must be fought not just by national governments but also in every town and village on the planet. Even in the U.S., which has some of the toughest environmental laws, safeguarding rivers and reservoirs is a constant struggle. While many companies obey the rules, others still try to use waterways as dumpsites. American environmental-enforcement officials have been bombed, shot, run over and sued while trying to perform their duties. But the most demoralizing blows invariably come from their employers: the Governor or commissioner who wants to shield a political contributor or recruit polluters to the state by shutting down environmental enforcement."

cc: Attorney General Andrew M. Cuomo
Prosecutor Hugh Mclain
Public Integrity Unit – Office of AG
Senator Charles C. Schumer
County Executive Andrew J. Spano
Robert F. Kennedy Jr. – Waterkeeper Alliance
Karl Coplan – Pace Law School
Alex Matthiessen - Riverkeeper
Terry Backer – Long Island Sound Keeper
Ron Gatto – Westchester County ESU
Vincent Tamburro – Rye Building Dept.
City of Rye Conservation Commission
Mayor Steven Otis
Elizabeth Maclin – Eastern Conservation

Enc: Letter from 9/25/07