



COUNTY OF ONEIDA  
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April 23, 2008

Nancy Kim  
Interim Director, Center for Environmental Health  
New York State Department of Health  
547 River Street  
Troy, NY 12180

Dear Dr. Kim:

On September 26, 2007, I issued a "State of Emergency Declaration" pursuant to Article IIB of State Executive Law to protect the water supply for residents of Oneida County. Then Governor, Elliot Spitzer, formed the Hinckley Reservoir Working Group on October 17, 2007 the day after my State of Emergency Declaration expired. I and my staff have participated in the 8 working group and numerous committee meetings that have taken place since that time. I am writing to express my disappointment in the final Report to the Governor by the Hinckley Reservoir Working Group that was submitted to you on April 30, 2008.

On December 10, 2007 during the second meeting of the Hinckley Reservoir Working Group, I clearly articulated the concerns of Oneida County. First and foremost, a secure and safe water supply for the 135,000 customers being served by the Mohawk Valley Water Authority must be assured. Second, the Hinckley Resource must be managed to assure that electrical power generation facilities can operate in an efficient manner. Third, an adequate supply of water is critical for assuring the community infrastructure to retain and attract businesses that are so important to the economic vitality of the region. Fourth, but certainly not the least import is the vitality of the recreational resources that include fishing, boating, canoeing, swimming which are impacted by the Hinckley Resource. It is disappointing that the Working Group has not explicitly stated that the water supply to customers being served by the Mohawk Valley Water Authority does not have the greatest level of importance.

In addition, I raised a question during this meeting that I expected to be addressed by the conclusion of the Working Group's deliberations. I and the residents of Oneida County observed that the Barge Canal was filled to capacity and overflowing at the same time the Hinckley Reservoir was at its lowest levels when I made my State of Emergency Declaration. What were

the specific needs of the canal during the periods of over release? My question has never been addressed.

During the course of the working group and committee meetings, concerns raised by staff from the Oneida County Health Department were either not addressed or the appropriate answer has been relegated to an inconspicuous section of the report or an appendix. I provide the following bulleted listing of the concerns raised by my staff and how the issue was addressed by the Working Group:

- An accurate chronology of the events was prepared that included events preceding and during the Hinckley Crisis from August 28, 2007 through October 16, 2007. Expectations were that this chronology would be included in the section of the report entitled, "2007 Water Conservation Emergency". The chronology has been scattered throughout different sections of the report with key portions omitted. My staff raised this point during the eighth Working Group meeting on April 21, 2008. The decision was made during this meeting to include this chronology in the form of actual e-mail correspondence that will be relegated in an appendix to the report. The e-mails are only of a portion of the events that led to my Emergency Declaration, therefore an accurate chronology of events is lacking.
- Currently there is a written protocol for addressing deviations from a "rule curve" that is used as a tool to regulate the flows out of the Hinckley Reservoir. This "rule curve" was developed during the 1917-1921 time period and was written into legislation and contracts that pertain to the Canal Corporation's access to water and the generation of electrical power. The written protocol to deviate from this "rule curve", in the context of under releases, while never enacted into legislation, has been followed for decades and there has never been a situation where the water supply has been threatened – even during periods of drought. In 2007, the same procedures were followed as in previous years with requests for reduced flow deviations being made prior to our direct communications with the Canal Corporation in September 2007. These requests were denied by the Canal Corporation. This led directly to the water crisis and my Emergency Declaration. My staff has repeatedly attempted to have this "unofficial" yet routine protocol of reduced flow deviations from the rule curve adopted at the working group and committee level. Their effort has been ignored.
- I and my staff have attempted repeatedly to have included information comparing similar precipitation years and respective reservoir levels that the Oneida County Health Department produced in collaboration with the Mohawk Valley Water Authority. This information that includes a chart is instructive in that it illustrates how management decisions throughout the spring and summer season affect reservoir levels in the fall. The Governor's charge asked for a comparison of water usage and meteorological data between 2006 and 2007 to better understand the factors that contributed to low reservoir conditions in the fall of 2007. However, meteorological conditions between the two years were vastly different. Similar, but not identical meteorological conditions were experienced during the years 1999 and

- 2007. The year 1999 was a drier year than 2007 (45.1 inches of rain compared to 54.5 inches) and a drought was declared in 1999. Precipitation and reservoir were similar throughout the spring and early-summer. In late-June, however, [June 23<sup>rd</sup> in 1999, reservoir elevation 1217.5 ft; and June 25<sup>th</sup> in 2007, reservoir elevation 1217.1 ft] water management decisions were made that affected reservoir elevations for the remainder of each respective year. In 1999, the decision was made to reduce flows to approximately 25% below the rule curve (from 400 cfs to 300 cfs). These flows were reduced for the most part until October 1<sup>st</sup>. Reservoir levels never declined below 1205.3 feet and the water supply was never at risk. In 2007, however, in late-June and again in early August, release rates were increased approximately 50% above the "rule curve" flows (from 400 cfs to 600 cfs) which resulted in a release of more than 2 billion gallons of water. These decisions resulted in the reservoir dropping to a record low level for that time of year (1192.2 feet). This put the water supply at risk and resulted in my Emergency Declaration on September 26, 2007. During the last working group meeting, it became clear to me that this comparison will not be included in the working group report.
- In collaboration with Herkimer County, my staff developed a table that summarized the value of property adjacent to the Hinckley Reservoir and West Canada Creek. My representative made the suggestion that a section be included in the working group report for this information. This information was relegated to Appendix D.
- Society has changed. The canal system is no longer used for commerce. Comments regarding the vintage of the laws pertaining to the water rights to the Hinckley Reservoir and their regulation have been raised by me, my staff, and others during the course of working group and committee meetings. Suggestions for amending these laws and regulations have been made repeatedly. Oneida County recognizes that water flow is "managed" by contracts that are nearly a century old. However, none of the points raised of discussion and suggestions on this "ancient legislation" has been included in a prominent location in the final report.

The Mohawk Valley Region in Oneida and Herkimer Counties depends upon a secure and stable supply of fresh, clean water for its residents and industrial base. It must be recognized that the Environmental Protection Agency (USEPA) rules for water quality are continually changing making compliance much more difficult for smaller communities served by their own water systems. In the next few years, compliance with these new federal regulations may be fiscally impossible for some water systems. While the decision to connect with the Mohawk Valley Water Authority would rest with the local municipality, it would be in the best interests for many residents for the Water Authority to expand into these areas to provide high-quality drinking water. Currently, there are several projects that are in a state of uncertainty due to concerns over Hinckley Reservoir and the waters available to the MVWA. Several of these projects have been

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developed to serve residential populations that are currently living with poor quality and quantity and in some situations contaminated and unsafe drinking water. The projects would eliminate these significant health concerns for several communities in Oneida County.

Indeed, the economic vitality and stability of the region is dependent on the expansion of the Mohawk Valley Water Authority. The proposed microchip plant in Marcy will require an additional 6 million gallons of water per day. This usage coupled with even moderate residential expansion will maximize the capabilities of the current water treatment plant to supply water to the region. However, it requires an assurance that water will be available from the Hinckley Reservoir.

I am cognizant and appreciative of the effort contributed by the Chair of the Hinckley Working Group, Dr. Nancy Kim, and her staff in the preparation of this report. However, if this report is read by an individual who is not familiar with Hinckley Crisis of 2007, the reader would not have a clear understanding of what transpired. This report clearly articulates that there was a near water shortage and that it was corrected. The report falls short in that it does not explain how and why the near water shortage occurred. A reader of this report will not be able to determine if the events that transpired in 2007 that led to the Hinckley Crisis would be preventable in the future.

In conclusion, even with the shortcomings outlined above, Oneida County is supportive of the final report and recommendations developed by the Hinckley Reservoir Working Group. I support some recommendations more than others. For example, Recommendation 10 to continue to study the upstream water storage capacity of the Hinckley Reservoir was included largely to appease the Canal Corporation and has little bearing on the modern day usage of the canal system and other users of the Hinckley Reservoir. However, I fully support the recommendation to create a Hinckley Commission. This appears to be the only remaining avenue available to amend archaic legislation that affects the water resource that is so important the health and safety of residents and to the economic vitality of the region.

Sincerely,



Anthony J. Picente Jr.  
Oneida County Executive

Cc: Hinckley Reservoir Working Group