

DRAFT - PRIVILEGED & CONFIDENTIAL

#### **IV. APPENDICES**



**APPENDIX A:**  
SCARCE RESOURCE REPORT PREPARED BY THE TOWNSHIP ENGINEER,  
PAUL FERRIERO, PE, DATED SEPTEMBER 11, 2018



Paul W. Ferriero, PE, PP, CME, LEED AP, CFM  
Robert C. Brightly, PE, PP, CME

Steven B. Bolio, PE, CME  
Mark S. Denisiuk, PE, CME, LEED AP  
Joseph S. Kosinski, PG, CFM, LEED AP  
Dennis W. O'Neal, PE, PP, CME  
C. Richard Quamme, PE, CME  
Jess H. Symonds, PE

September 11, 2018

Edward J. Buzak, Esq.  
150 River Rd # N4  
Montville, NJ 07045

Re: Water Supply Capacity Analysis  
Randolph Township

Dear Mr. Buzak:

An analysis has been completed of the Randolph Township water supply system to determine its capacity to provide water for development in the Township. The analysis was completed by determining the total water demand and allocating that demand to its residential and non-residential customers. The current demand was compared to the available firm capacity and the balance was considered to be the available water capacity. In order to determine how much of this capacity was available for new residential development, there were some subtractions made from this figure. The first was for development projects that are currently approved as outlined in Table A of the Scarce Resource Order. These are land use applications that are pending or have been approved and currently under construction or waiting to start construction. Next, a reservation was made for the potential connection of properties with failing wells and for small individual connections. The remaining figure is the net available water capacity (NAWC) which can be used for future development in the Township. The NAWC was distributed to residential and non-residential uses in the same proportion as used by the current customer base. The available residential capacity was then allocated to a mix of affordable and market housing units to determine the maximum number of affordable housing units that can be supported by the existing water capacity in the Township.

#### Water Capacity

The Randolph Township water utility obtains 100% of the water in its system from the Morris County Municipal Utility Authority (MUA).<sup>1</sup> The contract between the Township and the MUA sets the maximum amount of water the Township has to distribute. The contractual peak daily flow (Firm Capacity) is 3.12 millions of gallons per day (MGD). The available water capacity for any water system is defined by the NJDEP as the Firm Capacity minus the sum of the peak daily demand plus the committed peak. The peak daily demand is defined as the highest average daily demand from the prior 60 months. The committed peak is the sum of all approved NJDEP

---

<sup>1</sup> A small portion of Randolph Township is served by the Dover Water System which is owned, operated and maintained by the Town of Dover. Since the Dover Water System is controlled by Dover, that system is not included in this analysis.

Re: Water Supply Capacity Analysis  
Randolph Township

permits or connections not requiring DEP permits that have been approved by the Township. The peak daily demand is based on the month of August 2015 and is 2.368 MGD. The total committed peak is 0.060 MGD. Based on this, the available Firm Capacity as calculated by the NJDEP is 0.692 MGD.

Pending Water Connections

Randolph Township has a number of pending connections to its water system that are not currently listed in the “Committed Peak” figure on the NJDEP web site. These are detailed in “Table A” as appended to the Scarce Resource Order issued by the Court to Randolph Township. The total of these pending connections is 0.367 MGD.

Well Failure/Small Connection Allocation

There are a significant number of single family homes in Randolph Township that are currently served by on site individual wells. Over time, these wells can fail due to aquifer depletion, groundwater contamination or other issues. The Scarce Resource Order allows for the connection of these types of single family dwellings in addition to other similarly sized “small connections.” Since the exact size or number cannot be determined in advance, it is assumed that the connection size will be one Equivalent Dwelling Unit (EDU) as established by the Township. This is 350 GPD per connection and it is further assumed that in the future there could be up to 30 of these connections in the future. This results in an allowance of 0.011 MGD.

Net Available Water Capacity

As noted above, the Township’s total firm capacity is 3.120 MGD. Based on the figures outlined above, the following table provides the NAWC for the Township’s water supply:

Net Available Water Capacity Calculation

Component	Flow (MGD)
Contract Limit	3.120
Peak Demand	2.368
Committed Capacity	0.060
Net Firm Capacity	0.692
Table “A” Demand	0.367
Well Failure/Sm. Conn.	0.011
NAWC	0.314

The water capacity available in the Township is 0.314 MGD or 314,000 gpd.

Re: Water Supply Capacity Analysis  
Randolph Township

Residential vs. Non-Residential Flow

The customer billings for the water utility were analyzed to determine the proportion of residential demand versus non-residential water demand. The separation of the two components of the demand is important since any future residential development in the Township will result in a proportional increase in the non-residential demands. Simply put, it should be anticipated that future residents of the Township should be expected work, shop and go to church in patterns substantially similar to those that exist today. The services that exist in the Township must be expected to expand to support the future populations of the Township or those new residents will not be able to find employment, go to the grocery store, see a doctor or attend a house of worship in the town in which they live. A review of the last two years' worth of billing records indicate that the residential versus non-residential use is split in an 94.6% versus 5.4% distribution. Based on the number of residential customers in the Township, this highly residentially weighted ratio is expected.

Using these ratios, the water capacity that is available for development would be divided between residential and non-residential uses with 0.297 MGD for residential development and 0.017 MGD for non-residential development.

Future Single Family Detached Residential Water Allocation

It is reasonable to anticipate that single family detached residential development patterns will continue in the Township. Based on data from the Construction Department, 84 permits for detached single family homes have been issued in the last 10 years. Using the 10 year time frame from 2015 through 2025, it is reasonable to assume that there will be another 84 permits. The demand for each dwelling based on the NJDEP standards reflected in the Residential Site Improvement Standards in N.J.A.C. 5:21, assuming 4 bedrooms, is 395 gallons per day per dwelling. The total demand for the 84 dwellings is therefore 33,180 gpd, or 0.099 MGD using the NJDEP peaking factor for permits. These homes are anticipated to generate 1 to 2 school age children per dwelling. Given the small number of these students, the educational component of the flow is small enough that the figure is beyond the significant digits of the Firm Capacity Calculations and is being ignored for this report.

Future Inclusionary Residential Development Water Allocation

In order to determine the distribution of the available residential capacity between affordable and market units, there are a number of assumptions that were made. First, the affordable set aside ratio will be 20%. Secondly, the bedroom distribution of the affordable units will be 20% for 1 bedroom units, 60% for 2 bedroom units and 20% for 3 bedroom units. The next assumption is that all market units will have three bedrooms. The table below provides the demand for each unit based on the NJDEP standards reflected in the Residential Site Improvement Standards in N.J.A.C. 5:21:

Re: Water Supply Capacity Analysis  
Randolph Township

Water Demand by Unit Size

Unit Type	Flow (gpd)
1 BR (aff.)	125
2 BR (aff.)	150
3 BR (aff.)	210
3 BR (mar.)	210

In addition to the demand that is generated by the residences themselves, each unit will generate some number of school children who will create additional demand at the schools. The latest analysis of this is a report published in July 2018 by the Rutgers Center for Real Estate entitled "School-Age Children in Rental Units in New Jersey: Results from a Survey of Developers and Property Managers" written by Davis, Frame, Ladell and Tantleff. It should be noted that this report is an analysis of rental units and not for sale units. In general, most experts opine that rental units will generate lower numbers of school children than for sale units so the figures presented herein can be considered lower than might be expected from for sale units. The table below contains information from Table 1 in the Executive Summary of the report referenced above. It is assumed that all market units will be low rise structures with an average household income in excess of \$100,000. It should be noted that this is the unit type/income level that produces the lowest number of school age children.

School Age Children per 100 Units

Unit Size	Affordable	Market
1 BR	10.3	-
2 BR	72.1	-
3 BR	108.9	61.8

The demand per student under the NJDEP standards is 15 gal/student/day assuming the school has a cafeteria but no showers.

Residential Capacity Allocation Table

	AH Units	Ratio	Total units	GPD	Total Res flow	Student Ratio	Students	GPD/S	Education GPD
	65	0.2	325						
1 BR (20%)	13			125	0.002	0.103	1.339	15	20.09
2 BR (60%)	39			150	0.006	0.721	28.119	15	421.79
3 BR (20%)	13			210	0.003	1.089	14.157	15	212.36
Market			260	210	0.055	0.618	160.68	15	2,410.20
					0.066			Total MGD	0.004

Re: Water Supply Capacity Analysis  
Randolph Township

As this table shows, an affordable housing unit count of 65 results in a total unit count of 380 of which 325 are market units. The table also shows that based on the unit mix and NJDEP design criteria, the 65/260/325 affordable/market/total unit count results in an additional residential daily demand of 0.066 MGD. Based on the NJDEP peaking factor for permitting, this figure, as well as the non-residential demand, must be multiplied by 3. The total water residential demand is therefore  $3 \times 0.066 = 0.198$  MGD plus the education demand component of 0.004 MGD for a total of 0.202 MGD. This marginally exceeds the available capacity of 0.199 MGD identified above.

In conclusion, the NAWC of the Township of Randolph limits the level of all future new development in the Township. With minimal allocation (5.4%) of the NAWC to future non-residential development to service the expansion of the residential base and a similar minimal allocation to single family detached units (8.4/year), there remains sufficient NAWC to accommodate the demand of an aggregate 325 multifamily residential units, consisting of 65 units available to low and moderate income households and 260 market units.

Please contact me if you have any questions or require further information.

Very truly yours,



Paul W. Ferriero, PE, CME  
Township Engineer

DRAFT - PRIVILEGED & CONFIDENTIAL

**APPENDIX B:**  
COURT ORDER “CONFIRMING THE SATISFACTION OF THE  
PRIOR ROUND OBLIGATION”, DATED OCTOBER 19, 2016





Keli (RAND-2004A)  
RAND Motion Order  
083016

**FILED**

OCT 19 2016

TERENCE J. HANBURY, J.L.

Keli L. Gallo, Esq. - ID No. 079672000  
**THE BUZAK LAW GROUP, LLC**  
Montville Office Park  
150 River Road, Suite N-4  
Montville, New Jersey 07045  
(973) 335-0600  
Attorney for Plaintiff/Petitioner, Township of Randolph

IN THE MATTER OF THE  
APPLICATION OF THE TOWNSHIP  
OF RANDOLPH, a municipal  
corporation of the State of New Jersey,  
  
Plaintiff/Petitioner.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - MORRIS COUNTY

DOCKET NO.: MRS-L-1640-15

CIVIL ACTION  
(Mount Laurel)

**ORDER CONFIRMING THE  
SATISFACTION OF PRIOR  
ROUND OBLIGATION**

THIS MATTER having been opened to the Court by The Buzak Law Group, LLC, attorneys for Plaintiff/Petitioner, Township of Randolph, on notice to all parties on the attached service list and notice list, by way of Motion to confirm satisfaction of prior round (1987-1999) affordable housing obligation; and the Court having considered the pleadings on file and the argument of the parties; and for the reasons set forth on the record by the Court at the motion hearing; and for good cause shown

IT IS, therefore, on this 19<sup>th</sup> day of October, 2016, ORDERED as follows:

1. The Township of Randolph's Motion to confirm the satisfaction of its prior round (1987-1999) affordable housing obligation is granted; and it is further  
*as of 2005*

2. The Township of Randolph satisfied its entire 261 unit prior round (1987-1999)  
*as of 2005*  
affordable housing obligation, and it is further

3. A copy of the within Order shall be served upon all parties on the Service List within  
\_\_\_\_\_ days from the date of entry of this Order. *in court*

*Stephan C. Hansbury*

The Honorable Stephan C. Hansbury, P.J. Ch.

**APPENDIX C:**  
AMENDED CONSENT ORDER (INCLUDES TABLE A) IMPOSING  
SCARCE WATER RESOURCE RESTRAINTS, DATED JUNE 6, 2018

EJB (RAND-2004A)  
Amended Consent Order Imposing Scarce Resource Restraints(w/Table A)  
041818

052118 Blacklined

052418

052418-1/060518 Amended w/Table A

**FILED**

**JUN 06 2018**

Maryann L. Nergaard  
J.S.C.

Edward J. Buzak, Esq. - ID No. 002131973  
**THE BUZAK LAW GROUP, LLC**  
Montville Office Park  
150 River Road, Suite N-4  
Montville, New Jersey 07045  
(973) 335-0600  
Attorney for Plaintiff/Petitioner, Township of Randolph

IN THE MATTER OF THE  
APPLICATION OF THE TOWNSHIP  
OF RANDOLPH, a municipal  
corporation of the State of New Jersey,  
  
Plaintiff/Petitioner.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - MORRIS COUNTY

DOCKET NO.: MRS-L-1640-15

CIVIL ACTION

(Mount Laurel)

**AMENDED CONSENT ORDER  
(INCLUDES TABLE A)  
IMPOSING SCARCE WATER  
RESOURCE RESTRAINTS**

This matter having been opened to the Court by Defendants/Intervenors LYS Realty Associates, LLC and Sporn Realty & Management Corp., by and through its attorneys, Fox Rothschild LLP, by way of motion for an Order Imposing Scarce Water Resource Restraints, in which Defendant/Intervenor Canoe Brook Development LLC, joined, by and through its attorneys, Bisgaier Hoff, LLC; and Petitioner, Township of Randolph, by and through its attorneys, The Buzak Law Group, LLC, having opposed the entry of the Order Imposing Scarce Water Resource Restraints in the form as set forth by said Defendants/Intervenors; and the parties having met with the Special Master and having arrived at a mutually agreeable form of Order and for good cause shown

It is on this 6<sup>th</sup> day of June, 2018 **ORDERED** as follows:

1. Except as set forth in Paragraph 2 below, there is hereby imposed a scarce water resource restraint requiring the Township of Randolph to withhold and reserve all remaining water supply for projects which assist the Township in satisfying its constitutional affordable housing obligation, until further Order of this Court as set forth hereinafter.

2. As of the date of this Order, no new connections to the water system or allocations of water for developments shall be authorized or approved by the Township of Randolph except for the following exemptions ("Exemptions") : (i) single family homes that are not part of a development or uses with a service level no greater than a single family home ; (ii) existing single family homes whose individual water supply fails, becomes contaminated or otherwise non-potable, or is unable to meet the needs of said residents; and (iii) all projects as set forth in Table A attached hereto and made a part hereof. At six (6) month intervals, beginning December 1, 2018, the Township shall submit to the Special Master and to all signatories of this Consent Order a list of connections made to the water system of the Township of Randolph in the categories set forth in this Paragraph 2 of this Consent Order.

3. The Planning Board, and the Zoning Board of Adjustment (collectively "Boards"), shall advise all applicants filing any application for development after the date of the entry of this Order that any Board action or approval will not confer "vested rights" for allocation of public potable water service upon the applicant without the Court's review and approval. Only after an Order has been entered releasing an application from the restraints imposed by this Order will an applicant acquire "vested rights" for water allocation.

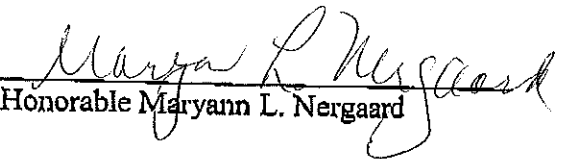
4. The Township and any agency of the Township that is authorized to issue water service connection permits are hereby restrained from issuing any new or expanded water service connections except as otherwise provided in Paragraph 2 of this Order.

5. Any applicant for development approval from the Boards, or any party or person affected or potentially affected by the restraints imposed by this Court Order may apply to the Special Master, Philip Caton, with notice to all parties for relief from this Order at any time in the form of a letter with appropriate supporting documentation. The Special Master shall render a decision in writing on said request for relief within fifteen (15) business days of receipt of the aforesaid application. If the Special Master determines that relief from the restraints imposed herein is appropriate, he shall authorize the relief from the restraints in writing with a copy to the Court and all parties and the Applicant may then pursue the connection of their development or project, or premises to the potable water system of the Township. If the Special Master fails to timely decide the request or declines to authorize the relief sought, or if any party objects to the Special Master's decision, application shall be made to the Court within ten (10) days of the receipt of the written decision of the Special Master, on notice to the Special Master and all interested parties to this litigation who originally received notice of the request for relief.

6. Pending any further Order from this Court, the restraints and Exemptions in this Order will remain in effect for 90 days from its date of entry and shall be automatically extended for periods of 60 days thereafter, unless otherwise modified by the Court upon application of any party.

7. Notwithstanding anything to the contrary, upon the issuance of a Judgment of Compliance and Repose to the Township of Randolph, unless otherwise previously dissolved by the Court, this Order shall automatically be dissolved, simultaneously with the entry of the Judgment of Compliance and Repose.

8. Counsel for the Petitioner shall serve a copy of this Order upon all counsel within seven (7) days of receipt hereof.

  
Honorable Maryann L. Nergaard

The following parties and interested parties in this litigation consent to the form and entry of this Consent Order:

THE BUZAK LAW GROUP, LLC  
Attorneys for Township of Randolph

By \_\_\_\_\_  
Edward J. Buzak, Esq.

FOX ROTHSCHILD LLP  
Attorneys for LYS Realty Associates, LLC and  
Sporn Realty & Management Corp.

By \_\_\_\_\_  
Henry Kent-Smith, Esq.

BISGAIER HOFF, LLC  
Attorneys for Canoe Brook Development LLC

By \_\_\_\_\_  
Robert Kasuba, Esq.

INGLESINO, WEBSTER, WYCISKALA & TAYLOR, LLC  
Attorneys for American Properties

By \_\_\_\_\_  
Derek W. Orth, Esq.

LASSER HOCHMAN, LLC  
Attorneys for KAB Associates

By \_\_\_\_\_  
Bruce Snyder, Esq.

FAIR SHARE HOUSING CENTER

By \_\_\_\_\_  
Joshua Bauers, Esq.



The following parties and interested parties in this litigation consent to the form and entry of this Consent Order:


THE BUZAK LAW GROUP, LLC  
Attorneys for Township of Randolph

By \_\_\_\_\_  
Edward J. Buzak, Esq.

FOX ROTHSCHILD LLP  
Attorneys for LYS Realty Associates, LLC and  
Sporn Realty & Management Corp.

By \_\_\_\_\_  
Henry Kent-Smith, Esq.

BISGAIER HOFF, LLC  
Attorneys for Canoe Brook Development LLC

By  \_\_\_\_\_  
Robert Kasuba, Esq.

INGLESINO, WEBSTER, WYCISKALA & TAYLOR, LLC  
Attorneys for American Properties

By  \_\_\_\_\_  
Derek W. Orth, Esq.

LASSER HOCHMAN, LLC  
Attorneys for KAB Associates

By  \_\_\_\_\_  
Bruce Snyder, Esq.

FAIR SHARE HOUSING CENTER

By \_\_\_\_\_  
Joshua Bauers, Esq.

The following parties and interested parties in this litigation consent to the form and entry of this Consent Order:

THE BUZAK LAW GROUP, LLC  
Attorneys for Township of Randolph

By \_\_\_\_\_  
Edward J. Buzak, Esq.

FOX ROTHSCHILD LLP  
Attorneys for LYS Realty Associates, LLC and  
Sporn Realty & Management Corp.

By \_\_\_\_\_  
Henry Kent-Smith, Esq.

BISGAIER HOFF, LLC  
Attorneys for Canoe Brook Development LLC

By \_\_\_\_\_  
Robert Kasuba, Esq.

INGLESINO, WEBSTER, WYCISKALA & TAYLOR, LLC  
Attorneys for American Properties

By \_\_\_\_\_  
Derek W. Orth, Esq.

LASSER HOCHMAN, LLC  
Attorneys for KAB Associates

By \_\_\_\_\_  
Bruce Snyder, Esq.

FAIR SHARE HOUSING CENTER

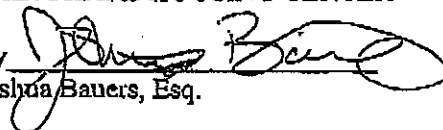
By  \_\_\_\_\_  
Joshua Bauers, Esq.

Table A - Existing Short Term Demand

Site	Location	Use type	U/M	Unit demand	Nb. Units	Total Demand	Peak Demand
Rose of Sharon	Dover Chester Rd	single family	lot	300	2	600	1,800
Kozak	Middlebury Blvd	commercial	SF	0.125	35,000	4,375	13,125
Randolph Diner	Rt 10/Center Grove	commercial	SF	0.125	2,335	292	876
Gordon Randolph MAB	Route 10	commercial	SF	0.125	13,580	1,698	5,094
Collinson subdivision	South Road	single family	lot	300	2	600	1,800
Lubrano	Jodilee Lane	single family	lot	300	3	900	2,700
Kahn	Dover Chester Rd	retail	SF	0.125	3,885	486	1,458
		apartment	each	300	1	300	900
Japar	West Hanover Ave	retail	SF	0.125	6,050	756	2,268
1.01 Aspen Dr	Aspen Dr	commercial	SF	0.125	51,085	6,386	19,158
Skylands	Route 10	Hotel	room	75	74	5,550	16,650
Gangami	Hilltop Rd	single family	lot	300	1	300	900
Heritage 55	Calais Road	age restr TH	unit	225	30	6,750	20,250
Heller	Sussex Turnpike	retail	SF	0.125	63,300	7,913	23,739
SJC Hlds	Route 10	office/daycare	SF	0.125	24,560	3,070	9,210
Elbaum Homes	Route 10	medical office	SF	0.125	22,000	2,750	8,250
Envision Prop	Route 10	retail	SF	0.125	20,875	2,609	7,827
Gourmet Dev	Dover Chester Rd	retail	SF	0.125	4,970	621	1,863
		apartment	each	300	1	300	960
Primrose School	Middlebury Blvd	daycare	student	10	194	1,940	5,820
Dinkerson	Dover Chester Rd	medical office	SF	0.125	12,516	1,565	4,695
Randolph Mountain		single family	lot	300	34	10,200	30,600
Mt Freedom 1	Harvey/Carellen	single family	lot	300	29	8,700	26,100
Mt Freedom 2	Woodlawn/Shuman	single family	lot	300	15	4,500	13,500
Wendy's	Route 10	restaurant	est	5,000	1	5,000	15,000
Sussex Turnpike redev	Sussex Turnpike	mixed use	est	8,000	1	8,000	24,000
Randolph Realty	Brookside	townhouses	unit	300	105	31,500	94,500

TABLE A (1 of 2)

Ferraro Engineering, Inc.  
March 1, 2018  
Page 5

Re: Water Capacity Analysis  
Randolph Township Water System

Progress Properties Gp	Middlebury Blvd	office	SF	0.125	12,880	1,610	4,830
		warehouse	person/shift	25	20	500	1,500
Heller Group	West Hanover Ave	retail	SF	0.125	8,400	1,050	3,150
Sussex/Millbrook LLC	Sussex Turnpike	mixed use	SF	0.125	12,540	1,568	4,704
Bilbaum Homes	Route 10 West	office	SF	0.125	3,865	483	1,449
				Total projected demand		122,872	368,516

TABLE A (2 of 2)

**APPENDIX D.1.:**  
TOWNSHIP COUNCIL RESOLUTION REQUESTING COURT REVIEW AND APPROVE THE  
TOWNSHIP'S AFFORDABLE HOUSING TRUST FUND SPENDING PLAN  
(DRAFT, UNADOPTED)

DRAFT - PRIVILEGED & CONFIDENTIAL

**APPENDIX D.2.**  
2019-2025 SPENDING PLAN



**APPENDIX E:**  
AFFORDABLE HOUSING ORDINANCE  
(DRAFT, UNDAOPTED)

DRAFT - PRIVILEGED & CONFIDENTIAL



**APPENDIX F:**  
MANDATORY SET-ASIDE ORDINANCE  
(DRAFT, UNADOPTED)



**APPENDIX G:**  
AFFIRMATIVE MARKING PLAN RESOLUTION  
(DRAFT, UNADOPTED)

DRAFT - PRIVILEGED AND CONFIDENTIAL



**APPENDIX H:**  
AMENDED DEVELOPMENT FEE ORDINANCE  
(DRAFT, UNADOPTED)

**APPENDIX I:**  
RESOLUTION AUTHORIZING AWARD  
FOR CONTRACT WITH ADMINISTRATIVE AGENT

DRAFT - PRIVILEGED & CONFIDENTIAL

**APPENDIX J:**  
RESOLUTION APPOINTING MUNICIPAL HOUSING LIAISON

