Winter 2009

AAP Journal
Assessors' Association of Pennsylvania

CCAP County Commissioners Association of Pennsylvania
Serving Counties Since 1886

Water And Wastewater Issues With Gas Drilling

Bryan R. Swistock
Water Resources Extension Specialist
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Gas well drilling has occurred for decades in much of western Pennsylvania. This "shallow" gas drilling used relatively small amounts of freshwater and produced manageable amounts of wastewater that could largely be treated by facilities dedicated to handling waste fluids from gas well drilling. More recently, gas well drilling has expanded to explore deeper formations, primarily the Marcellus shale, which occurs in a much larger area of the state. This drilling for deeper gas deposits relies more heavily on the use of freshwater to hydrofracture the dense shale to improve gas production. As a result, greater amounts of waste fluids may also be produced, requiring some form of treatment. The expected increase in water use and waste fluids produced from exploration of the Marcellus shale has created concerns among landowners, municipal officials, and environmental groups, including:

- The impact of large water withdrawals on surface and groundwater supplies
- The capacity of wastewater treatment processes to meet both the demand and the pollutants that may be found in gas drilling waste fluids
- Inspection and enforcement capabilities given the expected increase in gas drilling

Water-Use Issues

Newer gas-drilling processes that utilize horizontal drilling and hydrofracturing may require several million gallons of freshwater per well. This water is typically mixed with sand and chemicals and then pumped at high pressure to the gas-producing formation to fracture the dense shale and allow for better gas recovery.

As a result of the dramatic increase in water needs for gas drilling, new wells drilled into the Marcellus shale require a water-management plan as an addendum to the normal per-

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IDEAS FOR YOU

Forgive Clutter

Yes, many studies have found that a cluttered work environment can hamper productivity. But that doesn't necessarily mean you should require messy workers to clear their desks. According to Eric Abrahamson and David H. Freedman, authors of *A Perfect Mess: The Hidden Benefits of Disorder,* a messy desk can represent a surprisingly sophisticated informal filing system that offers far more efficiency and flexibility than a filing cabinet could possibly provide," the authors contend.

So before demanding that workers clean up their space, consider their overall effectiveness. If they consistently make deadlines, turn out a strong work product, and meet or exceed other expectations, it's probably best to leave well enough alone.

WHAT'S INSIDE

The President's Report, Solicitor's Report, Legislative Update Open Records Act, AAP People, and more!

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President's Message

New Beginnings

Happy New Year to all! Wow, it's January already, I do not know where this year went. I remember as a boy my Grandmother used to say the older you get, the faster the years go by. At the time, it did not make sense to me, but as the years go by, they seem to get faster and faster. My term as President is a prime example. It seems like a month ago Eric passed the Presidential gavel to me, and then it seems like a couple of weeks ago I presided over the summer Board meeting, and then it seems like a couple of days ago we concluded the fall conference. We are now gearing up for the winter board meeting and then soon after I will be passing the Presidential gavel over to Paulette Sebring at the annual conference this coming spring.

Having said that, I want to thank everyone for his or her support and willingness to step up and get involved. I have said this repeatedly. "The strength of this organization is its members."

As we near the end of this year and our thoughts are turning to holiday preparations as well as tax duplicate and tax bill generation and printing, I ask that you remember the important things as well. That would be family, friends and our service men and women. At this time of year, it is so easy to get caught up in the fast-paced life we live and forget about these important things.

It is my wish that all of you and your families had an awesome holiday season, and a happy, healthy and prosperous new year.

God bless all of you.

Randy

Randy Waggoner

The 2007-08 legislative session has ended and here are a few issues of importance to AAP and CCAP members that were considered over the last two years.

Legislative Update

News From Harrisburg

OFFICE OF OPEN RECORDS ANNOUNCES FEES — On November 24 the state's new Office of Open Records posted fee rules for record duplication and other matters. The OOR is given authority under the new Right to Know Law to establish fees for records duplication by state and local agencies. The schedule takes effect for records requests made after January 1, 2009. CCAP believes the schedule accurately and fairly reflects the provisions of the statute, and provides some flexibility the Association had suggested.

Fees for "standard" duplication can be set "between $.10 and $.25 per page", which is the typical range most counties charge. Judicial records, which fall under separate fee statutes, are not limited by this schedule. The certification fee is set at $1 per record, although this again is superseded if another statute, particularly any of the row office fee schedules, sets a different rate.

Fees for specialized documents and formats, for example blueprints and microfilm, are set at "actual cost." No fee may be charged for redaction.

For enhanced electronic access (on-line search capability for which an access or subscription fee is charged), the Office of Open Records followed a suggestion made by CCAP that they not try to set a specific, standard amount, adopting instead a process for agencies to seek advance approval from the OOR for their fee schedules.

The OOR fee schedule is silent on the matter of large datasets, such as GIS, election records, tax records, assessment records, and the like. OOR Executive Director Terry Mutchler has indicated that these large datasets are covered by the language regarding enhanced electronic access, so agencies that charge higher fees for these datasets need to follow the procedure and standard indicated and submit the proposed schedule to the OOR for approval.

Additional information on implementation and interpretation of the law, including an advisory guide on implementation, is at the Office of Open Records Web site, *http://openrecords.state.pa.us.* Note there is no "www" in the address.

TAX FAIRNESS — Remaining legislative and administration concerns with school property tax relief caused the county and municipal side of the issue to be placed on the back burner once again. Attempts to amend the school gaming proceeds

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DEADLINE for the spring issue is March 6, 2009

Article submissions are welcome. Send to:
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2009 CPE Classes

The 2009 CPE classes have been scheduled in both the eastern and western part of the commonwealth. Expect to see registration materials for each set of classes about two months before the start of each class. These classes are the training and preparation courses for anyone planning to sit for the state's CPE examination. **AAP recommends that anyone taking these classes have at least one year of assessment experience.**

Spring — Best Western Mountain Inn — Wilkes-Barre

Introduction	April 20 - 24 (expanded five-day format)
Site/Market Approach	May 5 - 8
Cost Approach	May 18 - 22
Income Approach	June 9 - 12

Fall — Mountain View Inn — Greensburg

Introduction	September 14 - 18 (expanded five-day format)
Site/Market Approach	September 22 - 25
Cost Approach	September 28 - October 2
Income Approach	October 6 - 9

Information regarding the classes can be found on the AAP Web site, *www.paassessors.org*.

Online Resources And Services

Update continued from page three

Over the last few years AAP has developed a number of online resources and services for its members that also serve as a means to educate the general public about the assessment profession and AAP.

Web site

The AAP Web site, located at *www.paassessors.org*, contains information that can be accessed by the public and also a "Members Only" section. AAP's Web page is a great resource where members can find information about the latest AAP education and conference offerings, a listing of the Board of Governors, links to other national and international assessment organizations and county offices.

Members Only Section

The "Members Only" section of the AAP Web site contains:

A Membership Directory – The Membership Directory is where members can search for other members within county categories. The listing of members in the Membership Directory is continuously updated as AAP receives membership updates from the counties.

Education Transcripts – Each AAP Member can now access their education transcript for the current recertification period. The transcript includes all AAP conference classes and chapter education classes for the current recertification period.

AAP Journal – This link provides access to a year's worth of back issues of the AAP Journal, a quarterly newsletter.

Board of Governors' Meeting Minutes – Lastly, AAP members can access the Board of Governors' meeting minutes.

program, and others to expand or increase the sales tax, were on the table but controversial amendments brought discussions to a halt. The issue was raised only in passing after that time, although legislation was introduced to accomplish the CCAP Tax Fairness priority at least in part, including HB 2598 and SB 973.

Counties' tax fairness priority was expanded in 2008 to include restoration of oil and gas assessability lost as a result of a PA Supreme Court ruling in 2002; although inroads were made no legislation was brought up for a vote.

Integrity of Farmland Preservation — CCAP had testified on Clean and Green issues, particularly those related to Marcellus Shale exploration and wind energy, and provided input on legislation (HB 656) clarifying Clean and Green as it relates to wind towers as well as legislation (SB 1168) allowing farms preserved by trusts to be eligible for the millage freeze already afforded to farms preserved by the county and through the state program.

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MEMBER ABILIA

Name: Rebecca Broad

Position: Property Appraiser.

Years In Assessment Field: Fifteen.

County: Northampton.

Marital Status And Family: Married, Three Children And Six Grandchildren.

What Irritates Me Most In The Assessment Business: People Who Lie.

Most People Would Be Surprised To Know: I Used To Be A Quiet Person.

Biggest Challenge As An Assessor: Holding My Temper.

First Job: Mushroom Miner.

If I Couldn't Be An Assessor, I'd A: I Would Be A Lawyer.

If I Won Millions In The Lottery, I Would: Quit Working And Help My Family.

Favorite Vacation: A Cruise To The Southern Carribean.

Favorite Food And Drink: Pizza And Diet Pepsi.

Favorite Movie: Nine Months.

Three People Living Or Dead That I Would Invite To Dinner: My Mother, My Dad And The Pope.

The Hardest Lesson I Ever Learned As An Assessor Was The Time: Keeping My Temper.

If I Could Live In The Past For One Day, I Would Change: Who I Was With!

My Best Friend: My Husband Bob.

Chapter Notes And Other News

Northampton County

Julie Azzalina got engaged to George Leasure on November 28, 2008. Congratulations to the happy couple.

Luzerne County

There are four assessors retired from Luzerne County on December 31, 2008. Good Luck to all!

Annmarie Paddock
Bill Kiesinger
Barbara Lussi
Jack Schumacher

Carbon County

Cheryl Leone was hired on October 16, 2008 as a field assessor in Carbon County. Welcome Cheryl!!!

Wayne County

Tom Mahr has resigned as a field assessor in Wayne County.

Northeast Chapter News:

The newly elected alternates to the board for the Northeast Chapter are Tony Alu from Luzerne County and Eugene Dovin from Lackawanna County.

Thomas Hill was recently elected to be the Education Chairman for the Northeast Chapter.

Lawrence County

Charles Hardester aka J.R., the chief assessor Lawrence County, was married on November 29, 2008 to Rachael Rosati. Congratulations to the happy couple!

Patty Gallenstein of Erie County is retired on December 30, 2008. She started on May 20, 1985, so she will have worked for 23 years and 7 months with the county assessment office.

John Engels will retire from Erie County on April 30, 2009. He began work with the county planning department in February 1972 and moved to the Assessment Office in October 1978 and will have served Erie County for over 37 years, six years as the director of the assessment office.

SOUTH CENTRAL CHAPTER NEWS

The South Central Chapter meets quarterly. The next meeting will be held on March 27, 2009, beginning with a business meeting at 9:00 a.m., with seminars beginning immediately after the meeting (approximately 9:30 a.m.) and are held at the Adams County Agricultural and Natural Resources Center, 670 Old Harrisburg Road, Gettysburg, PA 17325. Please contact Barb Walter at (717)337-9837, for more information.

The chapter held its election at its December Meeting. The 2009 Officers are:

President:
Carl Stumpf, Lebanon County
President Elect:
Douglas Boswell, Dauphin County
Vice President:
Anne Teal, Perry County
Treasurer:
Dee Dee McGuire, Lancaster County
Secretary:
Cary Wells, York County

SCCAAP board representatives:

Adams County:
Nancy Moser
Cumberland County:
Lesa Stouffer
Dauphin County:
Jay Skaggs
Fulton County:
Michelle Sowers
Franklin County:
Gary Martin
Lancaster County:
Melody Petersheim
Lebanon County:
Dale Roth
Perry County:
Randy Waggoner
York County:
John Fedor

Passing of Two AAP Members

On December 10, Wayne Biernacki, AAP past president (1986), passed away. He is survived by his wife Linda Biernacki and his children Wayne, Matthew and Gregory. Wayne was also the owner of Real Estate Tax Consultants Inc. He enjoyed spending time with family and friends while boating, golfing and watching the Steelers. Family suggests memorial contributions go to The American Heart Association, 777 Penn Center Boulevard, Pittsburgh, PA 15235.

AAP had more sad news when it was notified of the passing of Gordon Steighner, Commercial Manager of the Allegheny County Assessment Office and member of AAP, who passed away on December 17. Gordon also worked in Pike County as a CAO prior to coming to Allegheny. He was an avid sprint car and Steelers fan and enjoyed spending time with his family and children. He is survived by his wife, Christine Harris Steighner, sons, Nicholas and Christian and daughters, Andrea and Allie.

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"The 1984 Pennsylvania Oil and Gas Act provides a framework for extensive protection of water resources during gas drilling. It includes requirements for the permitting process, bonds, setbacks, installation of special casing and cement to protect groundwater, special collection and treatment of waste fluids, and presumed responsibility for damages to water supplies within 1,000 feet of gas well sties."

mitting process. This addendum requires the energy company to specify where they will obtain water for the drilling. If the drilling will occur within the Susquehanna or Delaware River basins, the permit must also show that the respective River Basin Commission has permitted the water use. This process utilizes various data and models to investigate the proposed water use in light of existing water users and natural demands to ensure that sufficient water is available. In addition to the permitting process, the Clean Streams Law also provides broad protection against overuse of water from streams.

Water use for gas well drilling can originate from many water sources, including nearby rivers, small streams, groundwater wells, lakes, ponds, and even municipal water suppliers. The complexity of the permitting process depends somewhat on the source of water. For example, proposed water use from a municipal water supply is simple because that water user has already gone through the permit process. A proposal to take water directly from a small stream, however, would require more study to ensure that existing water users and the stream itself would not be damaged. One potential solution is to focus water withdrawals during times of excess (high flows during spring) and store the water in regional impoundments for use during the remainder of the year. This concept has been used successfully in other states to meet water demands for drilling while minimizing impacts on other users and the environment.

Wastewater Issues

Wastewater is produced as part of the gas-drilling process from a number of sources. Brines and stimulation fluids typically require advanced treatment. Brine is highly mineralized water stored deep underground that sometimes comes to the surface during drilling and as the well produces gas. Stimulation fluids return to the ground surface during the fracturing process. Typically, 30 to 70 percent of the hydrofracturing fluids will return to the surface as stimulation fluids. All waste fluids must be captured in plastic-lined pits or tanks on the site for eventual treatment.

Pollutants in waste fluids can vary dramatically from well to well, but salts and metals such as chloride, barium, iron, manganese, and sodium are most often encountered. Other possible pollutants include surfactants, detergents, and organic compounds that may be used in the drilling process.

With millions of gallons of water used, some gas wells will produce hundreds of thousands of gallons of waste fluids that require treatment. Several options for disposal of waste fluids are available, but most waste fluids go to an approved wastewater treatment facility. The recent addendum requires that the proposed treatment facility be identified for each gas well during the permit process. These treatment facilities may be dedicated sites for gas-drilling wastes or they can be municipal or industrial treatment facilities.



Municipal or industrial treatment facilities can only accept gas well waste fluids if they have adequate capacity and technology to properly treat the waste fluids. In most cases, these treatment plants are able to remove metals from the wastes, but they rely on dilution from

other incoming waste fluids and/or from the receiving stream to reduce salts and other pollutants in the wastes to acceptable levels. The removed metals become part of the sludges that are ultimately landfilled.

There are other options for wastewater treatment. Some of the less polluted wastes may be recycled and reused in drilling and hydrofracturing. In the long term, it is hoped that small, packaged treatment plants can be moved to drilling sites to allow for on-site treatment and reuse of large quantities of waste fluids.

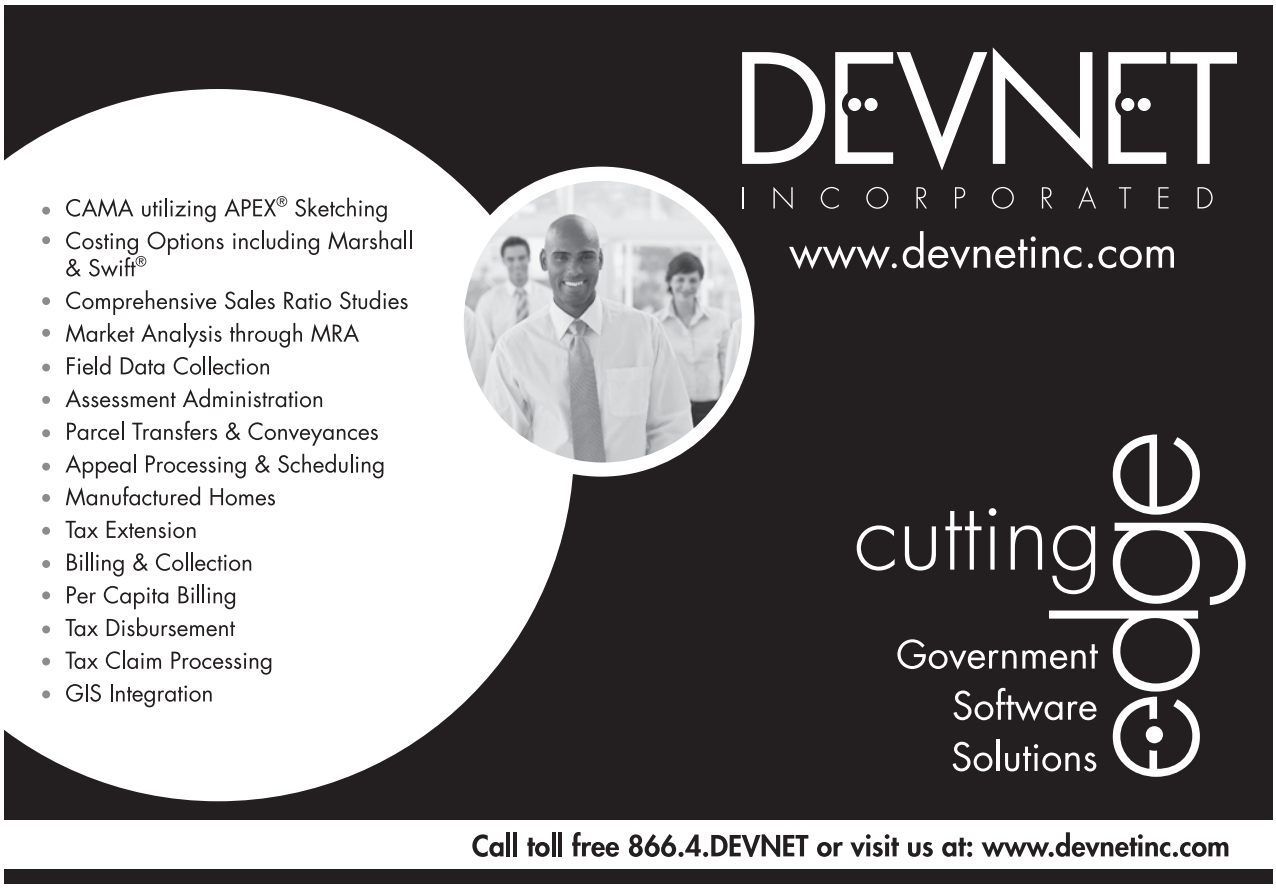
Another less common method for waste fluid disposal is injection into very deep disposal wells regulated by the Pennsylvania Department of Environmental Protection and the U.S. Environmental Protection Agency. These wells access a confined, deep, permeable formation where the wastes can be segregated from shallow groundwater aquifers. Even less common is the disposal of waste fluids by application to rural gravel and dirt roads for dust control and winter maintenance.

Protecting Our Water Resources

The 1984 Pennsylvania Oil and Gas Act provides a framework for extensive protection of water resources during gas drilling. It includes requirements for the permitting process, bonds, setbacks, installation of special casing and cement to protect groundwater, special collection and treatment of waste fluids, and presumed responsibility for damages to water supplies within 1,000 feet of gas well sties.

Gas wells must also be properly retired once they are finished producing gas to prevent long-term water-contamination issues. Enforcement of these existing regulations is the responsibility of the Pennsylvania Department of Environmental Protection, Bureau of Oil and Gas Management, and their field inspectors.

Regulators have recognized the need for additional enforcement capability and have already made changes to the permit process to protect water supplies. At the same time, many entrepreneurs have begun to address the need for additional wastewater capacity and new technologies to treat and recycle waste fluids. Continued evolution of both the regulatory and treatment industry will be necessary to meet the challenges of increased gas exploration in Pennsylvania over the coming decades.



Alice In DOWNINGTON



"Would you tell me please which way
I ought to go from here?"
"That depends a good deal on
where you want to get to," said the Cat.

By
Alfred K. Hettinger, AAP
Solicitor.

The dialogue from Alice's Adventures in Wonderland was between Alice and the Cheshire Cat and reflects the "confusion" resulting from the Downingtown Case. (Downingtown School District v. Chester County Board of Assessment Appeals, 913 A, 2d 194[Pa. 2006])

That decision declared the 15 percent ratio law unconstitutional, but left the method of proving (non-) uniformity in limbo. (It did toll a death knell to the "school district" appeals based solely on the Common Level Ratio [CLR].)

The problem left undecided is how to prove current fair market value and/or (non-) uniformity. The Court's decision threw litigants back 24 years to a time before the statute had been enacted and to the chaotic (and often expensive) methods of proof.

Latent is the question: Does the CLR have any meaning in an assessment case? My answer is, yes. Like the Cheshire Cat's grin, it remains even though all else seems to have disappeared.

The CLR is still a valid tool to test the accuracy of the "base year" approach. (We use it in transfer tax questions, estate and gift valuations, and other real estate matters to approximate current value.) It is a guide for determining and testing current value. The best method is a good appraisal using cost, income, and comparable sales approaches together, if applicable.

The CLR may also be useful in testing comparables to determine (non-) uniformity. Again, the best method is a good appraisal of the comparables and comparing the respective "ratios." (This is a simpler method than developing your own ratio for the County- or other geographical area- and it is a lot less expensive than hiring a mathematical wizard to do it for you.) The obvious question: Are they truly comparable? That always has been an issue in assessment appeals.

Writing this article made me recall all the horrors we had before the 15 percent law went into effect. It was truly scary to try to anticipate what method(s) your opponent would use, how you would combat it, and, most important of all, whether the court would understand it! Thanks to Downingtown, we are back there. Stephen King would love it.

In conclusion, Downingtown did change the existing law and set us back 24 plus years; The taxing authority appeals based on the CLR alone are ended; The CLR still has vitality and is a useful tool in assessment cases (as well as other real estate valuation matters). The tried and true methods of valuation are still the best.

Alice and the Cheshire Cat concluded their dialogue as follows:

"I don't much care where, "said Alice.

"Then it doesn't matter which way you go," said the Cat.

"-so long as I get somewhere," Alice added as an explanation.

"Oh, you're sure to do that," said the Cat," if you only walk long enough."

2009 Annual Conference Comes Back to Seven Springs



The Assessors' Association of Pennsylvania is pleased to be bringing the 2009 Annual Conference to Seven Springs Mountain Resort in the beautiful Laurel Highlands of Somerset County.

This year's Annual Conference will be held April 30 to May 2 and is absolutely the best way to earn recertification hours as well as network with our colleagues from all over the state. Over 200 assessment professionals attend this packed three-day conference.

In addition to classes each day, this conference is also the meeting where AAP holds its auction to benefit chapter education. This fun event is one of the highlights of the conference. Another annual event is the Thursday evening banquet where we honor President Randy Waggoner, present member awards and service awards and recognize new CPEs. The Annual Conference is truly an event you do not want to miss.

Changes at Seven Springs

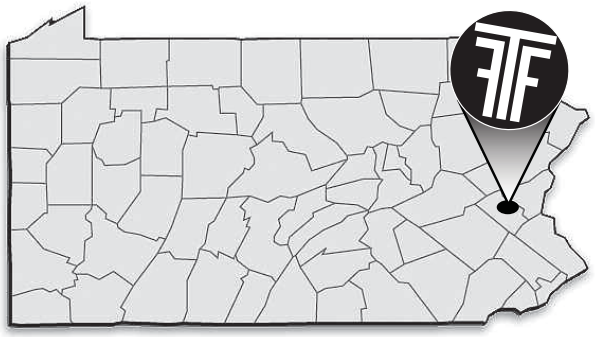
Look for a lot of changes to the Seven Springs facility during the conference. With the renovation of all 416-hotel rooms and the hallways complete, the resort has also renovated the hotel's lobby and guest registration.

The resort's Slopeside Dining Room is also undergoing renovations including an innovative menu, new carpeting, chairs, lighting, chef's tables and more. The plans feature a sophisticated dining experience in a classic, mountain lodge style in a relaxed environment that is uniquely Seven Springs.

Also currently under construction is the new outdoor pool. Located adjacent to the Bavarian Beach, the outdoor pool will be the place for fun in the sun, featuring a large lagoon-like heated pool, firepits, lush landscaping and a kids' area complete with splash garden and wading pool.

Lastly, Seven Springs plans to unveil its very own spa next month.

Conference registration materials will be mailed out in late February/early March 2009. In the meantime, please check out the conference location by visiting Seven Springs' Web site at *www.7springs.com.*



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