

Mohawk Valley Water Authority
One Kennedy Plaza
Utica, NY 13502
Telephone (315) 792-0301
Fax (315) 792-4722
www.mvwa.us



July 19, 2007

Ms. Judy Drabicki, *Esq.*
Director, DEC Region 6
317 Washington Street
Watertown, NY 13061-3787

Dear Ms. Drabicki:

Thank you for your attention regarding the Mohawk Valley Water Authority's (MVWA) request for an expanded water supply permit. It is our understanding that current concerns of the DEC technical staff are not specifically related to the validity of the water availability analyses conducted on our behalf by Barton & Loguidice Engineers. Rather, the concern is over whether or not temporary deviations from the Operating Diagram (a.k.a. "rule curve") are to be allowed in the future.

As I explained by phone last week, the Canal Corporation is unilaterally insisting that deviations can no longer occur, which is an unprecedented departure from all known prescribed procedures and practices. Therefore, I am enclosing five documents for your review prior to our meeting on July 25. Below is a brief description of each document and its relevance to next week's discussion.

1. The 1920 Operating Diagram, also known as the "Rule Curve." This chart shows the prescribed release rate for Hinckley Dam based on the elevation of the water in the reservoir on a given date throughout the year.
2. The "Report on Practical Operation of the Hinckley Reservoir" written in 1922 by the engineers who devised the Operating Diagram. The highlighted areas indicate the diagram was devised using creek flow conditions measured during the 7-year period from 1907 to 1914 (before Hinckley Reservoir existed.) The report suggests that the diagram should be adjusted when conditions vary from the 7-year averages used in the diagram (i.e. during drought or flooding.)
3. The 1921 Agreement between New York State and the Utica Gas and Electric Company, predecessor to Erie Blvd. Hydropower, today's owner of the hydroelectric plant immediately downstream of Hinckley Reservoir. In this agreement, Erie's predecessor agreed to accept the regulated flows through Hinckley Dam as prescribed in the Operating Diagram. The agreement also says that the State "**may temporarily vary or entirely suspend the operation of the said dam and reservoir as described and laid down in the operating diagram**" during periods of unusual drought, flood, or maintenance, without the payment of any damages to the power company (Erie Hydropower).

4. An explanation of the operating protocol used by the New York Power Authority (NYPA) that was provided to the water authority during a meeting at NYPA offices in Marcy. NYPA operates the Jarvis hydroelectric facilities in Hinckley Dam and controls the Hinckley releases for the Canal Corporation in accordance with the operating diagram.

The document indicates that **NYPA deviates from the diagram and slows the release rate when the water level in the reservoir falls below elevation 1200.**

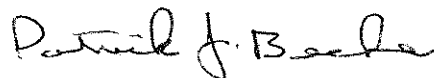
5. Comments regarding the justification for deviations submitted to the DEC in support of the Town of Verona's waters supply application. This summary document was prepared by the water authority's general counsel, Edward D. Earl, from the firm Felt Evans in Clinton, NY.

It is our belief that deviations from the 1920 Operating Diagram were deemed appropriate when necessary by the engineers who devised it; are permitted under Erie's contract with the State of New York; are part of the general operating procedures for Hinckley Dam, and have occurred numerous times in past practice.

The water availability studies submitted to DEC by the MVWA show that our historical limit of 48.5 million gallons per day (mgd) would be available during a repeat of the drought of record provided that a minor and temporary deviation (11%) from the operating diagram occurs. Records indicate that, indeed, a deviation did occur during the drought of 1964-65. It our position, therefore, that the position taken by the Canal Corporation of attempting to prohibit deviations in the future is not only unreasonable, unprecedented, and irresponsible.

I hope you will find this information useful. Please feel free to call me at 792-0310 if you wish to discuss this or would like additional information. We look forward to meeting with you next week.

Sincerely,



Patrick J. Becher
Executive Director