

Coalition of Watershed Towns

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Comments Regarding the Independent Review of NYC's Watershed Protection Program

WHEREAS, the Parties recognize that the goals of drinking water protection and economic vitality within Watershed communities are not inconsistent and it is the intention of the Parties to enter into a new era of partnership to cooperate in the development and implementation of a Watershed protection program that maintains and enhances the quality of the New York City drinking water supply system and the economic vitality and social character of the Watershed communities; and

Clause 6 of the recital opening the 1997 MOA

The City's LAP, the City's Watershed Regulations and the other programs and conditions contained in the Watershed MOA, when implemented in conjunction with one another, are intended to protect water quality while allowing existing development to continue and future growth to occur in a manner that is consistent with the existing community character and planning goals of each of the Watershed communities.

2010 Water Supply Permit, Paragraph 2 Scope

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Greetings Pam,

Thank you for this opportunity to submit comments concerning the scope of the Expert Panel's work. As the quotations opening this document suggest, CWT wishes to emphasize that social and economic issues are the flip side of water quality issues. The following comments were prepared by the Chairman of the Coalition of Watershed Towns and Counsel Jeff Baker on behalf of the CWT Executive Board and can be divided into three categories:

1) endorsement; 2) overview; and 3) specific suggestions.

1. CWT endorses (and is a cosponsor of) Kevin Young's white paper titled *A New Vision for the New York City Watershed: Using Successful Partnership Programs To Protect Water Quality While Facilitating Business Retention and Development*

[See Attached]

A long name but wonderfully suggestive. Vibrant communities and cooperative partnerships (not mandates nor letter-perfect enforcement of the Watershed Rules and Regulations) are the very heart of what make Watershed protection work for both Watershed residents and the City.

2. Overview

The Watershed and its Communities can be viewed as a “living laboratory”, a research park committed to exploring options and strategies conducive to sustainable prosperity, a think tank open to creative re-imagining of communities in a time of global environmental crisis.

The findings of the last Expert Panel were published in the year 2000 by National Academies Press as *Watershed Management for Potable Water Supply: Assessing the New York City Strategy*

I want to quote from the concluding chapter of this book, Chapter 12 [pp 492-513], Overarching Issues.

The MOA is the result of a lengthy and complex bargaining process among parties concerned with maintaining the economic and social viability of the watershed region on the one hand and protecting the water quality on the other. As summarized in Chapter 1, the MOA emerged from a sometimes acrimonious negotiation process that extended over many months. Difficult as the negotiation was, the signing of the MOA has allowed New York City and the watershed communities to move from impasse toward realization of their goals of watershed protection and economic growth. [p.501]

The committee thinks moderate population growth and a wide range of new economic activities can be accommodated in the watershed without deleterious impacts on water quality as long as development regulations are rigorously implemented and the extensive water quality infrastructure investments now being planned are put in place. [p.503]

Because the City committed substantial financial resources to help advance environmentally sensitive development, other regulatory, land acquisition, and water quality investment programs that will contribute significantly to protection of its drinking water supply are moving forward. [p.504]

The committee recommends a continuing process of program evaluation to ensure that funds are most productively used to meet the goals of environmentally sustainable development. [p.504]

After the flooding that occurred in the wake of Irene and Lee, several communities in the Watershed were devastated, and their devastation flowed into reservoirs critical to NYC’s water supply.

A “NYC Watershed Flood Mitigation Strategies Meeting” was convened on Dec 8, 2011, at DEC’s offices in New Paltz. This was followed by a “Catskill Flooding Workgroup” meeting on Jan 26, 2012 at DEP’s offices in Kingston. The work done at these and many subsequent gatherings had a profound impact on the Final Revised 2007 FAD issued May 2014 by NYS DOH in consultation with US EPA resulting in the establishment of three new City-funded programs: a Local Flood Hazard Mitigation Program, a Flood Buyout Program, and a Relocation Assistance Program.

As a result of these initiatives, many communities in the Watershed are faced with crucial decisions that will shape the look, feel, and character of their towns and villages for decades to come. Some are grappling with their very survival. All of them are attempting to re-vision their futures.

Yes, we would like to preserve our rural character. Yes, we want agriculture, forestry, recreation, and tourism to be a part of our economy. But we are steadily losing population because these industries are not enough to hold our children. We’d like to offer more than this to future generations.

Without adequate infrastructure, technological innovations penetrating urban centers around the world bypass rural areas. This disadvantages our children, our residents and our businesses. The Rural Electrification Act of 1935 and the Federal-Aid Highway Act of 1956 opened incredible opportunities for the entire nation. The hamlet I live in has no cell-phone towers let alone municipal broadband, and this is the case throughout much of the Watershed. Another consequence of inadequate infrastructure is to limit remote work possibilities and the use of business apps on smart-devices.

Living in the narrow, steep-sided valleys of the Watershed, we find ourselves hampered by tight regulations regarding septic systems, stormwater controls, impervious surfaces, etc. Added to this the permitting process is slow and cumbersome. (Maybe it’s time for departments within State, City and local governments to aspire to the Malcom Baldrige National Quality Award.) Can we cut-through the defeatist malaise brought about by over-zealous regulation? Can we encourage optimism in the Watershed by discussing options instead of rules?

Vision and long-term planning are as critical as funding. Let's encourage the exploration of possibilities. We don't know the types of green business, some yet to be created, that might take hold in the Watershed (i.e., "environmentally sensitive development"). Could smart grid storage systems find a home here? Could we become known as a region that manufactures the structural components for green housing and do it in such a fashion as to have relatively little environmental impact? Can we build an industry around large-scale 3D printing and fabrication? Can we train the social scientists, statisticians, and R programmers who might take on projects like those discussed at the Workshops on Big Data and Urban Informatics and apply them in rural settings? (See <http://urbanbigdata.uic.edu/proceedings/>)

NYC DEP already does educational outreach, if invited to do so, in our towns and public schools. We need to create opportunities in our communities to explore and understand the full scope of what it means to pursue "environmentally sensitive development." Maybe we need to revive the Chautauqua system in the Watershed for the purpose of discussing new economic prospects and design possibilities for our hamlets, villages, and the entire region. Rural "TED" talks; training sessions to develop the skills to envision our vibrant futures.

Many have compared the Watershed to a "living laboratory" whose full potential has yet to be realized. CWT, WAC, Delaware County Watershed Affairs and Del Co Economic Development have been in meetings with SUNY-Delhi (the only college in the Watershed) to develop degree programs suitable for watershed management, for sustainable civil engineering, for innovative regional planning, and for architectural studies that give due consideration to "contending energy agendas". (See <http://urbanomnibus.net/2010/10/underdome/>, <http://www.theunderdome.net/>)

We need to consider the economic impact of proposed programs to enhance water quality, proposed regional development options, proposed planning board designs, and proposed business investments.

If a few members of the yet-to-be-formed Expert Panel could bring that kind of thinking to the table, we are confident that our communities will jump at the chance to explore new options, especially during this period of community reconstruction. Options are what we need now, not more restrictions.

3. Specific Suggestions

The foregoing overview represents the overall concerns and goals of the watershed communities and our desire to maintain a sustainable existence while protecting water quality. While we hope that the expert panel will undertake that study, we also would like to offer a specific suggestion on how the City's watershed protection plan can be modified to reduce the regulatory impact on the local communities while at the same time not adversely impacting water quality.

When the MOA was signed and the watershed regulations went into effect, stormwater management programs, especially regulatory programs were in their infancy. As a result controlling stormwater runoff was considered a high priority and the NYCDEP was granted authority to individually review and approve essentially all stormwater pollution prevention plans that fell below the regulatory threshold established by NYSDEC. NYCDEP was also given individual permitting review and approval for stormwater plans that would otherwise be covered by NYSDEC's General Stormwater SPDES permits. The end result has been a significant increased delay in getting permits approved and additional costs for control measures that have little if any demonstrable water quality benefit. That is often the case because NYCDEP applies the State Stormwater Design Manual in a rigid and inflexible manner, refusing to recognize its status as "guidance" subject to sound engineering judgment.

Economic development and redevelopment opportunities in the watershed are few enough that the added time, cost and uncertainty caused by DEP's application of the stormwater regulations has a very significant impact and, it is strongly suggested, an impact that far outweighs the negligible water quality benefit.

We strongly request that the Expert Panel undertake some case studies of several small projects in the watershed that have gone through this process since 1997 and evaluate the cost applicants were put through (including out of pocket expenses and lost opportunity costs for the delay in the process) compared with the increased water quality protection afforded by the DEP's individual permit review. That should be compared to what would likely have been required if the applicant simply followed DEC's General Stormwater SPDES permit and an analysis of the water quality in both the receiving water and the watershed basin. If there is an agreement to include this in the expert panel's scope, we would be happy to work with you and NYCDEP in identifying projects that could be good candidates for the case studies.

While we strongly believe that such a study will demonstrate the undue cost burden with little or no water quality benefit, our view is obviously not without an inherent bias. That is why an expert panel such as this can take a neutral scientific approach to the question and determine if some regulations can be relaxed, while protecting water quality. Undertaking such a study will demonstrate a meaningful commitment to the goals of the MOA set forth above and will promote recognition in the watershed that the promises of partnership and maintaining viable communities are not empty statements.

Another significant area of concern is the continuing land acquisition program. Presently that program will continue until 2025. Serious attention should be given as to whether there is a strong need to extend the program any further. By that time the City will have increased its holdings in the watershed significantly over the amount it controlled in 1997. Already, at this point, the City is competing with private parties over the relatively few buildable undeveloped parcels left in the West of Hudson Watershed. Since the reduction in land for development both increases the cost for the remaining land and limits the availability of affordable housing, there should be an analysis of the water quality benefits of acquiring the land compared to the negative impacts on the local economy and the goal of maintaining sustainable communities. Obviously, any such comparison must also recognize that any development on land not purchased by the City will not take place in an unfettered and irresponsible manner, but will be subject to the City's regulatory authority. By 2025 there will have been almost 30 years of an intensive land acquisition effort and this is an appropriate time to consider whether there is a real need for the program to continue.

Thank you for your consideration of these remarks,
Carl

Carl Stuendel
Chairman
Coalition of Watershed Towns