

## COMMUNITY

### As falls Niagara...

by JESSE J SMITH on Feb 19, 2015 • 5:00 pm

No Comments



*Cooper Lake (photo by Phyllis McCabe)*

Opponents of a proposed water bottling plant in the Town of Ulster took a cautious victory lap this week after Niagara Bottling said it was flushing its local plans and now looking to set up elsewhere.

On Friday, February 13, the California-based bottler sent a one-paragraph e-mail to local officials indicating that it had dropped the Town of Ulster site from consideration in its efforts to build a new facility to serve its New York and New England markets.

"I know they have been following the news coverage over the last six months and I imagine it's the opposition [that led them to drop the proposal]," said Don Katt, president of SUNY Ulster, who received the email. "They felt they were not welcome here and decided to look elsewhere."

The announcement was a swift and sudden end to an effort that began quietly in April when the company first approached City of Kingston, Town of Ulster and Ulster County officials and grew into a full-blown controversy in

build a \$54 million 418,000-square-foot water bottling plant on a vacant industrial site adjacent to the former IBM campus. The company sought a deal with the Kingston Board of Water Commissioners to purchase up to 1.75 million gallons a day from the city's water supply. Additional water would have been trucked in from area springs.

Supporters of the plan pointed to the prospect of as many as 120 new jobs and a badly needed cash infusion to help offset the some \$18 million in foreseen upgrades and repairs to the city's aging and rapidly deteriorating water system.

Opposition emerged not only in Kingston, but in Woodstock, where the city's Cooper Lake reservoir sits. Critics claimed the Niagara plant would draw more water than the system could handle without endangering Cooper Lake's watershed — foolhardy, foes argued, in a time when climate change is predicted to bring drought to much of the continental United States.

"We are doubly pleased [by the news that Niagara has withdrawn]," said Woodstock Land Conservancy Chairman Kevin Smith. "First, because this immediate threat to our local watersheds and the integrity of a crucial shared natural resource has been averted, and the Town of Woodstock spared significant legal and consultant fees protecting its water rights. Second, because Niagara's proposal has spurred the creation of a much-needed task force to address the future sustainability and health of our local watersheds and public water supplies in the time of climate change."

Opponents worried that obligating the city of Kingston to provide so much water to a single customer would impede future residential and commercial development. Others said they opposed bottled water on principle or that they object to the sale of a public resource for private gain.

Opposition also stemmed from the unusual arrangement of the state-mandated environmental quality review for the plan. While the water used would come from Woodstock and is part of Kingston's municipal supply, neither community was granted "involved agency status" under the state Environmental Review Quality Act, a.k.a. SEQR. That status would have given elected officials a say in how the review was carried out. Instead, the review would have been overseen by the Ulster Town Board.

Nor, to opponents' shock and chagrin, would the City of Kingston's mayor or Common Council have any say in any sale of water to Niagara. Under the City Charter, the Board of Water Commissioners, which is appointed by the mayor, holds the exclusive right to sell "surplus water" from the system.

While Mayor Shayne Gallo took a largely hands-off approach to the issue, members of the Kingston Common Council passed a series of resolutions in response to constituents' demands for a more active role. The council passed a resolution calling for the city to be named an "involved agency" in the review and another calling for the state Department of Environmental Conservation to assume "lead agency status" — neither of which came to pass. Earlier this month, the council approved a resolution drafted by Niagara opponent and KingstonCitizens.org leader Rebecca Martin asking the Town of Ulster to extend the public comment period on Niagara's "scoping document" — a report listing factors the SEQR review should take into account.

Leader Matt Dunn (D-Ward 1). “I couldn’t be prouder of that.”

## **Lengthy review**

Niagara foes failed in their effort to get the DEC to assume lead agency status. But they succeeded in having the review conducted as a more rigorous “Type I” action under SEQR that calls for multiple rounds of public comment and review and more extensive documentation of possible negative impacts from the project. The opposition also signaled its intention to cast a critical eye on science provided by the company to justify the proposal. One group, the Woodstock-based SaveCooperLake.org, even commissioned a hydrological study which brought up a number of legal and environmental issues and argued there isn’t enough water to fulfill the lake’s pre-existing obligations and have enough left over sell to a bottler.

Martin said she believes the prospect of a rigorous and closely watched review process was key to Niagara’s decision to back off the Town of Ulster site.

“For us this has always been about having a process and understanding what this proposal was all about,” said Martin. “Niagara walking away shows that that kind of process might not have been what anybody was looking for.”

In Woodstock, meanwhile, Town Supervisor Jeremy Wilber raised the prospect of legal action around the Niagara proposal. At a public meeting arranged by the Kingston Common Council, Wilber pointed to language in the original 1929 agreement that created the Cooper Lake reservoir that indicated Woodstock maintained the right to draw from the watershed. Others pointed out that the same streams that feed Cooper Lake also provide water to New York City’s Ashokan Reservoir system. Woodstock officials also engaged an environmental attorney to protect the town’s interests as the SEQR process moved forward.

Speaking to his town board on Tuesday, Wilber said he was gratified by Niagara’s withdrawal and said he hoped it sent a signal to others. “I think that any companies that use vast quantities of water are going to think very hard before coming here,” Wilber said.

Smith said the Woodstock Land Conservancy would help “develop better understanding, protection and management of our local watersheds and public water supplies and, where we can, helping Kingston identify alternative solutions to its water infrastructure challenges — solutions that do not require the mortgaging of our shared water resources and environment.”

## **Lack of state-level support**

As opposition mounted, the Niagara plan also received a series of bad omens from state officials regarding the Town of Ulster site. In December the company’s bid for \$10 million in state economic development funds to offset construction costs was rejected, despite the fact that a regional economic development council had given the proposal a “priority” designation, indicating strong support. Also, the company was not included in two recent announcements of Start-Up New York tax breaks. The highly touted program



offers companies significant benefits, including a 10-year state income tax holiday for employees, in exchange for partnering with local colleges. In Niagara's case, the company won approval from SUNY Ulster trustees for a partnership, only to see the application ignored by officials in Albany.

"I think the politicians got the signal," said Richard Buck of SaveCooperLake.org. "They saw that it was politically unpopular."

With the Town of Ulster sites off the table, Niagara is likely to move on to one of two sites under consideration for its Northeast bottling hub, one in the upstate city of Gloversville and another in Massachusetts. Officials at Niagara and Chazen engineering which had been handling the environmental review on their behalf did not return calls for comment. Town of Ulster Supervisor James Quigley III, meanwhile, told the *Kingston Times* this week that he would not comment until he had spoken with Niagara officials about the decision. Neither Judith Hansen, Superintendent of the Kingston Water Department, nor Kingston Mayor Shayne Gallo returned any of numerous phone calls seeking comment.

**Tags:** city of Kingston, Cooper Lake, Niagara Bottling, Town of Ulster

Only a fraction of the content published in our weekly Woodstock Times makes it to our website. To read our full coverage of local government, schools, people of interest, local culture, and much more, please visit our website at [www.woodstocktimes.com](#) or [subscribe](#) today!