UPDATE NO. 7

Sent to: To the Honorable Members of the Pennsylvania Senate and House of Representatives that represent ratepayers in the Chester Water Authority service area

To the Elected Officials in the Townships and Boroughs that represent ratepayers in the Chester Water Authority service area

To the Honorable Council of Delaware County and Commissioners in Chester County because you represent ratepayers in the Chester Water Authority service area

Date Sent: April 29, 2020

TITLE: Speaking Truth to Power

Attachment to Update No. 7

1. Chester Water Authority Solicitor's letter dated April 28, 2020 to Marc A. Lucca, President of Aqua America
2. "Out-of-sight prices for a water view: Costs climbing for houses near lakes," by Dick Cooper, Philadelphia Inquirer, June 21, 2004.
3. Letter to the editor re "Fishing for answers," by Christopher Franklin, Philadelphia Inquirer, June 14, 2004.

RE: Chester Water Authority ("CWA") Update No. 7
April 29, 2020

TITLE: Speaking Truth to Power

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The URL links referenced in the letter's footnotes are set forth below and references to Footnote 6 and Footnote 8 in the letter are attached.

Please feel free to inform your constituents as you wish.

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Why does Aqua feel entitled to conduct this public attack? Why - when no other Pennsylvania for profit water company acts in a similar matter?

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granted increases. The state even requires Aqua's customers to pay higher rates so that Aqua earns a guaranteed rate of return on capital expenditures. It is a state guaranteed privilege to be awarded monopoly status and Aqua has this privilege.

What should state government require from Aqua in exchange for this special status? All Pennsylvanians need to learn a whole lot more about Aqua businesses and business practices. In future updates, CWA will be suggesting questions to be asked to obtain answers to these questions. Here are some for now.

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Chester Water Authority
P.O. Box 467
Chester, Pennsylvania 19016-0467
Tel: (610) 876-8185

April 28, 2020

VIA EMAIL
Marc A. Lucca
President
Aqua Pennsylvania
762 W. Lancaster Ave.
Bryn Mawr, PA 19010
c/o Joel Frank, Esq., Counsel for Aqua Pennsylvania

Re: Aqua's attempt to silence the Chester Water Authority

Dear Mr. Lucca:

Your letters of March 27 and April 17, 2020 were an amateurish attempt to intimidate and silence the Chester Water Authority from speaking the truth. The Authority will not back down. More than ever, we will speak truth to power. The public must know about the damage Aqua Pennsylvania would cause if its unfounded attempts at a hostile takeover of the Authority were to succeed.

You intentionally sent your letters to the wrong person, Kristin Webb, to try to scare her. Ms. Webb is a community volunteer who is concerned about water prices and is pleased with the Authority's product and service. On her own initiative, she is trying to raise community awareness to preserve the Authority. She is not on the Authority's payroll and is not involved in any way with the two websites you complain about: http://chesterwater.com/savecwa/ and http://chesterwater.com/savecwa/save-the-reservoir/. These websites clearly belong to the Authority and not to Ms. Webb in any personal capacity. Thus, you should have written to the Authority directly. And given that our two organizations are in litigation, you should have written to the Authority through counsel, just as we are sending this letter through your counsel. That aside, there are many other problems with your letters.

I. The Authority's website accurately describes the catastrophic rate increase Aqua would impose if it takes over.

Without pointing to any specifics, you complain that "assertions on [the Authority's] websites about Aqua's rates are entirely incorrect and should be corrected." Here is exactly what the Authority's website says about rates:

- A sale of the Authority to Aqua "will result in higher rates."
- "Rate's Will Increase: In every acquisition it has made, Aqua America hikes up water bills through rapid-fire rate increases and infrastructure surcharges."
- "If CWA was sold, rates would go up."

All of these statements about rates are completely accurate and true. Aqua publishes its rates on its website, and they are profoundly higher than the Authority's rates. For example, Aqua's current water rate for residential customers in townships in Chester and Delaware Counties is $10.65 per 1,000 gallons of water.[1] The Authority charges around half that: $4.61 or $5.92, depending on where a residential customer lives in those counties.[2]

A typical residential bill is $30.54 per month at the Authority's current rates. Your own letter notes that Aqua would raise that to $45.88 by 2031. In all likelihood, the real increase would be much higher. But even assuming that your outrageously rosy projection is accurate, you have conceded that Aqua would raise rates by over 50% by 2031 alone.

Imposing huge rate increases is Aqua's default business model. For years, Aqua bought a significant quantity of water directly from the Authority at low wholesale prices. Then Aqua marked up the price to Aqua's much higher rates and re-sold that same water directly to Aqua's own customers. Aqua simply pocketed the difference as profit. Aqua also has an unbroken record of imposing huge rate increases following acquisitions in Southeastern Pennsylvania. For example, Aqua acquired public water or sewer systems in Bensalem Township, Coatesville, Media, and West Chester and raised rates by over 100% in the first ten years.[3] Also, Aqua is now in the process of completing an acquisition in New Garden Township that, per regulators, will cause at least a 52% rate increase in the short term alone.

These mathematical comparisons are straightforward and obvious. The undisputable fact is that compared to the Authority, Aqua charges customers an appallingly high amount for water.

Adding insult to injury, Aqua would charge the Authority's customers this extra money, forever, without any commensurate added benefit in water quality or service. The Authority's water already meets or exceeds all federal and state testing criteria, and the Authority is a perennial recipient of water quality awards. The Authority's customer satisfaction rating from the Better Business Bureau is also much higher than Aqua's rating of "D-".[4] Customers would simply be paying Aqua vastly more for the same high-quality water the Authority already provides them.

The Authority stands by its accurate descriptions of Aqua's much higher rates. Left unsaid in your letter is what Aqua will do if the Authority does not accede to your ridiculous demand to "correct" this already-accurate rate information. One choice would be for Aqua to file a defamation suit. Bring it on! Truth is an absolute defense to a defamation claim. The Authority welcomes the chance to fight an entire lawsuit about the truth of Aqua's brutally high rates. It

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really would be fun to depose you, on video and under oath, about your company's usurious rates. A significant part of Aqua's business strategy depends on burying, or at least minimizing, public discussion of the needlessly high rates Aqua charges. A lawsuit would shine a spotlight on Aqua's rates like nothing else. It would be a perfect example of the "Streisand effect."[5]

II. The danger Aqua poses to public reservoir access is real, and in any event, the Authority's warning is specifically immunized under Pennsylvania's anti-SLAPP statute.

In your letter, you also take issue with the Authority's statement on its website that a sale to Aqua could endanger public access to the Authority's reservoir and surrounding watershed buffer lands. The Authority's statement is accurate, and the Authority stands by it.

The Authority has long maintained these lands and waters as open public spaces. They are widely used for non-polluting public recreation, such as fishing, bird watching, and hunting. In contrast, Aqua closed public access to the Springton Reservoir in Delaware County, just 35 miles from the Authority's reservoir. Aqua then ringed the Springton Reservoir with "a fence and 'no trespassing' signs" and then the surrounding buffer land was sold to a housing developer.[6]

The Authority's website cited a discussion of this closure in a local newspaper and Facebook group.[7] Those sources, in turn, cited a June 14, 2004 statement from Christopher Franklin, who is now CEO of Aqua's parent company, about Aqua's closure of the Springton Reservoir.[8] Aqua's closure of a reservoir right in the Authority's proverbial backyard is beyond dispute. Given that Aqua closed a cherished public reservoir so close by, it was imminently reasonable for the Authority to warn that a sale to Aqua could endanger public access to the Authority's reservoir.

The Authority has no need to "correct" accurate information. Thus, Aqua again faces the decision of what to do next. Filing a defamation lawsuit would again not be wise. The Authority's discussion about the danger Aqua poses to the Authority's reservoir falls squarely within the protections of Pennsylvanian's anti-SLAPP statute, 27 Pa.C.S.A. §§ 8301-05. That Act immunizes

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statements intended to encourage governmental action on an environmental issue. *Penllyn Greene Assocs., L.P. v. Clouser*, 890 A.2d 424, 434 (Pa. Commw. Ct. 2005). That is precisely what the Authority's website does. The website asks the public to "contact your elected officials" and push for legislation that will save the Authority from Aqua's clutches. The website even provides a form letter the public can use pleading for the legislature to save the reservoir. The text of that form letter is:

> *The Octoraro Reservoir is an important part of my family's life in Chester County. We enjoy hunting, fishing, boating, hiking, watching the wildlife, and the many other activities it offers without cost to the public.*
>
> *Protect the Octoraro Reservoir.*
>
> *Protect the Chester Water Authority.*
>
> *Save the CWA from the water profiteer, Aqua.*
>
> *Thank you for your immediate attention.*

Free speech and the right to petition the government are core components of American democracy. Pennsylvania's anti-SLAPP statute "was designed to protect those persons targeted by frivolous lawsuits based on their constitutionally protected government petitioning activities." *Penllyn Greene Assocs., L.P.*, 890 A.2d at 434. It is shameful that Aqua, in its relentless pursuit of profits, is trying to intimidate and discourage that civic duty.

III. Aqua's attempted hostile takeover of public resources, in the face of near unanimous public opposition, is un-American and anti-democratic.

Why has Aqua relentlessly pursued a hostile takeover of the Authority that is against customers' wishes and best interests? Have you no sense of shame?

In May 2017, Aqua made an unsolicited bid to purchase the Authority. Aqua's bid even offered to create jobs for the Authority's board members if they voted the way Aqua wanted. But the Authority's board went the other way and unanimously rejected that offer because it was not in the customers' bests interests.

Upon that unanimous rejection, Aqua should have just slinked off back into the shadows. But instead, Aqua doubled-down in its relentless pursuit of the Authority. Since the Authority itself would never agree to sell, Aqua tried to force a sale by manipulating the City of Chester. Aqua cynically tried to exploit the City's financial problems by dangling short-sighted promises of a cash infusion, if only the City would force a sale over the unanimous rejection of the Authority's board (which includes three appointees from the City itself). However, as you have no doubt heard by now, on April 24, 2020 Judge Spiros Angelos put a stop to that plan. Judge Angelos ruled that the City cannot unilaterally force a sale of the Authority.

Aside from the City Council of Chester, whose unilateral interference Judge Angelos just blocked, there is scarcely any other stakeholder in the Authority's service area that thinks a sale to Aqua is a good deal. Twelve townships in Chester County and the Chester County Commissioners have all made public statements or resolutions supporting the Authority in its fight against Aqua and the City. Thirteen townships in Delaware County have done likewise. State Senators Thomas Killion[9] and State Representatives Stephen Barrar, Carolyn Committa, Bryan Cutler, Brian Kirkland, Leanne Krueger, John Lawrence, and Christina Sappey, who represent wide swaths of the Authority's service area, have all issued public statements in support of the Authority. These include the state legislators who represent the City of Chester itself:

> From Senator Killion: *"I want to convey in the strongest terms possible that I oppose the sale of this public asset and believe privatization is not in the best interests of CWA ratepayers in Delaware and Chester Counties."*
>
> From Representative Kirkland: *"I cannot, and will not, support the sale of Chester Water Authority, when the people of our community would ultimately be forced to pay higher rates because of it. The sale would eliminate an independent municipal water authority that has served our community for more than 150 years, despite the fact it has provided safe and necessary services to our community for generations."*

All of these statements and resolutions are posted on the Authority's website – the very one you are trying to stifle.

Given the overwhelming public support against selling the Authority to Aqua, it is staggering that you say in your letter that Aqua is "interested" in hearing from "key stakeholders" about the Authority's future. These stakeholders have been telling Aqua very loudly for over three years now to keep its greedy hands off the Authority.

IV. The Authority caught you personally hiding the truth about Aqua's machinations, so your crocodile tears about the need for accurate information are ironic.

It is beyond hypocritical for you, of all people, to be levying these attacks. At the Authority's board meeting on November 3, 2017, you spoke in person and professed transparency and concern for all stakeholders. The Authority then confronted you with your own emails to state advisors charged with overseeing the City's beleaguered finances. The Authority obtained these emails through open records requests to the state. Your own emails made clear that you have no regard for openness or a fair process. Instead, you went behind the Authority's back and directly contacted your political connections with the state, hoping they would push a forced sale over the Authority's vehement unanimous objection. When confronted with the truth, you played dumb, dissembled, and repeated yourself. At that point, the crowd at the meeting literally jeered you.

[9] We also expect State Senator Andrew Dinniman to publicly endorse the Authority shortly.

V. Conclusion.

On behalf of all the Authority's customers in Chester and Delaware Counties who Aqua would exploit after taking over, I am telling Aqua to go away and never come back. Aqua failed to persuade the Authority's board to sell. Aqua has lost in the court of public opinion. And now Aqua and the City have lost in a court of law. This is democracy in action. The public, their representatives, and the court have spoken and Aqua has lost at every turn. Now point your gunsights elsewhere and stop trying to gaslight the people of Chester and Delaware Counties into thinking that a permanent doubling of their water rates is somehow a "good deal."

Respectfully yours,

Francis J. Catania, Esq.
Solicitor, Chester Water Authority

Newspapers by ancestry
https://www.newspapers.com/image/199953341

Printed on Apr 27, 2020

Security issues behind reservoir's fishing limits

Aqua Pennsylvania would like to reassure area residents and customers about the reasons for the restrictions on fishing in the Springton Reservoir ("Fishing for answers," Metro Letters, June 7).

Fishing restrictions on the reservoir are not related in any way to water quality or the health of the fish in the lake. Like many area companies, we had to address increased security concerns after the Sept. 11 terrorist attacks. Although no specific threats exist, these concerns led us to take proactive measures to restrict access to our reservoirs. In addition, in today's litigious society, restricting access was also necessary to protect the company from potential lawsuits that could arise if accidents were to occur on the property. In the past, there have been several occurrences in which individuals did not comply with posted signs and injuries resulted. In some cases those injuries resulted in lawsuits.

We appreciate the opportunity to assure customers that the water and fish quality are not a concern at the lake.

Christopher H. Franklin
Vice president, public affairs and customer operations
Aqua America
Bryn Mawr

Save the playgrounds

Closing playgrounds in Philadelphia would be a disaster for the children who live here. They need a place where they can relax free from worry.

I am a grandmother with 18 grandchildren. Some of them played hockey at Lawncrest Recreation Center and Fox Chase Center. Save the playgrounds and recreation centers of the city!

Anne Murphy
Philadelphia

Phila.'s bad choice

Here we are sliding again. When it comes to making progress, to making Philadelphia a world-class city, we take one step forward and slide back to the Dark Ages. It is hard to believe that we are turning down a $1 million offer to make and keep LOVE Park the skateboarding center of the world ("Money can't buy LOVE Park," June 2).

The Inquirer is absolutely correct in its assessment of our mayor — he doesn't want to change. Could it be that he doesn't want to acknowledge that he might have made a miscalculation in abolishing the skateboarding park in the first place?

And since we live in a democracy, should the decision be open to more than one opinion? Doesn't City Council have a right to weigh in? Don't the people of Philadelphia have a right to express their opinion? Should this question be put to the ballot?

Jean Haskell
Philadelphia
Jeanhaskell@comcast.net

Great way to get votes

Kudos to the Department of State for a first — mailing out voter-registration cards to be distributed to seniors at public and private high schools throughout the commonwealth ("Pa. mails voter registration cards for graduates," June 2).

Where better than in the schools to make lessons about civic duty become reality? By making it easy to register, the Department of State seems to be guaranteeing that at least some new names end up on the voter-registration rolls. And that's a good start. It's an election year, and we should applaud everything that engages our young citizens in democracy.

There's another major benefit to this program - registering to vote adds your name to the jury rolls in your county. So, by simply filling out the cards at school, students are committing to fulfill two essential civic duties. We encourage all schools to participate in the Department of State's program and urge all seniors to fill out the registration cards.

After all, you've waited this long to be treated as an adult, why not step up and be counted as one.

Lynn A. Marks
executive director
Shira J. Goodman
associate director
Pennsylvanians for Modern Courts
Philadelphia

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Section: LOCAL NEWS PHILADELPHIA & ITS SUBURBS

Out-of-sight prices for a water view
Costs climbing for houses near lakes

Dick Cooper INQUIRER STAFF WRITER

From the front seat of a car whizzing along Route 252 in central Delaware County, Springton Reservoir pops out of the woods like a misplaced Pocono Lake.

The 400-acre lake is lined with a thick green belt of foliage clear down to the waterline.

But just behind the trees, earthmovers are carving out building lots, and the staccato rap of carpenters' hammers starts most days at 8 a.m.

In lake-starved Southeastern Pennsylvania, housing lots with water views are almost gone. The prices of houses with even a glimpse of water from a window or a deck have outpaced those of landlocked vistas and have taken neighboring housing prices along for the ride.

An Inquirer analysis shows that houses on or near lakes sell for more than double the median values of houses elsewhere in the suburban counties, where properties have appreciated wildly in the last five years.

Marsh Creek State Park, with its 535-acre lake in northern Chester County, is almost ringed, and the few lots near Core Creek County Park's 156-acre Lake Luxembourg in Middletown, Bucks County, have been built on.

On the southwest shore of Springton Reservoir, one of the last large parcels of residential land is being developed. Thirty-nine acres off Providence Road are being converted into 19 lots for houses ranging from $1.2 million past $2.5 million.

Sales of existing single-family houses on or near those three man-made lakes over the last 10 years show median prices have steadily climbed. Springton prices have increased 56 percent; Marsh Creek-area prices, 58 percent; and Core Creek, 85 percent.

In what seems like an understatement of the obvious, Preston Luitweiler, vice president of water resources at Aqua Pennsylvania Inc., owner of Springton Reservoir, said, "People like to be near water."

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The houses do not have to have water views to command high prices. Proximity and familiar names help. Just north of Springton, new houses without water views at the Estate Homes at Springton Pointe Woods start at $700,000. A mile up the road at Springton Pointe Woods, new townhouses start at $420,000. Similar houses in other areas sell for 30 percent less.

Bill Norcross said he knows why being near the lake has its charm. He has lived on the edge of the Springton Reservoir foliage buffer for 25 years.

"Have you ever gone to the Shore and driven over the bridge and it's cooler and you feel calmer?" he asked. "That is what it is like going down our driveway."

Water views - and they are water views, not waterfronts - are not easy to come by in Philadelphia's northern and western suburbs. Although streams abound, lakes are not free-forming. The major "lakes" in the region are all man-made, designed for capturing drinking water, preventing flooding, and providing recreation.

Some of the biggest reservoir lakes - Lake Nockamixon in Nockamixon State Park and Lake Galena in Peace Valley Park in northern Bucks County, and Green Lane Reservoir in northern Montgomery County - do not lend themselves to development. They are well north of most Philadelphia commuter patterns and are insulated by large park buffers that prevent the lake vistas homeowners want.

One major difference between Springton and the other lakes is that although homeowners can see the water, they cannot touch it. Aqua Pennsylvania owns the lake and the wooded buffer. There is no public access. A small plot open for fishing on Gradyville Road was closed after Sept. 11, 2001, for security and liability reasons.

Chip Vaughan, one of the partners in the 39-acre Water Mill development on Springton Reservoir, said new owners are told their lots are "water view only." The lake is ringed by a fence and "no trespassing" signs.

Vaughan said lots with the best views were priced up to $300,000 more. They sold first.

Marsh Creek Lake and Lake Luxembourg are open to fishing and small boating but are buffered by parks, preventing waterfront access to homeowners.

Mike Biffel, owner of the Marsh Creek Boat Rental concession in the state park north of the Downingtown exit of the Pennsylvania Turnpike, said he has lived near the park for 28 years. Standing in front of the rental office on a bank of the lake, Biffel pointed out the rooflines of houses peeking out over the trees almost a mile away.

"Fifteen years ago, you couldn't see any houses," he said. "Now, builders have gotten as close to the parkland as they can."

Several housing developments have gone up behind the trees that rim the park. The more expensive have what real estate agents call "WWV," winter water view. Homeowners can glimpse the lake only after the leaves have fallen.

Springton is the last of the lakes to be enveloped. Until Water Mill, much of the development took place in the 1980s and early 1990s. The last major undeveloped tract is 50 acres owned by developer Claude deBotton.

Springton is the oldest of the lakes in the area. It was completed in 1932 at a cost of $2.5 million to capture the water of the 21.5-square-mile Crum Creek Watershed. The water was sold to help build industry along the Delaware River, including the "great airport in Hog Island," according to a 1929 Chester Times story:

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"It is an interesting coincidence that the demands arising from industrial development will create a beautiful lake in a picturesque setting of the Delaware County hills and provide a great body of fresh water, the one feature which is lacking in suburban Philadelphia."

Said Vaughan: "If owning your own home is a dream, then owning a home with a view is another dream, and owning a home with a water view is even a bigger dream."

Luitweiler said homeowners have to realize their view is not of a misplaced Pocono Lake.

During droughts, Springton can be heavily tapped to supply the region with drinking water. Two years ago the water level dropped to reveal expanses of mud and weeds.

Luitweiler said that during a drought in the early 1980s, a resident with a lake view called the water company with a request. Expecting holiday guests, she "asked if we could put the water back before Thanksgiving."

Contact staff writer Dick Cooper at 610-313-8022 or dcooper@phillynews.com.

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