



Agenda Date: 12/16/15
Agenda Item: 5F

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

WATER

IN THE MATTER OF THE APPLICATION BY UNITED)
WATER NEW JERSEY (UWNJ) PURSUANT TO)
N.J.S.A. 40:55D-19 TO APPEAL THE DECISION OF)
THE BOROUGH OF MONTVALE ZONING BOARD OF)
ADJUSTMENT DENYING THE APPLICATION BY)
UWNJ FOR A VARIANCE PURSUANT TO N.J.S.A.)
40:55D-70(D)(2) TO PERMIT THE EXPANSION OF A)
NON-CONFORMING USE AND CONSTRUCT A PUMP)
STATION; AND A DETERMINATION THAT THE USE)
OF SUCH LAND IS REASONABLY NECESSARY FOR)
THE SERVICE, CONVENIENCE OR WELFARE OF)
THE PUBLIC; AND THAT THE ZONING AND LAND)
USE ORDINANCES OF MONTVALE SHALL HAVE NO)
APPLICATION THERETO)

ORDER ADOPTING
INITIAL DECISION

BPU DOCKET NO. WO13070663
OAL DOCKET NO. PUC 01156-14

Parties of Record:

Thomas J. Herten, Esq., Archer & Greiner, P.C. for UWNJ (Petitioner)
Stefanie A. Brand, Esq., Director, Division of Rate Counsel

BY THE BOARD:¹

The issue before the New Jersey Board of Public Utilities (“Board” or “BPU”) is whether to accept, modify, or reject an Initial Decision of Administrative Law Judge Leland S. McGee (“ALJ McGee”), which will in effect reverse the decision of the Borough of Montvale Zoning Board of Adjustment (“Montvale Zoning Board” or “MZB”) denying the application by United Water New Jersey (“UWNJ”, “Company”, or “Petitioner”) for a variance pursuant to N.J.S.A. 40:55D-70(d)(2), and permitting the expansion of a non-conforming use. The Initial Decision will allow UWNJ to construct a pump station and attendant facilities, at land owned by UWNJ in the Borough of Montvale (“Montvale” or “Borough”) which is currently the site of a 1.5 million gallon water storage tank (“Property”), subject to the requirements set forth in the Stipulation of Settlement between UWNJ and Montvale which was made part of the record in this proceeding. The purpose of this project is to provide adequate water supply and water pressure to the residents of Montvale in Bergen County, New Jersey. The pump station and attendant facilities would

¹ Commissioner Upendra J. Chivukula recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter. Commissioner Joseph L. Fiordaliso was not present at the December 16, 2015 agenda meeting.

also allow UWNJ to resolve the existing issue of obtaining water from New York to supply approximately 216 customer accounts in Montvale.

UWNJ is a regulated public utility corporation involved in providing water service to approximately 200,000 customers located in the northern and western portions of the State of New Jersey, including Montvale. Montvale was granted permission to intervene in this matter on May 2, 2014. As part of the Stipulation of Settlement between Montvale and UWNJ, Montvale withdrew as an intervener in this matter. Other parties involved in this proceeding are the Staff of the Board of Public Utilities ("Staff"), and the New Jersey Division of Rate Counsel ("Rate Counsel").

As discussed below, the Appellate Division's decision of August 17, 2011, which denied the use variance to install the pump station in effect ended the project, rendering the ancillary requests for a small storage tank for liquid sodium hypochlorite treatment moot or nugatory. The Appellate Division's decision constitutes the municipal denial that triggers jurisdiction at the BPU under N.J.S.A. 40:55D-19 and allows the entire project to be reviewed by the Board. As the Appellate Division did not specifically retain authority over the matter, it no longer has jurisdiction over it.

ALJ McGee reviewed the record and his Initial Decision determined that the settlements between the parties have fully disposed of all issues in controversy and are consistent with the law, and ordered that all parties comply with the settlement terms.² As such, he concluded that the use of the land is reasonably necessary for the service, convenience or welfare of the public; that the zoning and land use ordinances of Montvale shall have no application thereto; and that no alternative site is reasonably available to achieve an equivalent public benefit. As such, the pump station and attendant facilities can be built, subject to the requirements set forth in the Stipulation and Agreement between UWNJ and Montvale.

The Board will affirm ALJ McGee's Initial Decision based on the Board's reasoning, with a minor modification to correct a clerical error in the record, as detailed below.

PROCEDURAL HISTORY

On December 11, 2007, UWNJ filed an application before the MZB for a variance pursuant to N.J.S.A. 40:55D-70(d)(2) in order to permit the expansion of a non-conforming use, i.e., an above-ground pumping station and a liquid sodium hypochlorite storage tank.

On September 29, 2008, before a decision on UWNJ's application before the MZB, Montvale adopted Ordinance 2008-1291, which resulted in the following: (1) public utilities were not permitted uses in residentially zoned areas and; (2) public utilities located within or adjacent to residential zones shall provide a buffer width of no less than seventy (70) feet.

Thereafter, UWNJ amended its application pending before the MZB to comply with the seventy (70) foot buffer.

On November 24, 2008, MZB voted 5-2 to deny UWNJ a variance, which was memorialized at its January 28, 2009 regular hearing. MZB found that UWNJ had not met its burden of proof because UWNJ had not demonstrated to MZB's satisfaction that: (i) UWNJ faced an

² Pursuant to the attached Stipulation and Agreement between UWNJ and Montvale, and the Stipulated Record between UWNJ and Staff.

imminent inability to service its customers adequately without the variance; and (ii) UWNJ had not made sufficient efforts to locate alternate sites for the proposed pump station.

On February 10, 2009, UWNJ filed a petition with the BPU pursuant to N.J.S.A. 40:55D-19 to appeal MZB's decision. On April 20, 2009, the BPU transmitted the matter to the Office of Administrative Law ("OAL") as a contested case.

On March 10, 2009, UWNJ filed an action in lieu of prerogative writs in Superior Court challenging MZB's denial of its application for a variance as arbitrary, capricious and unreasonable. Montvale Cares, Inc. ("Montvale Cares") intervened in the Superior Court action. Montvale Cares is a citizen group that opposed the installation of the pumping station and storage tank, and had participated at the MZB hearings.

On November 20, 2009, in a one-day Superior Court bench trial, the Court overturned MZB's decision and remanded the site plan and soil moving permits back to MZB, ruling that it had acted arbitrarily, capriciously, and unreasonably in denying UWNJ's use variance application, because UWNJ's proposal is an inherently beneficial use, and UWNJ had established under the proper standards that its use variance should have been granted by MZB.

After the Superior Court ruled in its favor, UWNJ continued with the BPU matter for several months, because UWNJ was not confident that bringing another application before the MZB would lead to the approval of the project in a reasonable manner and/or time frame. On March 23, 2010, MZB voted unanimously to approve the remanded site plan and soil moving permit application. On March 25, 2010, ALJ Mumtaz Bari-Brown conducted a public hearing for the OAL matter.

On May 5, 2010, in light of the Superior Court decision and the March 23, 2010, MZB approval, UWNJ advised ALJ Bari-Brown that this matter would be withdrawn without prejudice in light of the procedural status of the matter before MZB and the Superior Court. The ALJ later returned the case to the BPU, where it was deemed closed.³

In 2010, Montvale Cares appealed the Superior Court's decision; MZB did not appeal, but filed a brief relying on and supplementing the arguments presented by Montvale Cares.

On August 17, 2011, the Appellate Division vacated the trial court's order, affirming MZB's denial of a variance for the pump station, reversing MZB's denial of a variance for the chemical storage tank and the automated system for delivery of liquid sodium hypochlorite. Thus, the Appellate Division remanded the chemical storage tank and the automated system portion of the variance application back to MZB for further proceedings, in conformity with its decision.

On July 12, 2012, UWNJ filed a notice of motion to reopen the 2009 BPU proceeding that it had voluntarily withdrawn without prejudice.

On July 19, 2013, UWNJ filed its Petition in lieu of re-opening the previous matter filed by UWNJ addressing the subject matter of this Petition under BPU Docket No. WO09020115 and OAL Docket No. PUC051490 ("First BPU Matter"). This matter proceeded from the same procedural

³ This matter will become known as the "First BPU Matter" as defined later in the Order, and was heard by ALJ Mumtaz Bari-Brown.

stance as in existence when the First BPU Matter was withdrawn; and the discovery and hearings held in the First BPU Matter were incorporated into this matter. The Petitioner served notice of this Petition and of the hearing date upon the Montvale Zoning Board, which is the agency from which the appeal is taken and to all parties primarily concerned, including Montvale and the registered agent and counsel of record for Montvale Cares.⁴

On January 27, 2014, the Board transmitted the matter to OAL and it was subsequently assigned to ALJ McGee, who granted intervener status to Montvale on May 2, 2014.

A duly noticed Public Hearing was held on July 2, 2014, at the Montvale Borough Hall in front of ALJ McGee. Seven members of the public raised their objections to the planned construction of the pump station and attendant facilities.

On May 27, 2015, the Borough and UWNJ entered into a Stipulation and Agreement whereby Montvale agreed to withdraw as an intervening party in the current BPU matter and not object, in any manner, to proofs offered by UWNJ which may be admitted into evidence in order to satisfy the BPU either by contested hearing or by recommendation of Staff and Rate Counsel that the project, as proposed, meets the statutory criteria set forth in N.J.S.A. 40:55D-19.⁵ The Stipulation and Agreement states that Montvale has maintained that the determination on whether the project is reasonably necessary for the service, convenience or welfare of the public lies within the statutory jurisdiction of the BPU. However, in order to protect the intent, purpose, and goals of Montvale's Land Use Regulations, to the extent possible, the Stipulation and Agreement requires that certain terms and conditions for the project's construction be followed, as found therein. The Stipulation and Agreement was filed with the OAL on September 24, 2015.⁶

On August 28, 2015, UWNJ and Staff agreed upon the Stipulated Record for the matter, whereby based on the record, the parties to the Stipulation agree that the project is reasonably necessary for the service, convenience or welfare of the public in accordance with N.J.S.A. 40:55D-19 and recommended its approval by ALJ McGee and the Board. The Stipulated Record was filed with the OAL on or about October 12, 2015. Rate Counsel filed a letter dated October 19, 2015 where it stated that it did not object to approval of the Stipulation entered in this matter.

On October 28, 2015, ALJ McGee rendered his Initial Decision regarding the matter and found that the Stipulated Record agreed upon between UWNJ and Staff established that the project is reasonably necessary for the service, convenience, or welfare of the public in accordance with N.J.S.A. 40:55D-19, based on the record, and fully disposes of all issues in controversy and is consistent with the law. The Stipulation and Agreement between the Borough of Montvale and UWNJ is incorporated in the Stipulated Record, and through the Initial Decision, ALJ McGee ordered all parties to comply with the settlement terms. ALJ McGee further noted that Montvale had withdrawn its Intervention in the proceeding.

The Initial Decision in the above-captioned matter was received by the Board on October 28, 2015. The 45-day period in which the Board was to consider this matter and render a final decision was to conclude on December 14, 2015. At its November 16, 2015 Agenda Meeting, the Board requested an additional 45-day extension of the time in which it may render a final

⁴ Montvale Cares is not an intervener in the current matter.

⁵ Pursuant to the Borough of Montvale Resolution No. 152-2014, adopted October 28, 2014.

⁶ The Stipulation and Agreement between Montvale and UWNJ, including all exhibits, is part of the Stipulated Record.

decision on the matter, until January 28, 2016. The Board's request was granted by the OAL on November 18, 2015.

On December 2, 2015, the Petitioner filed an amendatory letter with the OAL to correct a clerical error in the Stipulation and Agreement between Montvale and UWNJ, regarding the capacity of the proposed pump station.⁷ The first "Whereas" clause of both the Stipulation and Agreement between Montvale and UWNJ and the Stipulated Record should be corrected to read as follows:

"WHEREAS, United Water New Jersey ("UWNJ") proposes to construct an aboveground 750 gallon-per-minute (gpm) (app. 1.1 million gallon-per-day) firm capacity, 1000 gpm (app. 1.4 million gallon-per-day) total capacity pumping station and ancillary facilities..."

The amendatory letter filed by the Petitioner was co-signed by Montvale's Clerk, Attorney and Mayor. Staff received a copy of the amendatory letter and concurs with this correction. Staff forwarded a copy of the amendatory letter to Rate Counsel and on December 8, 2015, Rate Counsel submitted an email acknowledging receipt of the correction. To preserve the record, the Board will amend the Initial Decision to make the aforementioned correction regarding the capacity of the proposed pump station and ancillary facilities.

DISCUSSION AND FINDINGS

The matter is before the Board pursuant to N.J.S.A. 40:55D-19, as an appeal of MZB's denial of UWNJ's application, which was made final following the Appellate Division's decision upholding the MZB determination. As the Appellate Division did not specifically retain authority over the matter, it no longer has jurisdiction over it.

Having reviewed the record, including the two Stipulations and ALJ McGee's Initial Decision, the Board **FINDS** that the construction of the pump station and attendant facilities at the Property are reasonably necessary for the service, convenience and welfare of the public in order to:

- Ensure that UWNJ can meet the permissible content for arsenic and certain volatile organic compounds for the 216 customers in Montvale that are currently receiving water from Rockland County, New York.⁸
- Supply water to Montvale customers from New Jersey by UWNJ, not United Water New York, thus eliminating the dependence on an out-of-state water source subject to different environmental standards.
- Measure and dose hypochlorite to Pressure District ("PD") 30 (gravity fed from the Tank) and PD95 (driven by the pumping station) to maintain the required distribution system chlorine residual.⁹
- Improve safety to UWNJ personnel by eliminating the physical handling and manual addition of liquid sodium hypochlorite, during chemical treatment of the water, and replace the liquid with calcium hypochlorite tablets which offer accuracy, reliability and safer handling. The tablets promote employee safety by minimizing manual handling and safety hazards associated with heavy liquid filled drums, and minimize safety risks associated with chemical exposure, storage, liquid pouring, and spill and splash hazards. It is expected that the final design of the station may also include a dry tablet

⁷ Consequently, the error carried over into the Stipulated Record agreed upon between UWNJ and Staff.

⁸ New Jersey's standards are more stringent than New York's for these compounds.

⁹ Pressure District 30 serves approximately 3300 customers through interconnections, including two wholesale customers: Saddle River Water Utility and Allendale Water Department.

feeder system that will eliminate the storage and handling issues associated with liquid or gas chemical treatment.

- Improve firefighting capability in Montvale by providing more reliable water pressure.
- Improve and provide a more reliable constant pressure within PD95.
- Provide a back-up source of electrical power to mitigate the risk of losing operational capability by 100% in the event of a power failure if there is no alternate or back-up source of electric power.
- Address a recommendation by the Rockland County Department of Health for Rockland County to cease supplying water to Montvale, due to Rockland County's own growing water demands.
- Address inequities in unrestricted water usage by Montvale where United Water New York customers were subject to drought restrictions.

The Board **ALSO FINDS** that no alternative site is reasonably available to achieve an equivalent public benefit as:

- The Property is owned by UWNJ.
- There is an existing, related storage tank on the Property.
- The pumping station can be located on the Property meeting the buffer requirements both at the time of application to the MZB and later the more stringent buffer requirements established by the MZB during the application proceedings for this project.
- It is located near the division valve between PD95 and PD30, therefore minimizing the piping to and from the pumping station, and particularly in Chestnut Ridge Road.
- At this location the pumping station can provide supplemental water treatment to drinking water leaving the Tank to both PD30 and PD95 which would not be achieved if located at an alternate site.
- UWNJ considered alternative sites, which were either encumbered by green acres or would present additional security or flooding concerns.

The Board further notes that UWNJ and Montvale entered into a Stipulation and Agreement to address concerns by Montvale regarding the project as follows:¹⁰

- The proposed emergency generator for the Project shall be fueled by natural gas, rather than by diesel fuel.
- The completed project will comply with all applicable New Jersey noise standards or limitations for normal operations.
- Subject to the prior approval of the New Jersey Department of Environmental Protection, UWNJ has agreed to substitute calcium hypochlorite tablets as its water treatment method in lieu of liquid sodium hypochlorite. Accordingly, there will be no storage of liquid sodium hypochlorite on site, thus eliminating the need for the 150 gallon storage tank for it. The calcium chlorite tablets (akin to the chlorine tablets utilized for residential swimming pools) will be stored on site, in covered containers as manufacturer recommended.
- A low pressure hydrant shall be installed near the project for use by the Fire Department.
- Two access gates, with rapid entry KNOX boxes for first responders, will be installed at the site for emergency access.
- Trees along the driveway will be kept trimmed.

¹⁰ Although set forth in some detail herein, if there is disagreement between this summary and the Stipulation and Agreement, then the Stipulation and Agreement shall control subject to any modifications herein.

- The exterior lights of the structure on the existing water tank and the proposed lighting for the project shall be controlled by a timer, with the hours of illumination consistent with the Borough Ordinance or the reasonable recommendation of the Borough Engineer.
- The proposed landscaping plan shall be followed.

After review of the Initial Decision and the record in this matter, the Board **HEREBY FINDS** that the construction of the pump station and attendant facilities at the Property are reasonably necessary for the service, convenience or welfare of the public; that no alternative site is reasonably available to achieve an equivalent public benefit; and therefore, the zoning and land use ordinances of Montvale shall have no application thereto pursuant to N.J.S.A. 40:55D-19.

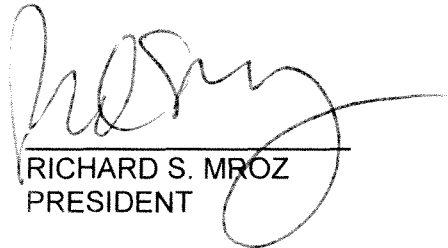
ALJ McGee's findings were logical and fully supported by competent evidence, accordingly, the Board **HEREBY AFFIRMS** the Initial Decision with the following amendment regarding the proposed pump station capacity. The correct capacity of the proposed pump station and ancillary facilities is 750 gallons-per-minute (gpm) (app. 1.1 million gallons-per-day) firm capacity, and 1000 gpm (app. 1.4 million gallons-per-day) total capacity.


Upon careful review and consideration of the record, and based on the foregoing, the Board **HEREBY ADOPTS** the Initial Decision with the amendment to the proposed pump station's capacity, and **HEREBY ORDERS** that the construction of the pump station and attendant facilities at the Property by United Water New Jersey, meet all requirements for the project found in the attached Stipulation and Agreement of May 27, 2015, between Montvale and UWNJ.

This Order shall be effective on December 26, 2015.


DATED: 12/16/15

BOARD OF PUBLIC UTILITIES
BY:

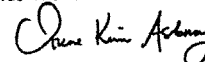

RICHARD S. MROZ
PRESIDENT


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER

ATTEST: 
IRENE KIM ASBURY
SECRETARY

HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



IN THE MATTER OF THE APPLICATION BY UNITED WATER NEW JERSEY (UWNJ)
PURSUANT TO N.J.S.A. 40:55D-19 TO APPEAL THE DECISION OF THE BOROUGH OF
MONTVALE ZONING BOARD OF ADJUSTMENT DENYING THE APPLICATION BY UWNJ
FOR A VARIANCE PURSUANT TO N.J.S.A. 40:55D-70(D)(2) TO PERMIT THE EXPANSION
OF A NON-CONFORMING USE AND CONSTRUCT A PUMP STATION; AND A
DETERMINATION THAT THE USE OF SUCH LAND IS REASONABLY NECESSARY FOR
THE SERVICE, CONVENIENCE OR WELFARE OF THE PUBLIC; AND THAT THE ZONING
AND LAND USE ORDINANCES OF MONTVALE SHALL HAVE NO APPLICATION
THERETO

BPU DOCKET NO. WO13070663
OAL DOCKET NO. PUC-01156-14

SERVICE LIST

UNITED WATER NEW JERSEY-PETITIONER

Thomas J. Herten, Esq.
Archer & Greiner, P.C.
Court Plaza South, West Wing
21 Main Street, Suite 353
Hackensack, New Jersey 07601-7095
therten@archerlaw.com

RATE COUNSEL

Stefanie A. Brand, Esq., Director
Division of Rate Counsel
140 East Front Street, 4th floor
Post Office Box 003
Trenton, New Jersey 08625-0003
sbrand@bpu.state.nj.us



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 01156-14

AGENCY DKT. NO. WO13070663

IN THE MATTER OF THE APPLICATION BY UNITED WATER NEW JERSEY PURSUANT TO N.J.S.A. 40:55D-19 TO APPEAL THE DECISION OF THE BOROUGH OF MONTVALE ZONING BOARD OF ADJUSTMENT DENYING THE APPLICATION BY UWNJ FOR A VARIANCE PURSUANT TO N.J.S.A. 40:55D-70 (d)(2) TO PERMIT THE EXPANSION OF A NON-CONFORMING USE AND CONSTRUCT A PUMP STATION; AND A DETERMINATION THAT THE USE OF SUCH LAND IS REASONABLY NECESSARY FOR THE SERVICE, CONVENIENCE OR WELFARE OF THE PUBLIC; AND THAT THE ZONING AND LAND USE ORDINANCES OF MONTVALE SHALL HAVE NO APPLICATION THERETO.

Thomas J. Herten, Esq., for petitioner United Water New Jersey (Archer & Greiner, attorneys)

Christine Juarez, Esq., Assistant Deputy Rate Counsel for intervener the Division of Rate Counsel (Stephanie Brand, Director, attorney)

Alex Moreau, Deputy Attorney General, for the Staff of the Board of Public Utilities (John J. Hoffman, Acting Attorney General of New Jersey, attorneys)

Record Closed: October 20, 2015

Decided: October 28, 2015

BEFORE **LELAND S. McGEE**, ALJ:

On January 29, 2014, this matter was transmitted to the Office of Administrative Law (OAL) for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to-15 and N.J.S.A. 52:14F 1 to- 13. A Public Hearing was held on July 2, 2014, in Montvale Borough Hall, Montvale, New Jersey. During the pendency of the case at the OAL, the staff of the Board of Public Utilities (“BPU”) reached a Settlement with United Water New Jersey (“United Water”). Rate Counsel reviewed the agreement and does not object to its approval. Finally, Intervener Borough of Montvale (“Montvale”) reached a Settlement with United Water New Jersey and withdrew as Intervener in this matter. The Settlement Agreement between Montvale and United Water was incorporated in the Stipulated Record entered into between BPU staff and United Water. The terms of the agreement, are incorporated herein by reference.

I have reviewed the record and the terms of settlement and I **FIND**:

1. On September 23, 2015, Montvale and United Water executed a Withdrawal of Intervener Status and Stipulation of Settlement between the Borough of Montvale and United Water New Jersey only. The Settlement is incorporated as a part of the Stipulated Record. On September 20, 2015, the undersigned approved said withdrawal and stipulation.
2. On October 14, 2015, United Water filed a Stipulated Record and Stipulation between the staff of the BPU and United Water, agreeing that the project which is the subject of this Petition, is reasonably necessary for the service, convenience or welfare of the public in accordance with N.J.S.A. 40:55D-19.

3. On or about October 19, 2015, the Division of Rate Counsel filed a letter confirming that it has reviewed the proposed Stipulation and does not object to its approval.
4. The parties have voluntarily entered into the settlement as evidenced by their agreement or their representatives' agreement as set forth above.
5. The settlement fully disposes of all issues in controversy and are consistent with the law.

I **CONCLUDE** that the requirements of N.J.A.C. 1:1-19.1 have been met and that the settlement should be approved. I approve the settlement and therefore **ORDER** that the parties comply with the settlement terms and that these proceedings be concluded.

I hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.



October 28, 2015

DATE

LELAND S. MCGEE, ALJ

Date Received at Agency:

October 28, 2015

Date Mailed to Parties:

lr

Attachments

STIPULATION AND AGREEMENT

This Stipulation and Agreement (hereinafter "Stipulation") is entered into this 27 day of ~~February~~ ^{May}, 2015, between the Borough of Montvale (hereinafter "Borough" or "Montvale") with offices at 12 Mercedes Drive, Montvale, New Jersey 07645, and United Water of New Jersey (hereinafter "UWNJ") with offices at 200 Old Hook Road, Harrington Park, New Jersey 07640 (Montvale and UWNJ are sometimes collectively referred to as the "Parties").

RECITALS

1. WHEREAS, UWNJ proposes to construct an aboveground 750 million gallon-per-day (gpd) firm capacity, 1,000 gpd total capacity pumping station and ancillary facilities on its property identified as Block 1804, Lot 5, which fronts on Chestnut Ridge Road in the Borough. The proposed project is adjacent to an existing 1.5 million gallon aboveground storage tank, which presently serves the potable water needs of an area identified by UWNJ as Pressure District 95 (hereinafter "PD 95") (hereinafter the "Project").

2. WHEREAS, the Project, as proposed, is intended to meet the existing needs of UWNJ's customers in PD 95, including 216 properties now serviced within the Borough; is intended to meet the service needs of other properties in Montvale upgradient of the existing tank within PD 95; and is intended to provide improved flow which would benefit fire flow requirements in the Borough.

3. WHEREAS, since the customers in PD 95 are currently serviced by potable water supplied from the State of New York under permits previously authorized by the New York State Department of Environmental Conservation (hereinafter "NYDEC"), the Project is designed to allow the customers of UWNJ in PD 95 to be serviced by a water supply which, except for emergencies, will be sourced from the facilities of UWNJ located in New Jersey. The water

supply from those facilities is subject to all applicable regulations promulgated by the New Jersey Department of Environmental Protection (hereinafter "NJDEP").

4. WHEREAS notwithstanding the grant of preliminary and final site plan approved for the Project along with ancillary relief by the Montvale Zoning Board of Adjusters on April 12, 2010, as evidenced by Resolution No. 974B, appended hereto as Exhibit A (Resolution No. 974B) approval of the Project, etc., approval of the Project was ultimately denied by the Superior Court of New Jersey, Appellate Division, in its Opinion dated August 17, 2011.

5. WHEREAS, UWNJ thereafter exercised its statutory rights and filed with the New Jersey Board of Public Utilities (hereinafter "BPU") an application that has been referred to the Office of Administrative Law (hereinafter "OAL"). The application is captioned *Matter of the Application by United Water of New Jersey ("UWNJ") pursuant to N.J.S.A. 40:55D-19 to appeal the decision of the Borough of Montvale Zoning Board of Adjustment Denying the Application by UWNJ for a Variance Pursuant to N.J.S.A. 40:55D-70(d)(2) to Permit the Expansion of a Non-Conforming Use and Construct a Pump Station; and a Determination That the Use of Such Land is Reasonably Necessary for the Service, Convenience or Welfare of the Public; and That the Zoning and Land Use Ordinances of Montvale Shall Have No Application Thereto; BPU Docket No. W0-13070663, OAL Docket No. PUC-01156-2014N* (hereinafter the "BPU Matter").

6. WHEREAS, the Borough of Montvale was granted leave to intervene in the BPU matter by Order of The Honorable Leland S. McGee, A.L.J., dated May 2, 2014.

7. WHEREAS, at all times in the BPU Matter, Montvale has maintained the following positions:

A. A determination that the Project is reasonably necessary for the service, convenience or welfare of the public, a finding required by N.J.S.A. 40:55D-19, lies within the statutory jurisdiction of the BPU.

B. To the extent possible, in order to protect the intent, purpose and goals of Montvale's Land Use Regulations, the Borough has required that certain terms and conditions as set forth in Resolution No. 974B, be incorporated into any Order of Approval that may be granted by the BPU with respect to the Project.

8. WHEREAS, with an understanding by the Parties that certain conditions in Resolution 974B are within the sole jurisdiction of the NJDEP, settlement discussions between the Borough and UWNJ not only relating to the Project but also relating to the applicability of the terms and conditions of Resolution No. 974B dated April 12, 2010, as well as additional safety concerns of the residents of Montvale, have resulted in the adoption of Resolution No. 152-2014, appended hereto as Exhibit B and incorporated by referenced herein. (the "Authorizing Resolution").

9. WHEREAS, consistent with the terms of the Authorizing Resolution, UWNJ has caused to be prepared updated Site Plan Drawings, last revised to May 15, 2015, prepared by Buck Seifert & Jost and sealed by Ronald von Autenried, P.E. The updated Site Plan is appended hereto as Exhibit C and incorporated by reference herein.

10. WHEREAS, the Parties are desirous of memorializing their agreement in accordance with the terms set forth in the Stipulation set forth below.

IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

STIPULATION

1. In the event that the BPU, after an Initial Decision of the Office of Administrative Law, whether as a result of contested proofs after a hearing or whether the Initial

Decision is based on the affirmative recommendations of BPU staff (the "Staff") and the Division of Rate Counsel of the State of New Jersey ("Rate Counsel") finds that the Project is reasonably necessary for the service, convenience or welfare of the public, the Project, once constructed, will be built as follows:

A. Except as amended by this Stipulation, the Project, as and when constructed, shall be built in accordance with Exhibit C appended hereto.

B. The Order of Approval from the BPU shall incorporate within its terms this Stipulation as it relates to the construction details for the Project. That Order of Approval shall serve as the authority to UWNJ to construct the Project as permitted by law, and shall obligate the Construction Official for the Borough to issue construction permits from Montvale upon application.

C. The following additional details shall be incorporated into the Project's construction:

Emergency Generator

The proposed emergency generator for the Project shall be fueled by natural gas rather than by diesel.

The applicant shall comply with the recommendations of UWNJ's noise consultant as set forth in Exhibit D and shall cause its noise consultant to (1) conduct a "noise analysis" on an "as-built" basis after completion of the Project and (2) thereafter issue a written report to the Borough and its engineer to ensure that same is in compliance with all applicable New Jersey noise standards or limitations for normal, as opposed to emergency, operations.

On no more than a quarterly basis, The Borough engineer may request to review the internal recordkeeping of UWNJ reflecting the operations of the emergency generator and the dates of its operation.

Water Treatment

Subject to the prior approval of the NJDEP, the applicant has agreed to substitute calcium hypochlorite tablets as its water treatment method in lieu of liquid sodium hypochlorite. Accordingly, there will be no storage of liquid sodium hypochlorite on site. As a result, the need for double-walled containment for a 150 gallon proposed storage tank for the liquid sodium hypochlorite as set forth in Resolution 974B has been mooted. The calcium chlorite tablets (akin to the chlorine tablets utilized for residential swimming pools) will be stored on site in covered containers as recommended by the manufacturers for such storage.

Recommendations of Fire Department

Based upon the memorandum of the Montvale Fire Department dated January 28, 2010, the following additional construction details will be incorporated into the Project, as construed.

1. A minimum twelve (12) foot wide gate along Hickory Hill Road approximately in line with the pump house will be constructed and a KNOX Box with keys to the gate and to pump house shall be mounted at this access.
2. An access gate shall be located at the entrance to Block 1804, Lot 5 from Chestnut Ridge Road. The gate shall be located at a point which will provide adequate room for a municipal fire truck to park in the driveway without interfering with traffic along Chestnut Ridge Road. A KNOX Box, containing keys to the gate and pump house shall also be mounted on this gate.
3. A low pressure hydrant shall be installed near the Project for use by the Fire Department.

4. Trees along the driveway should be kept trimmed to a height of 12 feet and a width of 15 feet at all times. The driveway should be open for access 24/7 365 days per year.

Coordination with Municipality

Prior to commencing construction, UWNJ shall notify the Borough Administration and coordinate with the Borough Engineer and the Borough Police Department as to recommended traffic and safety controls so as to allow for the safe movement of construction vehicles and soil moving vehicles to and from the Project.

UWNJ shall be responsible for the reasonable cost and expense of reasonable traffic controls and shall also be responsible, at its own cost, to provide for street cleaning caused by its soil movement operations.

ADDITIONAL PROJECT CONCESSIONS

1. The exterior lights of the structure on the existing water tank and the proposed lighting for the Project shall be controlled by a timer. The hours of illumination shall be consistent with Borough Ordinances or, in the absence of same, subject to the reasonable recommendations of the Borough Engineer.

2. The landscaping plans as set forth on Sheet 5 of 18 of Exhibit C shall be maintained, and dead or diseased specimens shall be replaced, as necessary, to allow continued conformance with the proposed landscape plan.

The BPU Matter.

Montvale, by executing this Stipulation, agrees to withdraw as an intervening party in the current BPU Matter, and it will thereafter neither participate in the BPU Matter nor object, in any manner, to the proofs offered by UWNJ which may be admitted into evidence in order to satisfy

the BPU either by contested hearing or by recommendation of Staff and Rate Counsel that the Project, as proposed herein, meets the statutory criteria as set forth in N.J.S.A. 40:55D-19.

The withdrawal by the Borough of its Intervener status and its agreement not to object to the proofs required by N.J.S.A. 40:55D-19 prior to any hearing on the BPU matter or prior to any Stipulation of Settlement or recommendation made among UWNJ, Staff and Rate Counsel which may be incorporated into an Initial Decision by the Office of Administration Law, is absolute and without conditions other than as set forth herein. The Parties affirmatively agree, however, consistent with the terms of Exhibit A, that in the event the Project is approved by the BPU and the Project is included in the Capital Expenditure Budget of UWNJ, in its discretion, the Project will be constructed pursuant to the details set forth herein.

Conditions Precedent

The viability of the Project, and the timing of its construction, are subject to the following:

1. Entry of a final, unappealable Order or Approval from the BPU granting the relief requested by UWNJ, including the inclusion of the stipulation set forth herein in that Order.
2. Further regulatory requirements and approvals of the NJDEP as they relate to matters within its jurisdiction ,as well as interagency compacts, agreements, protocol and relationships with NYDEC, both as to water allocation and also as to the controls and operation of the two existing interconnections between the State of New York and the State of New Jersey as they relate to the supply of potable water which services PD 95.
3. Since the Project is not in the current Capital Expenditure Budget of UWNJ, inclusion of the Project in the Capital Expenditure Budget of UWNJ, in its discretion.

Miscellaneous

1. The Parties further agree that the execution of this Stipulation shall neither be constructed as directly or indirectly limiting the rights of Staff and Rate Counsel with respect to their respective obligations as they shall be exercised in participating in the BPU matter nor should this Stipulation be construed as a limitation on Staff or Rate Counsel with respect to valuation for rate making treatment

2. The Parties further agree that this Stipulation shall not affect nor in any way limit the exercise of the authority of the BPU, or of this State, in any future petition or in any proceedings with respect to rates, franchises, service, financing, accounting, capitalization, depreciation, or in any other matter affecting UWNJ. In the event, however, that either Staff, Rate Counsel, or UWNJ, on the one hand, or the BPU, *sua sponte*, expands the issues in the BPU matter beyond the issues raised in the Petition, the Borough shall be noticed and given an opportunity to be heard.

3. New Jersey law shall govern this Stipulation, and any action arising under this Stipulation shall be brought in the courts of the State of New Jersey or, if jurisdictionally permissible, before the BPU

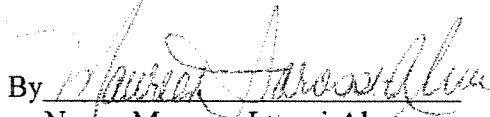
4. Each party shall bear its own costs, expenses and attorneys' fees in connection with this Stipulation and with respect to the withdrawal by the Borough of Montvale from the BPU Matter.


5. The parties, by signing below, warrant and represent that they have the authority to sign this Stipulation and bind themselves to the terms and conditions hereof.

IN WITNESS WHEREOF and intending to be legally bound hereby, the undersigned have executed and entered into this Stipulation of Agreement.

BOROUGH OF MONTVALE


ATTEST:


By 
Name: Maureen Iarossi-Alwan
Title: Borough Clerk

By 
Name: Roger Fyfe
Title: Mayor

UNITED WATER OF NEW JERSEY

ATTEST:

By 
Name: John T. Dillon
Title: Assistant Secretary

By 
Name: Laurent Carrot
Title: Vice President & General Mgr.

ARCHER & GREINER, P.C.

21 Main Street, Suite 353
Court Plaza South, West Wing
Hackensack, New Jersey 07601
(201) 342-6000
Attorneys for United Water New Jersey

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF THE APPLICATION
BY UNITED WATER NEW JERSEY
("UWNJ") PURSUANT TO N.J.S.A. §
40:55D-19 TO APPEAL THE DECISION OF
THE BOROUGH OF MONTVALE ZONING
BOARD OF ADJUSTMENT DENYING THE
APPLICATION BY UWNJ FOR A
VARIANCE PURSUANT TO N.J.S.A. §
40:55D-70(d)(2) TO PERMIT THE
EXPANSION OF A NON-CONFORMING
USE AND CONSTRUCT A PUMP
STATION; AND A DETERMINATION
THAT THE USE OF SUCH LAND IS
REASONABLY NECESSARY FOR THE
SERVICE, CONVENIENCE OR WELFARE
OF THE PUBLIC; AND THAT THE
ZONING AND LAND USE ORDINANCES
OF MONTVALE SHALL HAVE NO
APPLICATION THERETO.

BPU DOCKET NO. WO13070663

OAL DOCKET NO. PUC-01156-2014N

STIPULATED RECORD

APPEARANCES:

Thomas J. Herten, Esq., Archer & Greiner, Attorneys for Petitioner

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel, and
Christine M. Juarez, Esq., Assistant Deputy Rate Counsel, Attorneys for the New Jersey
Division of Rate Counsel

Carolyn McIntosh and Alex Moreau, Deputy Attorneys General, for Staff of the New Jersey
Board of Public Utilities (John J. Hoffman, Acting Attorney General of New Jersey)

**TO: THE HONORABLE LELAND S. MCGEE, ADMINISTRATIVE LAW
JUDGE AND THE HONORABLE NEW JERSEY BOARD OF PUBLIC
UTILITIES:**

WHEREAS, United Water New Jersey (“UWNJ”) proposes to construct an aboveground 750 million gallon-per-day (gpd) firm capacity, 1,000 gpd total capacity pumping station and ancillary facilities on its property identified as Block 1804, Lot 5, which fronts on Chestnut Ridge Road in the Borough of Montvale (the “Property”). The proposed project is adjacent to an existing 1.5 million gallon aboveground storage tank, which presently serves the potable water needs of an area identified by UWNJ as Pressure District 95 (hereinafter “PD 95”) (hereinafter the “Project”).

WHEREAS, the Project, as proposed, is intended to meet the existing needs of UWNJ’s customers in PD 95, including 216 properties now serviced within the Borough; is intended to meet the service needs of other properties in Montvale upgradient of the existing tank within PD 95; and is intended to provide improved flow which would benefit fire flow requirements in the Borough.

WHEREAS, since the customers in PD 95 are currently serviced by potable water supplied from the State of New York under permits previously authorized by the New York State Department of Environmental Conservation (hereinafter “NYDEC”), the Project is designed to allow the customers of UWNJ in PD 95 to be serviced by a water supply which, except for emergencies, will be sourced from the facilities of UWNJ located in New Jersey. The water supply from those facilities is subject to all applicable regulations promulgated by the New Jersey Department of Environmental Protection (hereinafter “NJDEP”).

WHEREAS, on June 11, 1959, the Board of Public Utilities (“BPU”) rendered a written decision, under Docket No. 11285, making the following determinations:

- (a) the zoning ordinance of the Borough of Montvale does not provide for the erection of a storage tank in the area described in the petition;
- (b) the proposed site as described is the most practical and feasible location for the storage tank in the existing circumstances;
- (c) the storage tank as described is necessary to enable Montvale Water Company to render safe, adequate and proper service to its customers; and
- (d) the erection of the tank at the proposed site is reasonably necessary for the service, convenience and welfare of the public.

WHEREAS, in December of 2007, UWNJ filed an application before the Montvale Zoning Board of Adjustment (“Zoning Board”) for a variance pursuant to N.J.S.A. § 40:55D-70(d)(2) in order to permit the expansion of a non-conforming use at the Property.

- (a) UWNJ sought to construct an approximately 800 square foot pump station and attendant facilities, including a 150 gallon storage tank for a sodium hypochlorite treatment facility. UWNJ also sought amended site plan review to accommodate the pump station

facilities and a major soil moving permit pursuant to the Zoning Board's ancillary powers afforded under the Municipal Land Use Law.

(b) After UWNJ filed the application with the Zoning Board, notice of the Zoning Board hearings was served on all property owners within 200 feet of the Property according to the Tax Assessor's records and utilities located in the Borough of Montvale, and UWNJ also published notice in the Bergen Record.

(c) Thereafter, the Zoning Board held thirteen (13) regular and special meetings addressing UWNJ's application.

WHEREAS, on September 29, 2008, before a decision on UWNJ's application before the Zoning Board, the governing body of the Borough of Montvale adopted Ordinance 2008-1291, which resulted in the following: (1) public utilities were not permitted uses in residentially zoned areas and (2) public utilities located within or adjacent to residential zones shall provide a buffer width of no less than seventy (70) feet.

WHEREAS, thereafter, UWNJ amended its application pending before the Zoning Board to comply with the seventy (70) foot buffer.

WHEREAS, on November 24, 2008, the Zoning Board voted to deny UWNJ's application and memorialized its decision by formal action of the adoption of a written resolution at its regular hearing of January 28, 2009.

WHEREAS, on February 10, 2009, UWNJ filed its first Verified Petition in the matter entitled In the matter of the Application of United Water New Jersey Pursuant to 40:55D-19 to Appeal the Decision of the Borough of Montvale Zoning Board, OAL Docket No. PUC 05149-09, BPU Docket No. WO-09020115 ("First BPU Matter"), with the BPU pursuant to N.J.S.A. § 40:55D-19 to appeal the decision of the Zoning Board denying the application by UWNJ for a variance pursuant to N.J.S.A. § 40:55D-70(d)(2) in order to permit the expansion of a non-conforming use.

WHEREAS, on March 10, 2009, UWNJ filed an action in lieu of prerogative writs pursuant to Rule 4:69, *et seq.*, to challenge the Zoning Board's denial of its application for a variance as arbitrary, capricious, and unreasonable ("Law Division Action"). Montvale Cares, Inc. intervened in the Superior Court action.

WHEREAS, in the First BPU Matter, on or about March 3, 2009, Respondent Borough of Montvale filed an Answer and Affirmative Defenses to UWNJ's Verified Petition.

WHEREAS, on or about April 16, 2009, the Division of Rate Counsel, who represents the interests of all utility payers, propounded discovery requests on UWNJ.

WHEREAS, the parties entered into an Agreement of Non-disclosure of Information Claimed to be Confidential in order to facilitate the exchange of information in the First BPU Matter.

WHEREAS, thereafter, the First BPU Matter was transmitted to the OAL as a contested case, and ultimately assigned to the Honorable Mumtaz Bari-Brown, A.L.J.

WHEREAS, on June 12, 2009, a prehearing conference was held in the First BPU Matter.

WHEREAS, on June 18, 2009, the Honorable Mumtaz Bari-Brown, A.L.J. issued a prehearing Order settling procedures relating to the First BPU Matter.

WHEREAS, pursuant to the prehearing Order, UWNJ responded to discovery requests in the First BPU Matter.

(a) Information provided by UWNJ, includes but is not limited to information relating to, in part: the New York State Public Service Commission's 2006 Order directing preparation of a long term solution to Rockland County's growing water demands; the scope of Rockland County Department of Health's authority to order United Water New York ("UWNY") to cease selling water to UWNJ; contamination levels of water received by UWNJ from UWNY; cost and volume of water purchased from UWNY; water allocation and production capacity of UWNJ to meet the needs of affected residents with New Jersey sources; design information for the pump station sought in UWNJ's application to the Zoning Board; and information prepared by UWNJ's engineers related to the pump station.

(b) UWNJ also provided the BPU with Pre-filed Testimony of UWNJ, including testimony from Gary Harstead, P.E., Ronald Von Autenried, P.E., Robert Nocella, AIA, Albert Demerich, A.S.L.A., John Peel, P.E., Gary Trojak, Matthew Murello, P.E., and Michael Kauker, Jr., P.P.

WHEREAS, on November 20, 2009, a one-day bench trial was held in the Superior Court action, after which, the Court ruled in favor of UWNJ finding that "[UWNJ] presented adequate reason to overturn the denial of the Zoning Board's decision, and remands the site plan and soil moving permits back to the Board for approval. . . . [T]he Board acted arbitrarily, capriciously, and unreasonably in denying [UWNJ's] use variance application. . . . [UWNJ's] proposal is an inherently beneficial use. . . . [UWNJ] has established under the proper standards that its use variance should have been granted by the Board."

WHEREAS, after the Superior Court action was decided in UWNJ's favor, UWNJ continued with the First BPU Matter for several months because it was not confident that bringing another application before the Zoning Board for site plan approval would lead to the approval of the project in a reasonable manner and/or time frame.

WHEREAS, on February 26, 2010, pursuant to Judge Bari-Brown's Order, UWNJ provided the requisite notice of the Public Hearing scheduled for March 25, 2010, to all property owners within 200 feet of the Property, the Borough of Montvale Clerk's Office, Borough of Montvale Planning Board Secretary, and Montvale Cares, Inc., c/o William I. Strasser, Esq. Notice of the public hearing was also published in The Record on March 4, 2010.

WHEREAS, on March 23, 2010, the Zoning Board voted unanimously to approve the remanded site plan and soil moving permit application.

WHEREAS, on March 25, 2010, the Honorable Mumtaz Bari-Brown, A.L.J., conducted the public hearing in the First BPU Matter at the Montvale Municipal Building at which time, Daniel Gielchinsky, Esq. appeared on behalf of UWNJ and Joseph W. Voytus, Esq. appeared on behalf of the Zoning Board. The public hearing could not be adjourned on such short notice. Statements were also taken of ten individuals at the March 25, 2010 public hearing.

WHEREAS, Judge Bari-Brown indicated that the subsequent hearings scheduled in the First BPU Matter could be adjourned until January 2011.

WHEREAS, on or about May 5, 2010, in light of on the Law Division decision and the March 23, 2010 Zoning Board approval, UWNJ advised Judge Bari-Brown that the First BPU Matter would be withdrawn without prejudice.

WHEREAS, during the pendency of the matter, the decision on the Law Division Action was appealed to the Appellate Division. After the First BPU Matter was voluntarily withdrawn in May 2010, the appeal was briefed by the parties. The appeal was argued on March 21, 2011, after the outside date for the hearings in the First BPU Matter would have been held.

WHEREAS, it was the understanding of all parties that UWNJ could reopen the First BPU Matter if it received an unfavorable result from the Appellate Division.

WHEREAS, on August 17, 2011, after the First BPU Matter was withdrawn without prejudice, the Appellate Division issued a written decision vacating the trial court's order, affirming the Board's denial of a variance for the pumping station, reversing the Board's denial of a variance for the chemical storage tank and the automated system for delivery of sodium hypochlorite, and remanding for further proceedings as to the tank and sodium hypochlorite system, only, in conformity with its decision.

WHEREAS, on July 12, 2012, UWNJ filed a Notice of Motion to Reopen a Withdrawn Case to reopen the First BPU Matter.

WHEREAS, the BPU staff requested that the Notice of Motion to Reopen a Withdrawn Case be withdrawn and a new Verified Petition filed such that the matter would have a new docket number.

WHEREAS, on July 19, 2013, a new Verified Petition, under Docket No. WO13070663 ("Second BPU Matter") was filed.

WHEREAS, the Second BPU Matter was transferred to the Office of Administrative Law on or about January 27, 2014.

WHEREAS, a Telephone Prehearing Conference was held on April 22, 2014 setting forth procedures for the hearing.

WHEREAS, on May 2, 2014, Administrative Law Judge Leland S. McGee granted the Borough of Montvale's Motion to Intervene in the Second BPU Matter.

WHEREAS, on July 2, 2014, Administrative Law Judge Leland S. McGee signed a Prehearing Order setting the Evidentiary Hearings for November 12 & 14, 2014 at 9:30 a.m. at the Office of the Administrative Law, 33 Washington Street, 7th Floor, Newark, New Jersey 07102.

WHEREAS, on July 2, 2014, a duly noticed Public Hearing was held at Montvale Borough Hall, 12 Mercedes Drive, Montvale, New Jersey 07645 at 6:00 p.m.

WHEREAS, on May 27, 2015, the Borough of Montvale and UWNJ reached a Stipulation and Agreement setting forth the terms of the parties' agreement and, as a result has withdrawn its Intervention status, on condition that the terms of the Stipulation and Agreement be incorporated into the record and accepted by the Administrative Law Judge in his findings.

Accordingly, the undersigned parties stipulate to a record as follows:

1. Verified Petition, filed July 19, 2013.

- a. Exhibit A to Verified Petition – Verified Petition filed in the matter under BPU Docket No. WO-09020115, OAL Docket No. PUC051490 (“First BPU Matter”).
- b. Exhibit B to Verified Petition – Letter withdrawing First BPU Matter, dated May 5, 2010.
- c. Exhibit C to Verified Petition – Appellate Division opinion in United Water New Jersey v. Zoning Board of Adjustment of the Borough of Montvale, et al., Appellate Docket No. A-2526-09T3.
- d. Exhibit D to Verified Petition – Notice of Motion to Reopen a Withdrawn Case, dated July 12, 2012.

2. Transcripts.

- a. Montvale Zoning Board Meeting, January 30, 2008.
- b. Montvale Zoning Board Meeting, February 27, 2008.
- c. Montvale Zoning Board of Adjustment, March 26, 2008.
- d. Montvale Zoning Board of Adjustment, May 14, 2008.
- e. Montvale Zoning Board of Adjustment, May 28, 2008.
- f. Montvale Zoning Board of Adjustment, June 25, 2008.
- g. Planning Board Meeting, July 15, 2008.
- h. Montvale Zoning Board of Adjustment, July 22, 2008.
- i. Montvale Zoning Board of Adjustment, July 30, 2008.
- j. Montvale Zoning Board of Adjustment, August 27, 2008.
- k. Montvale Zoning Board of Adjustment, September 24, 2008.
- l. Montvale Zoning Board of Adjustment, October 27, 2008.
- m. Montvale Zoning Board of Adjustment, October 29, 2008.
- n. Montvale Zoning Board of Adjustment, November 24, 2008.
 - i. Zoning Board voted to deny UWNJ’s application.
- o. Borough of Montvale Zoning Board, September 23, 2009.
 - i. Zoning Board voted to deny UWNJ’s application.
- p. Montvale Zoning Board, February 24, 2010.
- q. Borough of Montvale Zoning Board, March 23, 2010.
 - i. Zoning Board voted unanimously to approve the remanded site plan and soil moving permit application.
- r. Public Hearing before the Honorable Bari-Brown, March 25, 2010.
- s. Public Hearing, July 2, 2014.

3. Pre-filed Testimony on behalf of UWNJ.

- a. Gary Harstead, P.E., January 30, 2008.
- b. Ronald Von Autenried, P.E., January 30, 2008 and February 27, 2008.
- c. Robert Nocella, A.I.A., May 14, 2008 and May 28, 2008.
- d. Albert Demerich, A.S.I.A., May 28, 2008.
- e. John Peel, P.E., May 28, 2008.
- f. Gary Trojak, July 22, 2008.

- g. Matthew Murello, P.E., July 30, 2008.
- h. Michael Kauker, Jr., P.P., August 27, 2008.

4. Montvale Fire Department letter, January 28, 2010.

- a. The letter explains that the high pressure pumping station will be a benefit to the firefighting capabilities of the fire department and makes certain suggestions to better serve the fire department.

5. Montvale Environmental Commission approval of landscape plan, February 8, 2010.

- a. The letter recommends UWNJ's landscape plan (revision date: 1/25/10).

6. Letter from E. Wehrle to Hon. Leland S. McGee, dated June 30, 2014.

- a. Letter from resident objecting to Project.

7. Letter from B. Shereck to Hon. Leland S. McGee, dated June 30, 2014.

- a. Letter from resident objecting to the Project.

8. Letter from B. Shereck to Hon. Leland S. McGee, dated July 2, 2014.

- a. Letter from resident objecting to the Project.

9. UWNJ's Response to Rate Counsel's Discovery Request, dated April 16, 2009, in BPU Docket No. WO-09020115, transmitted via email on June 12, 2009.

RCR-E- 1	RCR-E-2	RCR-E-3	RCR-E-4	RCR-E-5
RCR-E-6	RCR-E-7	RCR-E-8	RCR-E-9	RCR-E-10
RCR-E-11	RCR-E-12	RCR-E-13	RCR-E-14	RCR-E-15
RCR-E-16	RCR-E-17	RCR-E-18	RCR-E-19	RCR-E-20
RCR-E-21	RCR-E-22	RCR-E-23	RCR-E-24	RCR-E-25

10. UWNJ's Response to Board Staff's May 6, 2014 Discovery Requests.

SE-1 SE-2 SE-3 SE-4 SE-5 SE-6

11. UWNJ's Response to Board Staff's July 28, 2014 Discovery Requests.

SE-7 SE-8

12. Prehearing Order, dated July 2, 2014.

13. Stipulation and Agreement between UWNJ and Borough of Montvale, dated May 27, 2015.


- a. Exhibit A to Stipulation – Resolution No. 974B.

- b. Exhibit B to Stipulation – Resolution No. 152-2014.
- c. Exhibit C – Site Plan, prepared by Buck, Seiffer & Jost, Inc., dated April 27, 2015.
- d. Exhibit D to Stipulation – Exterior Sound Evaluation of the Pumping Station Mechanical Equipment, prepared by Lewis S. Goodfriend & Associates, dated January 28, 2010.

Based on the foregoing record, the undersigned parties agree that the Project is reasonably necessary for the service, convenience, or welfare of the public in accordance with N.J.S.A. 40:55D-19 and therefore recommend that it be approved by ALJ McGee and the New Jersey Board of Public Utilities.

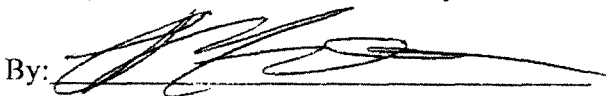
This Stipulation may be executed in as many counterparts as there are Signatory Parties of this Stipulation, each of which counterparts shall be an original, but all of which shall constitute one and the same instrument.

ARCHER & GREINER, P.C.
Attorneys for Petitioner, United Water New Jersey

By: 
Thomas J. Herten, Esq.

Dated: August 27, 2015

JOHN JAY HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Staff of the New Jersey Board of Public Utilities

By: 
Alex Moreau
Deputy Attorney General

Dated: August 28, 2015