

Hudson River Drinking Water Intermunicipal Council

Town of Esopus, Town of Hyde Park, Town of Lloyd, City of Poughkeepsie, Town of Poughkeepsie, Town of Rhinebeck, Village of Rhinebeck

February 17, 2023

Via the email to Ashokan@dec.ny.gov

Kenneth Kosinski
Ashokan IRP Comments
Division of Water New York State DEC
625 Broadway
Albany, NY 12233-3505

Re: Hudson River Drinking Water Intermunicipal Council (Hudson 7) Comments on 2022 Proposed Modifications of the Ashokan Reservoir Interim Release Protocol

Dear Mr. Kosinski:

The Hudson River Drinking Water Intermunicipal Council (the "Hudson 7") has serious concerns about the Proposed 2022 Modifications to the Ashokan Reservoir Interim Release Protocol (Modified IRP) which the New York City Department of Environmental Protection (DEP) is proposing. These concerns are primarily that the modified IRP will not resolve the release of turbid waters into the Hudson River and will not minimize the possibility of flooding, both of which can produce pollutants entering our intakes. It also establishes unfavorable precedents for the drinking water industry in allowing DEP not to resolve the problems of maintaining quality drinking water, protecting the environment, and minimizing flooding over ten years with the potential to continue these problems for the next 10-15 years. Therefore, the IRP is not an interim solution, but DEP's means to hold off doing the right thing. No other utility would be permitted to revise an interim method after ten years and then continue with a modified interim protocol for another 10-15 years.

The Hudson 7 is a coalition of seven municipalities that rely on drinking water from the Hudson River downstream of the confluence of the Esopus Creek. The communities include the City and Town of Poughkeepsie, the Village and Town of Rhinebeck, and the Towns of Esopus, Hyde Park, and Lloyd. Our five public water supplies ("PWS") serve 106,000 residents, three hospitals, three colleges, and major regional employers, providing safe water for human consumption, firefighting, industry, and more.

The current IRP was approved in September 2013. It appeared to be operating well during the drought years of 2013-2017 and when the rainfall returned to normal in 2018-2020. However, it

failed miserably during the December 2020 storm, which was only a 10-year storm, when over 4,000 tons of solids were discharged to the lower Esopus Creek from 12/28/20 to 4/17/21. In December 2020, the DEP issued the Modifications of the Catalum SPDES Permit Draft Environmental Impact Statement. (Catalum DEIS). In the Catalum DEIS, DEP proposed a Revised Operating Protocol (ROP) to replace the IRP. Numerous comments about the ROP were made during the comment period, and DEC only responded by requiring a SEIS. Therefore, it is surprising that DEP would propose a modified IRP without addressing the concerns about the ROP. DEP also proposed in the ROP that Conditional Seasonal Storage Objective (CSSO) would be reduced to 85% from November to February. The modified IRP poses the following concerns:

1. No flushing - In Hudson 7's letter to DEC dated 6/4/21, we requested that DEC not allow turbid releases without a flushing flow of less than 100 MGD with suspended solids of less than 10 mg/L for a minimum of four days between turbid releases at the same flow rate as the turbid releases.
2. Maintaining CSSO at 90% from November to February instead of lowering it to 85%, as proposed in ROP. This higher CSSO will increase the risk of flooding and flood waters, usually containing raw sewage, gasoline, diesel, and other pollutants, which could enter our intakes.
3. Minimum releases remain the same without any justification to make the lower Esopus Creek swimmable and fishable, as the Clean Water Act requires. In Hudson 7's letter to DEC dated 6/4/21, we requested a study be performed to determine the minimum flows to prevent the growth of algae and the possibility of Harmful Algal Blooms. Until that study is completed, we requested that the minimum community flow be no less than 25 MGD year-round.
4. Releasing water from the West Basin only – This is unacceptable since the West Basin serves as a settling basin resulting in high turbidity levels. The reservoir was originally designed for the West Basin to settle out the solids and clarified water to be discharged to the East Basin. Now the DEP wants to release water from the West Basin, so that turbid water does not enter the East Basin but flows into the lower Esopus Creek.
5. Shifting responsibility to Ulster County – DEP is shirking its responsibility of balancing requirements of adequate, clean water for the City, the risks of flooding, and a swimmable and fishable lower Esopus Creek. Ulster County does not have the historical data and staff to take on this responsibility.

It is extremely unfair that NYC has been allowed to treat its water in an aqueduct with alum and settle the coagulated alum sludge (not alum floc) in a drinking water reservoir source. Any other water treatment process must meet NYS standards, including the Recommended Standards for Water Works, and the process that DEP uses is not included in these standards. DEP must immediately stop discharging alum sludge into the Kensico Reservoir. No water utility in New

York State and the United States is allowed to release alum sludge into a surface water. The water utilities of the Hudson 7 were required to stop discharging alum sludge into the Hudson River in the 1970s. The IRP was implemented to stop the discharge of alum sludge into the Kensico Reservoir. However, instead, DEP discharges large amounts of solids into the lower Esopus Creek, and sometimes alum sludge is still discharged and may be discharged during the Delaware Aqueduct Shutdown. The discharge was limited due to low rainfall from 2013 to 2017.

Allowing DEP to have an Interim Release Protocol for over ten years and then allowing DEP to extend the IRP for another 10-15 years is totally unacceptable. (DEC indicated that it will require 3-4 years to prepare the Supplemental EIS since DEP has not yet prepared a scope for the SEIS, and DEP said that it would take another ten years to implement a solution.) DEC should require DEP to complete the SEIS before any modified IRP is considered.

The Interim Release Protocol (IRP) has not worked for over ten years, as demonstrated by floods and poor-quality water released into the lower Esopus Creek. Since DEP has proposed another IRP, DEP also must not be satisfied with the current IRP. Therefore, it is time to consider other alternatives.

Our engineering technical advisor, Paul Malmrose, PE, has proposed a combination of alternatives that DEP evaluated in the DEIS and indicated that they had some promise. His first alternative is to provide crest gates on the spillway and dividing weir. Alternative 2 in DEIS proposed crest gates on only the dividing weir, which would not provide adequate flood storage. Paul's alternative would give nearly immediate flood storage by raising the gates and allowing DEP to operate the reservoir at higher levels. He proposed the Obermeyer inflatable crest gates, which DEP also proposed, and received quotes from Obermeyer. When he suggested this alternative to DEP, they indicated they would not use an inflatable crest gate on a high-risk dam. However, Obermeyer provided Paul with a list of their installations; many are on high-risk dams, and in fact, the DEP used the Obermeyer inflatable crest gates on the NYC Gilboa Dam.

His second suggestion is a turbidity curtain in the East Basin to prevent short-circuiting from the Dividing Weir to the East Basin intake and to increase the effective settling time in the East Basin. For Alternative 3 in the DEIS, DEP proposed a jetty wall or closed-cell cofferdam, but these are extremely expensive. DEP has made limited comments about the turbidity curtain. At a meeting with Paul Rush on September 29, 2021, he said that he thought it might work and that he would have his staff determine the length since DEP had a reservoir model. To date, Paul has not received any follow-up. This alternative could provide the equivalent of two West Basins in series to settle out significant amounts of solids. DEP uses turbidity curtains in the Kensico Reservoir to contain the alum sludge and to protect the reservoir from a shoreline improvement project. This alternative would improve water quality to the Catskill Aqueduct and the release channels.

These alternatives should be further evaluated and implemented since the Interim Release Protocol (IRP) has not worked for over ten years. Now is the time to implement the alternatives that will work to achieve the following goals:

1. Maintain the quality and quantity of the drinking water for New York City
2. Minimize the environmental impacts on the lower Esopus Creek to make it swimmable and fishable as requested repeatedly by environmental organizations and the public
3. Minimize flooding in the Lower Esopus area as requested by leaders of the City of Kingston, Village of Saugerties, and the Towns of Olive, Marbletown, Hurley, Ulster, and Saugerties.

Please feel free to contact me directly at Rhinebeck Village Hall (845-876-7015 or 76 East Market Street, Rhinebeck, NY 12572) or direct technical questions to Paul Malmrose, PE, the Hudson 7's engineering technical advisor on this and other environmental engineering issues, at 860-895-7211 or PEMalmrose@tighebond.com.

Sincerely,



Gary Bassett
Chairman, Hudson 7

cc:

Hon. Basil Seggos, Commissioner, New York State Department of Environmental Conservation
Roger Sokol, Director, Bureau of Public Water Supply, NYS Department of Health
William F.X. O'Neil, Dutchess County Executive
Jen Metzger, Ulster County Executive
NYS Senator Robert Rolison (NYS-39)
NYS Senator Michelle Hinchey (NY-41)
NYS Senator Peter Oberacker (NY-51)
NYS Assembly Brian Maher (NY-101)
NYS Assembly Jonathan Jacobsen (NY-104)
NYS Assembly Sarahana Shrestha (NY-103)
NYS Assembly Didi Barrett (NY-106)
US Senator Charles Schumer
US Senator Kirsten Gillibrand
US Rep. Patrick Ryan (NY-18)
US Rep. Marcus Molinaro (NY-19)