

Call to Action: Tell the DEC No Water Withdrawal Permit Renewal for A.I. Data Center's Misleading Application

Intro: Cayuga Operating Company has applied to renew a Water Withdrawal Permit from the DEC which would give them the ability to remove water from Cayuga Lake for equipment cooling. Currently available information contradicts the claim that permit renewal is needed for this purpose. TeraWulf, an energy infrastructure company *which is the parent company of Cayuga Operating Company*, has stated publicly that they will not be using lake water to cool their proposed AI data center in Lansing, NY. Thus, it appears that the application contains inaccuracies, including questionable data that water is currently being withdrawn from the lake to cool the decommissioned coal plant infrastructure, even though the coal plant has not been in operation for years. Tell the DEC that we do not believe renewing the permit is supported by the facts, and that accurate and truthful applications are paramount.

To: Jonathan Stercho, NYS Department of Environmental Conservation, Region 7
DEP.R7@dec.ny.gov

I am writing to express my position regarding the renewal of Water Withdrawal Permit, ID 7-5032-00019/00024 (WSA #11,753), to Cayuga Operating Company.

Firstly, Cayuga Operating Company has not established any need for the renewal of their water withdrawal permit. TeraWulf officials (their subsidiary, Lake Hawkeye, LLC, is the lessee of the site) have publicly stated multiple times that they don't require industrial cooling water to be withdrawn from the lake, as a "closed loop system" will be employed for cooling needs in the event that a high-tech "data campus" were to be constructed there. According to TeraWulf, no permit is needed.

Second, much of the information on the renewal application appears to be incorrect and out of date. The coal plant was decommissioned six years ago, and according to TeraWulf officials, the boilers and the large pumps have been removed. It is unclear why the DEC understands that 1.44 million gallons of water is being withdrawn daily if there is no equipment to be cooled. A recent photo of the water Outfall 001 shows no cooling water has exited the facility for some time. The presence of misleading data in a water withdrawal permit application should make the applicant's present permit liable to suspension or revocation of the permit, according to 6 NYCRR § 601.16(b)(4), (5).

It appears that the site's reported water usage is inaccurate, jeopardizing Cayuga Operating Company's eligibility for this permit. Cayuga Operating Company has replicated their water reporting month-over-month, year-to-year, with one exception for February 2020. February extractions in 2021, 2022, and 2023 are reported to be 23,224,000 Gallons per Month. 30-day months (April, June, September, November) in all four years (2021-2024) were all reported to have the identical water withdrawal amount of 30,240,000 Gallons per Month, even though the

coal plant was decommissioned this entire time. And, finally, all 31-day months (January, March, May, July, August, October & December) were reported to have the identical water withdrawal amounts of 32,248,000 Gallons per Month over the four-year period. It appears that the annual reports simply presumed that a service pump was operating 24/7/365, an assumption that is completely out of step with reality given that the coal plant had already been decommissioned and site operations had largely ceased.

The DEC must base the decision to issue a water withdrawal permit on facts and not on theoretical constructs purporting to be factual.

The above monthly withdrawal numbers are in direct contrast with reported decreases in purchased water. Water purchased on site (presumably from Bolton Point intermunicipal water supply) in 2023 averaged 313 gallons per month and was only 0.8% of water purchased in 2019. In 2023, total domestic water usage on site was the equivalent of 4 toilet flushes per workday (assuming 3.5 gpf toilets and 260 workdays). The owner of an abandoned brownfield cannot ask the State of New York for a new permit to withdraw 1.008 gallons per day when said company cannot point to any actual or proposed use for this requested quantity of water.

Under 6 NYCRR § 601.16(b)(1), Cayuga Operating Company's permit should be revoked because the company has for years "not operated" as contemplated when the permit was issued and is not likely to operate during the remainder of the permit. Under such circumstances, it would likely be deemed arbitrary and capricious were the agency to nevertheless *renew* a permit for such defunct site operations.

To the extent Cayuga Operating intends to withdraw water at some future time for some future site activity, it should be made to apply for a new withdrawal permit. Indeed, should a different company, for example, Lake Hawkeye, LLC, want to withdraw water from the lake at some point in the future, they would be required to apply for their own withdrawal permit. According to ECL § 15-1503(6) and 6 NYCRR § 621.11(c) withdrawal permits are not transferrable and a new application must be submitted by a new owner or operator.

Lastly, TeraWulf Chief Strategy Officer Kerri Langlais has offered to surrender any forthcoming water withdrawal permit once the Town of Lansing has granted all permits needed at the municipal level. Clearly, New York State water withdrawal permits are not intended to be obtained and then used as bargaining chips in negotiations with municipal authorities.

For the reasons stated above, I urge the DEC to deny Cayuga Operating Company's outdated and non-factual Water Withdrawal Permit application filed in 2021.

I would also like to request a legislative hearing on this matter if the DEC remains inclined to issue a water withdrawal permit to Cayuga Operating for purposes unknown.

Thank you for your attention.

Respectfully,
____ Name ____

Call to Action: Tell the DEC to revise and delay any SPDES Permit Renewal for Cayuga Operating Company until a hearing and a full environmental review of the site have been conducted.

Intro: Cayuga Operating Company has applied to renew a SPDES Permit from the DEC, which gives them the ability to discharge water used for equipment cooling back into Cayuga Lake, as well as regulating the discharge of coal ash leachate and stormwater. TeraWulf, an energy infrastructure company and parent company of Cayuga Operating Company, has stated publicly that they will not be using lake water to cool their proposed A.I. data center in Lansing, NY. The application inaccurately suggests water is currently being discharged from the decommissioned coal plant. Additionally, the draft SPDES permit still lacks any regulation of many chemicals that will harm the lake ecosystem, which supplies the drinking water for about 100,000 people. Tell the DEC that the release of the applicant's draft permit must be delayed until after a public hearing and after significant revisions to strengthen its requirements.

To: Jonathan Stercho, NYS Department of Environmental Conservation, Region 7
DEP.R7@dec.ny.gov

I am writing to express my opposition to granting Cayuga Operating Company, LLC, a renewal of their SPDES permit, ID 7-5032-00019/00004 (SPDES #NY0001333) in its present draft form. The draft permit is inadequate, incomplete, and flawed due to several factors including:

- A flawed assumption that Cayuga Operating is withdrawing >1.008 MGD. Officials of the applicant's parent company, TeraWulf, have stated publicly that the water intake equipment has been decommissioned. Periodic observation of Outfall 001 indicates that no cooling water has been discharged to the lake in years. The draft permit assumes Outfall 001 is operational.
- An insufficient number of analytes listed for sampling and analysis (see more below)
- The frequent use of "monitoring" when specified numeric action levels or limits would provide better protection of Cayuga Lake.
- The lack of any detail in the permit or the associated fact sheet regarding the technical justification for the reported "mixing zones" and the associated use of 10:1 reductions in applicable analyte thresholds.
- Lack of detail as to where sampling is to take place, especially for Outfall 013 which is understood to be already commingled with outflow from Outfall 09 when effluent reaches the end of pipe.
- The draft permit fails to require Cayuga Operating Company to install additional groundwater monitoring wells closer to the lake and to Milliken Creek to determine whether contaminated groundwater moving through the lowest levels

of the unlined Phase 1 and Phase 2 landfills is already reaching either Milliken Creek or Cayuga Lake directly. Adequate protection of USDW (underground sources of drinking water) is not being provided by simply pointing to lower levels of contaminants in the more distant Tier II monitoring wells compared to the Tier I monitoring wells at the coal ash landfill periphery.

- According to a 2015 report by Mark Quarles, who is registered as a professional geologist in New York, the upgradient monitoring wells were almost certainly contaminated by radial flow once the DEC permitted vertical expansion of the landfill after the Phase 1 and Phase 2 units were filled. New upgradient wells are needed east of Ridge Road to reestablish accurate records of groundwater quality upgradient from the landfill.
- The landscape within a 1-mile radius of the coal plant stacks has been contaminated by particulate matter deposition from stack effluents over the 66-year period the plant was in operation. This has resulted in elevated levels of thallium in the soil and elevated levels of PAHs (polycyclic aromatic hydrocarbons) in lake sediments close to the plant. It is not good science for DEC to simply assume that stormwater entering Cayuga Lake from outfalls 3 through 12 is “uncontaminated.” Effluents in these outfalls must also be tested for coal combustion residuals and for PFAS.

As noted in the comments on the water withdrawal permit, it has been both inaccurate and misleading for the landlord of this abandoned coal-fired power plant to suggest that a 700 GPM service pump was running 365/24/7 during a post-closure five-year period when a) the site was virtually abandoned by 2023, b) after boiler removal, there was no known equipment on site that needed cooling and c) affiliated corporate officials firmly said in 2025 that the previous large water withdrawal system was no longer functional. I therefore urge the DEC to require a full technical review of this site to determine the actual functionality of Outfalls 1 through 14 and what analytes the effluents in these outfall pipes should be tested for.

As with water withdrawal permits, DEC may revoke a SPDES permit when the facility that is the source of the permit has not operated and is not likely to operate during the term of the permit. 6 NYCRR § 750.120(b)(1). Similarly, under 6 NYCRR § 750-1.16(e), which governs permit renewals for SPDES permits, a full technical review of a proposed renewal is required if the facility that would be or is the source of the permitted discharge has not operated during the term of the permit. In this case, the facility does not appear to have operated since the permit's fixed term expired and was administratively extended. It is clear that there has not been discharge at Outfall 001 in recent years. Therefore, under 6 NYCRR 750-1.16, it is appropriate for the regional water engineer to order a full technical review of the entire 434-acre site.

A full technical review for a permit renewal is also required if changes are necessary to comply with the Clean Water Act. 6 NYCRR § 750-1.16(f). The addition of any pollutant from a point source to a navigable water and not in accordance with any permit violates the Clean Water Act. 33 U.S.C. § 1311(a). The draft permit currently includes testing for analytes such as oil & grease, sulfate, total dissolved solids, aluminum, arsenic, boron, cadmium, iron, manganese, mercury, nickel, selenium, zinc, and phenols. However, aluminum, arsenic, beryllium, boron, cadmium, chromium (including the +6 oxidation state), cobalt, iron, lead, lithium, manganese, mercury, molybdenum, nickel, selenium, thallium, and zinc are all present in coal and can be emitted in the flue gases, primarily as fine or ultrafine particulate matter. It is therefore reasonable to assume that stormwater conveyed from the site from the facility's outfalls may contain some or all of these pollutants in violation of the Clean Water Act. At a minimum then, the analytes to be tested in the permit should be expanded accordingly.

Prof. Murray McBride, an expert in heavy metal contamination of soils, has found elevated levels of thallium in some of the soil samples he collected near the stacks. If the DEC has never required testing for Beryllium, Cobalt, Lithium, Thallium, Lead, Molybdenum, Chromium (+6 oxidation state,) Radium-226 and Radium 228, Prof. McBride believes now would be a good time to start.

Along similar lines, the draft permit provides for a 10 to 1 dilution ratio to most of the outfalls and many parameters. However, in compliance with the Clean Water Act, the Lake's existing water quality standards must be maintained, notwithstanding the facility's permitted discharges. While DEC Guidance (DEC Technical and Operational Guidance 1.3.1) allows for mixing zones to be considered in the receiving water in appropriate cases, there is no documentation of any required mixing zone assessment having been done to ensure the overall biological integrity of the Lake is protected as required in the same Guidance. If the mixing zones have not been appropriately established and justified in line with the Guidance, then in order to comply with the Clean Water Act, the permit limits should be set without use of dilution in public waters and be at least 10 times more stringent.

In addition, testing for PFAS in stormwater, landfill leachate and in the 46 acres of landfill cap and liner fabrics should be initiated. Research published in 2024 revealed that most geotextile specimens (both polypropylene and polyester nonwoven) commonly used in landfill lining systems contained detectable concentrations of pentafluoropropionic acid (PFPrA), a short-chain PFAS. Concentrations ranged up to 10.84 µg/g. PFAS needs to be included in the permit.

In conclusion, I urge the DEC to not renew this permit until a full technical review has been conducted of the entire site and a legislative public hearing held to better inform the public on the issues being regulated (or not being regulated) at this site. There are legitimate concerns about the accuracy of the facility's recent withdrawal data, as explained above. It would be arbitrary and capricious for the Department to issue a SPDES permit renewal based on the assumption that water withdrawal is on-going if, in fact, it is not.

Thank you for your consideration,

____ Name ____

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