

STATE OF NEW YORK PUBLIC SERVICE COMMISSION

Verified Petition of United Water New York Inc. :
for Implementation of a Long-Term Water : Case 13-W-0246
Supply Surcharge, and Related Tariff :
Amendment. :

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July 6, 2015

Re: Support for Petition of Town of Ramapo for Rehearing and/or Clarification

Honorable Secretary,

I am an active party to this case, [13-W-0246](#) and a related 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. 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 dose of statistics and economics sprinkled in, and a lifetime of crunching numbers.

With regard to this case, [13-W-0246](#) and a related case [13-W-0303](#), please accept the following comments.

I support the Petition of the Town of Ramapo for Rehearing and/or Clarification in case, [13-W-0246](#). United Water New York Inc. should not be granted any Supply Surcharge, and Related Tariff for Implementation of a Long-Term Water Supply.

United Water has shown a lack of due diligence in managing its business and planning for Rockland County's future water needs.

In my view, United Water has no one to blame for the costs of developing a New Long-Term Water Supply Source but United Water.

Others have commented on United Water's shortcomings in great detail. Below I comment on Equitable Apportionment, Passing Flow Rates and Safe Yields of the Hackensack River.

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

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?

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

The Rockland Water Coalition has requested that Rockland County 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

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

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 than 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.

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.

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

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](#)

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 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 seems to have forgotten that the reason for the construction of Lake DeForest was to increase the safe yield of the Hackensack River to compensate for diversions from the river to public water supply systems in Rockland County, NY. The 10 MGD Mr. Buck claims is being diverted to Rockland County is in fact the intend result of the construction Lake DeForest.

At that time, the Hackensack River at West Nyack, NY, was calculated to have a safe yield 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 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 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

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?

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.

¹⁰ [19650519_Lake_Tappan_Hearing](#) at pages 29 and 30

¹¹ [20110524_DeForest_and_Tappan_Dams_Increase_Yield_of_Hackensack_River_\(PDF\)](#)

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 10 hours per day during electric rate off peak hours, roughly 10 PM to 8 AM. During this time treated water is pumped to storage facilities for later distribution to customers.

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

Footnotes:
Google Drive Links

- 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](#)
- 4
[20130819 UWNY REPORT ON PROJECTED DEMAND AND NEED FOR A NEW LONG-TERM WATER SUPPLY SOURCE IN ROCKLAND](#)
- 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](#)
- 10
[19650519 Lake Tappan Hearing](#) at pages 29 and 30
- 11
[20110524 DeForest and Tappan Dams Increase Yield of Hackensack River \(PDF\)](#)