

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE FEASIBILITY AND)	
ADVISABILITY OF KENTUCKY-AMERICAN)	CASE NO. 2001-00117
WATER COMPANY'S PROPOSED SOLUTION TO)	
IT'S WATER SUPPLY DEFICIT)	

NOPE RESPONSE TO
COMMISSION STAFF'S FIRST OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO NOPE, INC.

Comes now Neighbors Opposing Pipeline Extravagance, Inc. ("NOPE"), by counsel, and for its response to the Commission Staff's First Set of Interrogatories and Requests for Production of Documents to NOPE, states as follows:

1. List and describe the improvements to the Kentucky River that in NOPE's opinion are necessary for the Kentucky River to serve as Kentucky-American Water Company's ("Kentucky-American") sole source of supply and meet Kentucky-American's expected customer demand in 2020.

See Reports of University of Kentucky Water Resources Research Institute, from 1996-2001 on file at Kentucky River Authority. See also, the proceedings of the Urban County Government leading to the adoption of 67-99, on file with the Lexington-Fayette Urban County Government.

2. For each improvement listed in the response to Interrogatory 1,

a. Identify the private entity or governmental agency with the primary responsibility for constructing the improvement.

Kentucky River Authority.

b. Identify the private entity or government agency with the primary responsibility for the immediate financing of the improvement's construction.

Kentucky General Assembly and Kentucky River Authority

c. Identify the local, state or federal governments or governmental agencies that must review or approve the construction of the proposed improvement.

US Army Corps of Engineers, Kentucky Division of Water.

d. State the time period necessary to obtain the necessary regulatory approvals to construct to improvement.

The time period for such approvals is unknown, to the best of NOPE's knowledge, information and belief. NOPE further believes that such approval's can be obtained in a timely manner.

e. State the time period necessary to construct the improvement

See projections of the US Army Corps of Engineers reflected in the Kentucky River Authority's planning documents. NOPE believes the projected date of completion for construction on Dam 10 is 2008.

f. Describe Kentucky-American's responsibility for obtaining the financing, regulatory approval and construction of the improvement.

KAWC is required to comply with its statutory duty to provide reasonable, nondiscriminatory service to its customers. NOPE believes that KAWC has devoted most, if not all, of its resources and investment in pursuing an alternative to the Kentucky River as a water supply source, and that position of KAWC has been contrary to the public interest and the interests of its ratepayers. The role of KAWC in financing, regulatory approval and construction of the improvements advocated by NOPE is dependent upon KAWC accepting

improvements on the Kentucky River as the solution to the water supply deficit. NOPE believes that under current statutory authority, the Kentucky River Authority has primary responsibility in these areas.

g. Describe the responsibility of the Lexington-Fayette Urban County Government (“LFUCG”) for obtaining the financing, regulatory approval and construction of the improvement.

NOPE believes under current statutory authority that the Kentucky River Authority, rather than LFUCG, has primary responsibility for these matters. NOPE believes that the answer to this question is dependent upon policy determinations made by the LFUCG, which may or may not decide to undertake a greater role in implementing such improvements.

3. a. State whether the improvements listed in NOPE’s Response to Interrogatory 1 will be sufficient to meet Kentucky-American’s customer demand if the needs of other water suppliers and users that withdraw water from the Kentucky River basin are also considered.

According to the KWRRI, the needs of all water suppliers and users that withdraw water from the Kentucky River basin can be reasonably met. However, the capacity of the Kentucky River to adequately serve the reasonable need so fall users could be threatened if KAWC is allowed to continue to add demand by pursuing a policy of poorly planned or unrestricted growth and new acquisitions to be served by the Kentucky River.

c. If the improvements listed in NOPE’s Response to Interrogatory 1 are not sufficient to meet Kentucky-American’s customer demand if the needs of other water suppliers and users that withdraw water from the Kentucky River basin are also considered, explain why not.

Not applicable.

4. Provide all studies regarding the economic effects of water restrictions that NOPE has prepared, commissioned, participated in or received.

NOPE has not prepared, commissioned, participated in or received any such study of the economic effects of water restrictions.

5. List and describe all additional water conservation measures that NOPE believes that Kentucky-American could implement to control or reduce its customer demand.

NOPE believes that such water conservation measures were set forth in the Attorney General's filings in Case No. 93-434. NOPE further believes that KAWC's "conservation" policy is fundamentally flawed because it is based on the corporate philosophy that unlimited demand is good for business. Accordingly, KAWC has not developed a meaningful water conservation policy. KAWC policy therefore results in ALL users subsidizing improvements necessary only to meet the unreasonable demands of users who seek unlimited and profligate use of water resources.

6. List and describe all additional water conservation measures that NOPE believes that LFUCG could implement to control or reduce Kentucky-American's customer demand.

NOPE has not taken any position regarding the adequacy of LFUCG measures to control or reduce KAWC's customer demand.

7. For each conservation measure set forth in NOPE's response to Interrogatories 5 and 6, state the reduction in demand that the measure will produce.

In the time provided for response to these interrogatories, NOPE has been unable to ascertain the reduction in demand that would result from additional conservation measures. NOPE believes that there is testimony in the record of Case No. 93-434 that reflects this data.

8. State whether NOPE is of the opinion that the current supply capacity of the Kentucky River, without any improvements, is sufficient to meet Kentucky-American's current customer demand if a drought of record occurs.

NOPE relies on the studies conducted by the KWRRRI concerning this question.

9. State whether NOPE is of the opinion that the current supply capacity of the Kentucky River, without any improvements, is sufficient to meet Kentucky-American's current customer demand if a 100-year drought occurs.

NOPE relies on the studies conducted by the KWRRRI concerning this question.

10. State whether NOPE is of the opinion that the current supply capacity of the Kentucky River, without any improvements, is sufficient to meet Kentucky-American's customer demand in 2020 if a drought of record occurs.

NOPE relies on the studies conducted by the KWRRRI concerning this question.

11. State whether NOPE is of the opinion that the current supply of the Kentucky River, without any improvements, is sufficient to meet Kentucky-American's customer demand in 2020 if a 100-year drought occurs.

NOPE relies on the studies conducted by the KWRRRI concerning this question.

12. Lexington-Fayette Urban County Council Resolution 679-99 established a schedule of improvements to be met by 2002. For each improvement or task listed for this period, describe its present status.

NOPE is currently reviewing the status of each improvement called for in LFUCG resolution 679-99, and will supply that information after it has completed this review.

13. List and describe all additional water conservation measures that NOPE believes that LFUCG could implement to control or reduce Kentucky-American's customer demand.

NOPE believes that LFUCG should consider buying out KAWC so that the water supply needs of the community can be the sole determining factor in setting water supply policy, rather than the profit to shareholders of a privately held corporation that has a constant incentive to increase the demand for water usage in order to increase its profitability.

Respectfully submitted,

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COUNSEL FOR NOPE

CERTIFICATION

In conformity with paragraph 10 of the Commission's Order dated May 15, 2001, this is to certify that the electronic version of this Response is a true and accurate copy of this Response filed in paper medium; that the electronic version of the filing has been transmitted to the Public Service Commission; that Kentucky-American Water Company has notified the Commission, the Attorney General, N.O.P.E., Inc., the Bluegrass Water Supply Consortium and the Lexington-Fayette Urban County Government by electronic mail that the electronic version of this Request has been transmitted to the Commission; that a copy has been served by mail upon David E. Spenard, Esq., Assistant Attorney General, Utility and Rate Intervention Division, 1024 Capital Center Drive, P.O. Box 2000, Frankfort, Kentucky 40602-2000; Theresa L. Holmes, Esq., David Barberie, Esq., Lexington-Fayette Urban County Gov't., Department of Law, 200 East Main Street, Lexington, Kentucky 40507; Phillip J. Shepherd, Esq., 307 West Main Street, P. O. Box 782, Frankfort, Kentucky 40602; Damon R. Talley, P.O. Box 150, 112 North Lincoln Boulevard, Hodgenville, Kentucky 42748, and Lindey W. Ingram, Stoll, Keenon & Park, 300 West Vine Street, Suite 2100, Lexington, Kentucky 40507-1801, and hand delivered to Gerald E. Wuetcher, Esq., Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601, and that the original and three (3) copies have been filed with the Public Service Commission in paper medium, all this the 14th day of February, 2002.

Phillip J. Shepherd