

STATE OF NEW YORK PUBLIC SERVICE COMMISSION

October 5, 2015

CASE 13-W-0303

**Proceeding on Motion of the Commission
to Examine United Water New York, Inc.'s Development of a New Long-Term
Water Supply Source.**

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ROBERT DILLON

Comments

Honorable Secretary Kathleen H. Burgess,
secretary@dps.ny.gov

I am an active party to this case, and a related case [13-W-0246](#) Verified Petition of United Water New York Inc. for Implementation of a Long-Term Water Supply Surcharge, And Related Tariff Amendment.

On May 17, 2010 I submitted comments in Case 09-W-0731, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of United Water New York Inc. for Water Service.

I have submitted voluminous amounts of evidence in all these cases as well as the NYSDEC environmental review of the proposed Haverstraw Water Supply Project.

My background is in Business Administration with a major in accounting (Manhattan College 75) with a large amount of statistics and economics sprinkled in, and a lifetime of crunching numbers.

With regard to this case please accept the following comments.

On December 14, 2006, a New York State Public Service Commission Order adopted a three-year rate plan for UWNY

On December 14, 2006, a [New York State Public Service Commission \(PSC\) Order](#) adopted a three-year rate plan for UWNY. "[The Joint Proposal](#)", an agreement that was signed and adopted as part of the order, requires UWNY to, among other things, develop an additional, sustainable water supply to meet the growing needs for water in Rockland County over the next 20 years.

THE 12/14/06 ORDER SHOULD BE RESCINDED **And any associated** **WATER SUPPLY SURCHARGE SHOULD BE DENIED**

Why?

Reliance on information supplied by United Water New York

It is apparent from the record, of current and past UWNY NYS PSC rate cases and the NYS DEC environmental review of the Desalination Plant, that the primary regulators of UWNY, that is the NYS PSC, NYS DEC and the Rockland County Department of Health Water Supply Bureau (regulators) were deliberately misled by United Water and are themselves likely culpable regarding their regulatory responsibilities.

Instead of independently ascertaining the water resources available to Rockland, regulators have relied on United Water to supply self-serving data skewed by UWNY to support the narrative that Rockland needs to develop a new long-term water supply.

As a result the New York State Public Service Commission has ordered UWNY to develop additional water supplies for Rockland County. In response, UWNY is now proposing to construct, on the Hudson River in the vicinity of the Indian Point nuclear power plant, a desalination plant known as the "Haverstraw Water Supply Project" and is promoting that as "the best alternative to meet Rockland's water needs."

Clean Hands Doctrine

The clean hands doctrine is a rule of law that someone bringing a lawsuit or motion and asking the court for equitable relief must be innocent of wrongdoing or unfair conduct relating to the subject matter of his/her claim. It is an affirmative defense that the defendant may claim the plaintiff has "unclean hands". However, this defense may not be used to put in issue conduct of the plaintiff unrelated to plaintiff's claim. Therefore, plaintiff's unrelated corrupt actions and general immoral character would be irrelevant. The defendant must show that plaintiff misled the defendant or has done something wrong regarding the matter under consideration. The wrongful conduct may be of a legal or moral nature, as long as it relates to the matter in issue.

Arms Length Transaction

Definition: A transaction in which the buyers and sellers of a product act independently and have no relationship to each other.

The concept of an arm's length transaction is to ensure that both parties in the deal are acting in their own self-interest and are not subject to any pressure or duress from the other party and without some special relationship, such as being a relative or in this case a wholly owned subsidiary of a parent company.

United Water New York is a wholly owned subsidiary of United Water New Jersey.

History of Excess Releases From Lake DeForest To New Jersey

Please see the attached Excel worksheet:

[Excess flows of the Hackensack River to New Jersey 1959 – 2010](#)

The New York State Department of Conservation [Lake DeForest Decision of 7-23-1952](#) authorizing the construction of Lake DeForest states, "This Commission has the full power to see that this project is operated solely for the benefit of the citizens of Rockland County. The only benefit to the Hackensack Water Company (United Water New Jersey) and the people of New Jersey is the incidental benefit of a regulated flow in the river." (Page 10 paragraph 37)

United Water operates the Lake DeForest Reservoir under a permit that requires the company to maintain a daily average flow of 9.75 million gallons of water per day in the stream immediately above the intake works of the Village of Nyack.

In 2008, UWNY was fined by the New York State Department of Environmental Conservation (DEC) for excess releases of water from the Lake DeForest Reservoir that occurred between June 1, 2007, and Sept. 22, 2007. DEC determined that UWNY exceeded its permit limits by some 231 million gallons. DEC's determination was based on a review of the releases by a consultant hired by UWNY.

DEC's determination of excess releases is grossly understated. From June 2007 through January 2008 the excess flow of the Hackensack River at West Nyack, NY was actually **1.29 billion gallons**. These excess releases occurred at times when Lake DeForest was below 100% of capacity and water was not spilling over the dam. Instead, UWNY was regulating the flow by releasing water through control vales at the Lake DeForest Dam.

UWNY 's public explanation for these excess releases was that a valve that controls releases from the Lake DeForest Dam was malfunctioning.

However, the alleged malfunction did not render the valve completely useless.

The nature of the "malfunction" was that the SCADA (supervisory control and data acquisition) system was not able to remotely control and monitor the operation of the valve.

However, UWNY was still able to operate the valve manually and had other mechanisms available for controlling the discharges.

From June 2007 Through January 2008
When Lake DeForest Was Below 100 Percent Of Capacity
Excess Flow Of Hackensack River At West Nyack, NY

May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.
2007	2007	2007	2007	2007	2007	2007	2007	2008

Lake DeForest Percent OF Capacity At End Of Month

98.54%	91.62%	82.75%	76.49%	63.39%	57.27%	56.65%	71.11%	80.90%
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In Millions Of Gallons - Monthly Excess Flow Of Hackensack River At West Nyack, NY

xxx	90.0	130.1	162.4	161.1	316.2	186.1	179.3	62.7
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Total Excess Flow Of Hackensack River

1.29 Billion Gallons

5.26 Million Gallons Per Day

See page 3 of attached PDF

[Excess flows of the Hackensack River to New Jersey 1959 – 2010](#)

UWNY was fully aware of the alleged malfunctioning valve and was able to determine the amount of water being released from Lake DeForest by monitoring the United States Geological Survey (USGS) Hackensack River monitoring station at West Nyack, NY. However, UWNY never notified the County of Rockland Department of Health, the NYS DEC or the NYS PSC that the alleged malfunctioning valve was causing excess releases from Lake DeForest. The DEC was not aware of the excess releases until I contacted DEC Regional Director Willie Janeway in August 2007.

As of October 2007, Lake DeForest was at 57 percent of its capacity, and officials were concerned that a lack of adequate rain and snow over the coming months could lead to water supply problems in the spring. The excessive releases to New Jersey totaled approximately 1.29-billion gallons from June 2007 through January of 2008. The 1.29-billion gallons sent to New Jersey is equals over 27 percent of Lake DeForest’s usable storage capacity. Without the excessive releases, Lake DeForest would have only dropped to approximately 78 percent of its capacity and very few would have taken notice.

On December 14, 2006, a [New York State Public Service Commission \(PSC\) Order](#) adopted a three-year rate plan for United Water New York. “[The Joint Proposal](#)”, an agreement that was signed and adopted as part of the order, requires United Water to, among other things, develop an additional, sustainable water supply to meet the growing needs for water in Rockland County over the next 20 years.

In a February 23 2008 Journal News article UWNY said it knew that a 24-inch Howell-Bunger outlet valve was broken for at least 18 months prior to August 2007 but never explained why it took so long to replace.

After being fined by the DEC, UWNY stopped the excess releases. On Aug. 19, 2008, a Journal News editorial stated, "Drive past Lake DeForest now, and it's brimming." In only 10 months, Rockland's water supply was transformed from near crisis to abundance.

UWNY's claim that the valve was malfunctioning for at least 18 months before August 2007 indicates that they were aware of the excess releases of over 5 MILLION GALLONS PER DAY from Lake DeForest for at least 9 months prior to adoption of the December 14, 2006, [New York State Public Service Commission \(PSC\) Order](#).

UWNY chose to not notify the County of Rockland Department of Health, the NYS DEC, the NYS PSC and the parties to the Joint Proposal that an alleged malfunctioning valve was causing excess releases of over 5 MILLION GALLONS PER DAY from Lake DeForest to New Jersey, at the same time that the parties to the Joint Proposal were evaluating Rockland County's water needs.

This occurred while UWNY was beginning its ratepayer-funded campaign to convince Rockland that a desalination plant was the best alternative to meet the water needs of Rockland.

Data from the USGS shows that excess releases from Lake DeForest have been going on for decades. Even during periods of drought between 1991 through 2007, the United States Geological Survey's Hackensack River West Nyack monitoring station recorded an average flow of approximately 15 million gallons per day. As a result, the average flow to New Jersey exceeded the amount permitted by the DEC by more than 7 million gallons per day.

Prior to 2008, UWNY commonly released Lake DeForest water to New Jersey in excess of the DEC operating permit. These excess releases generally occurred at times when Lake DeForest was below 100% of capacity and water was not spilling over the dam. Instead, UWNY was regulating the flow by releasing water through control vales at the Lake DeForest Dam. From September 2003 to December 2007, the United States Geological Survey's Hackensack River West Nyack monitoring station recorded an average flow of approximately 13.76 million gallons per day in months when Lake DeForest was below 100% of capacity. As a result, the average flow to New Jersey exceeded the amount permitted by the DEC by 6.01 million gallons per day.

The excessive releases from September 2003 to December 2007 are significant not only for the 2.7 billion gallons of Rockland's water that was deliberately diverted to New Jersey by UWNY, but also for the lack of supervision by the New York State Department of Environmental Conservation, the County of Rockland Department of Health and other regulators. These excess releases occurred at the same time that the County of Rockland, the New York State Public Service Commission (PSC), United Water and others were advocating the development of an additional long-term water supply for Rockland.

During years of drought between 1991 through 2002, the United States Geological Survey's Hackensack River West Nyack monitoring station recorded an average flow of approximately 13.72 million gallons per day during the peak demand months from June through November. As a result, the average flow to New Jersey exceeded the amount permitted by the DEC by 5.97 million gallons per day.

Even during times of County of Rockland mandatory water use restrictions from 1991 through 2002, in the peak demand months from June through November, the excess flow from Lake DeForest to New Jersey averaged 3.5 million gallons per day.

UWNY chose to not notify the County of Rockland Department of Health, the NYSDEC, the NYSPSC and the parties to the Joint Proposal that excess releases from Lake DeForest had been occurring for decades.

The question is: Did the long history of excess discharges from Lake DeForest prior to 2007 in violation of United Water's Lake DeForest discharge permit, mislead the Public Service Commission to erroneously conclude that Rockland County's water resources are less abundant than they actually are?

Examples of UWNY skewing data and misleading regulators

1. The History of Excess Releases From Lake DeForest To New Jersey

United Water made a decision to **not notify** regulators and the parties to the Joint Proposal that excess releases from Lake DeForest had been occurring for decades.

United Water made a decision to **not notify** the County of Rockland Department of Health, the NYS DEC, the NYS PSC and the parties to the Joint Proposal that an alleged malfunctioning valve was causing excess releases of over 5 MILLION GALLONS PER DAY from Lake DeForest to New Jersey, at the same time that the parties to the Joint Proposal were evaluating Rockland County's water needs.

2. U.S. Geological Survey Water Resources of Rockland County with Emphasis on the Newark Basin Bedrock Aquifer

UWNY, previously Spring Valley Water, has operated aquifer wells throughout Rockland County for over a century.

As in the case of the history of excess releases from Lake DeForest to New Jersey, United Water made a decision to **not notify** regulators and the parties to the Joint Proposal that Rockland's ground water resources were more abundant than United Water had represented and that the year-to-year recharge rate of Rockland's aquifer is sufficient to replenish United Water's wells and other wells that are drawn down during peak demand months.

The United States Geological Survey [Rockland County Water-Resource Assessment](#), completed in 2010 indicates that Rockland's ground water resources are more abundant than thought in 2006 and that the year-to-year recharge rate of Rockland's aquifer is sufficient to replenish United Water's wells and other wells that are drawn down during peak demand months. Review of pumpage and water-level data from the bedrock aquifer back to 1989 suggests that there has not been a continuous downward trend in groundwater levels across the aquifer.

Additionally, the [Rockland County Water-Resource Assessment](#) suggests options from conservation to advanced wastewater treatment, as potential ways to augment Rockland's water supply.

Citation: Heisig, P.M., 2010, Water resources of Rockland County, New York, 2005–07, with emphasis on the Newark basin bedrock aquifer: U.S. Geological Survey Scientific Investigations Report 2010–5245, 130 p., at <http://pubs.usgs.gov/sir/2010/5245>

Staff Report on Need

The PSC Staff Report on Need completely drops the ball on the subject of Equitable Apportionment.

I have commented in this case and other PSC and NYSDEC cases regarding Equitable Apportionment of water resources between New York and New Jersey.

In summary the PSC Staff Report concludes that after 60 years of interstate agreements between New York and New Jersey; not much can change regarding Equitable Apportionment of water resources between the to states. The implication is that Rockland County has not previously asserted its right to an Equitable Apportionment of water resources shared with New Jersey.

To the contrary, over the last quarter century Rockland County, that is former County Executive, Scott Vanderhoef and the Rockland County Legislature have consistently petition the State of New York Department of Public Service and the State of New York Department Environmental Conservation to re-examine Equitable Apportionment agreements with New Jersey.

Unfortunately, these requests have up till now gone unheeded.

In the PSC Staff Report, there is not one word about Rockland County's riparian rights accruing from the increase in safe yield from the Hackensack River resulting from the construction of Lake Tappan.

United Water New York, Inc.'s November 8, 2013 Response to Issues Raised During the Public Statement Hearings in [Case 13-W-0303](#) (the Need Case) devotes pages 26 through 30 (5 pages) to the issue of Equitable Apportionment. However, there is not one word about Rockland County's riparian rights accruing from the increase in safe yield from the Hackensack River resulting from the construction of Lake Tappan. Rockland would be entitled to 3.35 Million Gallons Per Day (MGD) from Lake Tappan if the current Lake DeForest passing flow rate of 0.291 Million Gallons Per Day Per Square Mile (MGD/SQMI) was applied to allocating Rockland's equitable share of Lake Tappan. At a passing flow rate of 0.125 MGD/SQMI Rockland's equitable share of Lake Tappan's safe yield would be 7 MGD.

Changing the Lake DeForest passing flow rates and Rockland taking water from Lake Tappan would achieve a more complete utilization of Rockland's existing water resources and riparian rights resulting in an increase in Rockland County's safe yield from the Hackensack River by 11.42 Million Gallons Per Day (MGD). (See Excel spreadsheet [Hackensack River Safe Yields And Passing Flow Rates](#))

New York State Public Service Commission 2006 (PSC) Order and “The Joint Proposal”

On December 14, 2006, a [New York State Public Service Commission \(PSC\) Order](#) adopted a three-year rate plan for UWNY. “[The Joint Proposal](#)”, an agreement that was signed and adopted as part of the order, requires UWNY to, among other things, develop an additional, sustainable water supply to meet the growing needs for water in Rockland County over the next 20 years.

The parties to the 2006 Joint Proposal are: UWNY, PSC Staff, the Town of Ramapo, the County of Rockland, the Rockland County Fire Chiefs, former Rockland County Legislator and now New York State Assembly Member Ellen Jaffee, and others. (See: [The Joint Proposal](#) Page 3)

Equitable Apportionment Passing Flow Rates and Safe Yields of the Hackensack River

United Water made a decision to **not notify** regulators and the parties to the Joint Proposal that an equitable apportionment of the safe yield from the Hackensack River could increase Rockland County’s water supply by 11.42 Million Gallons Per Day.

UWNY’s November 8, 2013 Response to Issues Raised During the Public Statement Hearings in [Case 13-W-0303](#) (the Need Case) devotes pages 26 through 30 (5 pages) to the issue of Equitable Apportionment. However, there is not one word about Rockland County’s riparian rights accruing from the increase in safe yield from the Hackensack River resulting from the construction of Lake Tappan. Rockland would be entitled to 3.35 Million Gallons Per Day (MGD) from Lake Tappan if the current Lake DeForest passing flow rate of 0.291 Million Gallons Per Day Per Square Mile (MGD/SQMI) was applied to allocating Rockland’s equitable share of Lake Tappan. At a passing flow rate of 0.125 MGD/SQMI Rockland’s equitable share of Lake Tappan’s safe yield would be 7 MGD.

Changing the Lake DeForest passing flow rates and Rockland taking water from Lake Tappan would achieve a more complete utilization of Rockland’s existing water resources and riparian rights resulting in an increase in Rockland County’s safe yield from the Hackensack River by 11.42 Million Gallons Per Day (MGD). (See the attached Excel spreadsheet [Hackensack River Safe Yields And Passing Flow Rates](#))

It is not at all surprising that UWNY has no interest in advocating for a more equitable apportionment of the Hackensack River, which would favor Rockland County. After all, UWNY is a wholly owned subsidiary of United Water New Jersey.

How much additional safe yield could be drawn from the Hackensack River with a change in the minimum Passing Flow from 0.291 to 0.125 Million Gallons Per Day (MGD) per square mile of drainage area?

Should Rockland County receive an allocation of the Safe Yield of Lake Tappan?

Does the November 1, 1982 Lake DeForest Modifying Decision 6 unfairly benefit United Water New Jersey to the detriment of Rockland County?

Could it be that Rockland County is entitled to an additional 11.42 MGD from the Hackensack River?

Lake DeForest

New York State Department of Environmental Conservation

A change in the minimum Passing Flow of the Hackensack River from 0.291 to 0.125 MGD per square mile of drainage area could increase the yield of Lake DeForest by 4.42 MGD.¹

On September 12, 2013 the Rockland Water Coalition requested Rockland County to ask the New York State Department of Environmental Conservation (DEC) to reopen the Lake DeForest Water Supply Permit (WSA 2189) to make appropriate adjustments to the permitted flow of water from Lake DeForest to New Jersey so that Lake DeForest is operated *“solely for the benefit of the citizens of Rockland County”* as intended when WSA 2189 was originally issued in 1952.²

As a result of the Rockland Water Coalition’s request Rockland County Executive, C. Scott Vanderhoef formally requested DEC reopen the Permit for Lake DeForest on September 23, 2013.

From County Executive, C. Scott Vanderhoef’s request:

“

The purpose of this letter is to formally request that the terms of WSA 2189 be re-evaluated with due consideration of all current issues surrounding the appropriate use of the waters of New York State, and the riparian rights of downstream users.

Following such comprehensive analysis, and presentation of the results for public review, I also hereby formally request that the proceedings in WSA 2189 be reopened pursuant to Condition “K,” which reads as follows, “Should events prove that the amount of water herein required to be released from the reservoir under Condition I above [or as replaced by the Rule Curve pursuant to the Sixth Modifying Decision, November 1, 1982] be in error, the Commission, upon application of any party to this proceeding will reopen this case in order to make a suitable adjustment of the flow to be maintained.”

I have argued for such re-consideration in the past by letters dated August 3, 1999, June 17, 2010 and August 26, 2012 in an effort to protect the interests of Rockland residents.

”³

¹
[20140108 Comparison of Current and Proposed Passing Flow Rates and Safe Yields of the Hackensack River \(PDF\)](#)

²
[20130912 Rockland Water Coalition to RC Ex Vanderhoef on Lake DeForest Passing Flow](#)

³
[20130923 RC Ex Vanderhoef to DEC](#)

New York State Department of Health

[The Lake DeForest water treatment plant has a capacity of 20 MGD, the New York State Department of Health’s (NYSDOH) permit for the Lake DeForest water treatment plant limited production to 10 MGD, and ***a revision to this permit would augment the county’s overall supply. The permit issued by NYSDOH to United Water for the water treatment plant at Lake DeForest was modified in March 2013 to remove a previous condition requiring that the annual average intake of raw water be limited to 10 MGD. NYSDOH’s permit modification stated that the purpose of this change was “to eliminate the unintended consequence of limiting the raw water taking from the reservoir during periods when takings would not affect the storage of the reservoir and thus its safe yield.”*** (Emphasis added) The 2013 permit amendment has the potential to allow treatment of more water, which will increase the yield from the reservoir during normal to wet conditions, but this will not increase the safe yield of the reservoir.]⁴

The additional yield from Lake DeForest will reduce demand on Rockland’s ground water resources allowing the aquifer and well fields to be rested and more fully charged then otherwise, consequently augmenting the county’s overall supply, especially during high use periods.

Status of Lake DeForest Water Supply Permit (WSA 2189)

Despite requests from the County of Rockland, DEC has not reopened the Lake DeForest Water Supply Permit (WSA 2189) since 1982.

As a result, Rockland County continues to be deprived of the give right that Lake DeForest should be operated ***“solely for the benefit of the citizens of Rockland County”***

1. Lake DeForest Water Supply Permit (WSA 2189) limits production from the Lake DeForest water treatment.

As stated above the Lake DeForest water treatment plant has a capacity of 20 MGD and that the New York State Department of Health’s permit issued to United Water for the water treatment plant at Lake DeForest was modified in March 2013 to remove a previous condition requiring that the annual average intake of raw water be limited to 10 MGD.

However, the current DEC permit limits water production from Lake DeForest to an average of 10 MGD.

The DEC should reopen the Lake DeForest Water Supply Permit (WSA 2189) and as NYSDOH has done remove the annual average 10 MGD constraint on water production from Lake DeForest.

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2. Lake DeForest Water Supply Permit (WSA 2189) reduces the safe yield of the reservoir by requiring excessive passing flows to New Jersey.

In its July 23, 1952 Lake DeForest Decision the State of New York Conservation Department (now DEC) Division of Water Power And Control established a minimum Passing Flow from the reservoir to the State of New Jersey of 0.291 MGD per square mile of drainage area equaling 7.75 MGD.⁵ In its decision the DEC acknowledges that New Jersey requested a Passing Flow of 0.125 equaling 3.33 MGD in order to maintain sanitary conditions in the stream. There is no evidence that New Jersey asserted any claim for an Equitable Apportionment of Passing Flow above 3.33 MGD. However, despite its own determination that Lake DeForest should be operated “*solely for the benefit of the citizens of Rockland County*”, the DEC established a Passing Flow 4.42 MGD higher.

November 1, 1982 Lake DeForest Modifying Decision 6 **“The Rule Curve”**

On November 1, 1982 the DEC modified the 1952 decision and adopted a “Rule Curve” to allow for additional Passing Flows to New Jersey under certain conditions.⁶ Under the “Rule Curve” Passing Flows to New Jersey have at times been increased to 23 MGD. This is 3 times the original 7.75 MGD Passing Flow originally established in 1952 and nearly 7 times the 3.33 MGD requested by New Jersey in 1952.

Robert Kecskes, former Chief of the Water Supply Planning Section at the New Jersey Department of Environmental Protection, provides a detailed analysis of Hackensack River Passing Flow in his July 9, 2014 comments to the PSC.⁷

Lake Tappan

The possibility of allocating a share of the safe yield of Lake Tappan for Rockland County was discussed a length in testimony given during the May 19, 1965 Lake Tappan Hearing.⁸

In its July 22, 1965 decision the State of New York Conservation Department reserved to itself the right to consider future applications for the taking of water by communities in New York State from the Hackensack River for public water supply purposes.

From the State of New York Conservation Department Lake Tappan Decision of July 22, 1965.⁹

Paragraph 16

“Hackensack Water Company reportedly has future plans for the installation of pumps and transmission facilities which could be utilized to pump water from River Vale Reservoir (Lake Tappan) to DeForest Lake in years such as the present one when

⁵ [19520723 Lake DeForest Decision](#)

⁶ [19821101 Lake DeForest Modifying Decision 6](#)

⁷ [20140709 Kecskes Comments to PSC on Lake DeForest Passing Flows](#)

⁸ [19650519 Lake Tappan Hearing](#) at page 33 and pages 38 through 45

⁹ [19650722 Lake Tappan Decision](#)

DeForest Lake does not fill from snowmelt and spring runoff. The installation of such equipment is not a part of the instant proposal.”

Paragraph 17

“In view of the above facts, the Commission will not reserve to New York State any portion of the yield of the Hackensack River attributable to the River Vale Reservoir. *The Commission will however reserve to itself the right to consider future applications for the taking of water by communities in New York State from the Hackensack River for public water supply purposes.*” (Emphasis added)

Based on the information available it is estimated that Rockland could draw as much as 7 MGD from the New York side of Lake Tappan; Depending on the safe yield of Lake Tappan and the passing flow rate per square mile of drainage area.

On May 19, 1965, George H. Buck, P.E., President, Hackensack Water Company, Inc. (now United Water New Jersey) testified to the NYS Department of Conservation that the proposed Lake Tappan would not add any additional water for use in New Jersey, but would merely compensate for the 10 MGD being diverted to Rockland County.¹⁰

Mr. Buck’s testimony was inaccurate and misleading.

In his testimony Mr. Buck apparently disregarded the fact that Lake DeForest was constructed for the specific purpose of increasing the safe yield of the Hackensack River at West Nyack, NY from 9.75 MGD to 20 MGD.

At that time, the Hackensack River at West Nyack, NY, was calculated to have a safe yield to the benefit of New Jersey of 7.75 MGD after a 10 MGD diversion to Rockland County at Lake DeForest and a 2 MGD diversion to the Nyack Water Company just upriver from the USGS monitoring station at West Nyack, NY.

Given that Lake Tappan was supposedly intended to compensate for the 10 MGD being diverted to Rockland County, the safe yield of the Hackensack River at the Lake Tappan Dam, *at a minimum*, would have likely been calculated to be 17.75 MGD (10 MGD plus 7.75 MGD).

However, it appears that George H. Buck’s estimates about the expected increase in safe yield from the construction of Lake Tappan may have been excessively conservative. There is evidence that the construction of Lake Tappan increased the yield of the Hackensack River by 18 MGD for the months of June through October.¹¹ (See: [20110524 DeForest and Tappan Dams Increase Yield of Hackensack River \(PDF\)](#))

Nyack Water Works

Knowing what we now know, why bother pumping water up to Lake DeForest from Lake Tappan as George H. Buck, P.E., President, Hackensack Water Company, Inc. suggested in 1965?

¹⁰ [19650519 Lake Tappan Hearing](#) at pages 29 and 30

¹¹ [20110524 DeForest and Tappan Dams Increase Yield of Hackensack River \(PDF\)](#)

The sensible thing to do is to simply adjust the passing flows from Lake DeForest and perhaps utilize the resources of the Village of Nyack Water Department at times of peak demand.

The head of the Lake Tappan reservoir is at the Village of Nyack Water Treatment Plant only 1 mile downriver from Lake DeForest.

The Village of Nyack Water Treatment Plant could be used to augment United Water's Lake DeForest water treatment plant 20 MGD capacity through the already existing interconnection between the two systems.

The Village of Nyack Water Treatment Plant has surplus treatment capacity. The plant produces about 2 MGD of Nyack's 3 MGD allocation operating only approximately 16 hours per day during electric rate off peak hours. During this time treated water is pumped to storage facilities for later distribution to customers.

In Closing

There is an inherent conflict of interest in the non-arms length relationship between United Water New York and United Water New Jersey.

It has been demonstrated that United Water has come before the State of New York Public Service Commission with "unclean hands".

With United Water New York having control over 90 percent of Rockland County's water supply, it is imperative that the regulators of UWNJ, including the State of New York Public Service Commission, the New York State Department of Environmental Conservation and the County of Rockland; should advocate aggressively to protect the interests of the citizens and ratepayers of Rockland County.

Development of an additional, sustainable water supply to meet the needs for water in Rockland County over the next 20 years IS NOT NOW REQUIRED.

And;

Any associated WATER SUPPLY SURCHARGE SHOULD BE DENIED.

Respectfully submitted,

Robert Dillon

Ecc:

Andrew Cuomo, Governor

Joseph Martens, NYSDEC Commissioner

Ed Day, Rockland County Executive

The above comments are my own and do not necessarily represent the views of the following Public Service Organizations of which I am a member:

State of New York - Rockland Bergen Flood Mitigation Task Force
Appointed February 25, 2015

Rockland County Task Force on Water Resource Management
Co-Chair, Drought Management and Flood Management Committee
Member, Systems Management Committee
Since 2014

Rockland Residents Against Flooding Tomorrow (Rockland R.A.F.T.)
Founding Member, 2007

Rockland Water Coalition
<http://sustainablerockland.org/>
Member since 2007

Rockland County Water Quality Committee
Associate Member since 2007

TAPPAN ZEE BRIDGE/I-287
ENVIRONMENTAL REVIEW
Environmental Stakeholders' Advisory Working Group
Member, 2007 through 2011