

## **North Carolina Ground Water Association Legislative Accomplishments**

### **PRIVATE WELL RIGHTS**

This legislation was filed on behalf of the North Carolina Ground Water Association to address some of the issues our members have experienced around the State, specifically some of the actions taken by local governments that have tried to restrict wells when water lines are within reach or when they adopt "no well" policies within their jurisdictions. As enacted, the legislation prohibits (1) a person from unduly delaying or refusing to permit a well that can be constructed or repaired and operated in compliance with the county requirements for inspection and testing of private drinking water wells and (2) the denial of a permit for a well that is in compliance with requirements on the basis of a local government policy that discourages or prohibits the drilling of new wells. Water supply wells intended for domestic use may continue to be used for non-potable purposes, including non-potable household purposes, farm livestock, or gardens, even when not permitted for potable purposes as a result of new water or sewer lines or other changes that would violate set back requirements.

### **VOC TESTING REQUIREMENTS**

NCGWA for years has been fighting the idea of a requirement that Volatile Organic Compounds (VOC's) be tested for all wells. Originally the provision was added to a bill at the very end of session - we were able to have the effective date extended several times before we were finally able to make changes that allows, rather than requires, the Commission for Public Health to establish rules for testing of private drinking water wells for the presence of certain volatile organic compounds (VOCs). If the Commission finds that testing for certain VOCs is "necessary to protect public health and initiates rule making to require testing" for certain VOCs, the Commission "shall consider all of the following factors in the development of the rule: (i) known current and historic land uses around well sites and associated contaminants; (ii) known contaminated sites within a given radius of a well and any known data regarding dates of contamination, geology, and other relevant factors; (iii) any GIS-based information on known contamination sources from databases available to the Department of Environment and Natural Resources; and (iv) visual on-site inspections of well sites." Since the Commission has made no move and has not signaled their intent to put rules into place, there is no longer a requirement to test for VOCs; however, we should remain aware of this issue and be prepared to participate in the development of the rules.

### **VARIANCES FOR SETBACKS FOR PRIVATE DRINKING WATER WELLS**

We were able to support and help get approved a provision that would establish a variance process for setback distances from existing private drinking water wells. The law allows the Department of Health and Human Services to grant a variance from the minimum horizontal separation distances from existing private drinking water wells if: (a) the well was constructed and completed on or before July 1, 2008; (b) the Department

determines that continued use of the well will not endanger human health and welfare or groundwater; (c) it is impracticable, taking into consideration feasibility and cost, for the well to comply with the minimum horizontal separation distance; and (d) there is no reasonable alternative source of drinking water available. If a variance is provided, then the well must comply with the minimum horizontal separation distances to the maximum extent practicable, the well must be inspected by the Department or the applicable local health department and is determined to be in good repair and the well must comply with all other requirements for private drinking water wells.

### **AUTOMATIC PERMIT ISSUED AFTER 30 DAYS**

NCGWA worked with the legislative staff on language to require a local health department, within 30 days of receipt of an application to construct or repair a well, to determine whether the proposed private drinking water well can be constructed or repaired and operated in compliance with the rules adopted pursuant to the Act and to issue a permit or denial accordingly. If the local health department fails to act within 30 days, the permit shall **automatically** be issued, and the local health department may challenge issuance of the permit as provided in Chapter 150B of the General Statutes.

### **LICENSING REQUIREMENTS**

NCGA worked to amend a bill that would require the State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors to establish and issue a limited plumbing contractor license for use by persons who do not possess the required Class I or Class II plumbing license but desire to engage in the contracting or installation, repair, or replacement of either of the following: (i) exterior potable water service lines or backflow preventers serving irrigation systems or domestic water service systems of two inch diameter or smaller; (ii) exterior building sewer or water service piping of two inch diameter or smaller; (iii) water purification systems or components thereof, or (iv) components, pumps, or pumping equipment associated with water well systems. At the request of the **North Carolina Ground Water Association**, and after considerable effort and work these last two provisions were removed from the bill and were not included in the final version.