

# DEPARTMENT REPORTS

OF THE

STATE OF NEW YORK

CONTAINING THE

MESSAGES OF THE GOVERNOR

AND THE

DECISIONS, OPINIONS AND RULINGS

OF THE

State Officers, Departments, Boards  
and Commissions

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direct and indirect, which will result from the execution of said plans or the acquiring of said lands.

*Wherefore*, the Water Power and Control Commission does hereby approve the said application, maps and plans of Summerville water district as thus modified.

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In the Matter of the Petition of the CITY OF ROCHESTER  
to the New York State Water Power and Control  
Commission for Permission to Provide Additional  
Facilities for Water Supply

HONEOYE LAKE-MUD CREEK

Water Supply Application No. 439

(Water Power and Control Commission, December 9, 1930)

**Amended decision.**

BY THE COMMISSION.—The city of Rochester, in the county of Monroe, on May 2, 1927, filed a water supply application with this Commission asking for approval of the use of Honeoye lake as a new and additional source of water supply for that city. This application was duly approved by the Commission on June 22, 1928.

In the decision approving that application the Commission imposed a number of conditions, two of which read as follows:

“9. Damages resulting from the execution of this project shall be determined and paid in accordance with the provisions of Section 527 of the Conservation Law. The date used in the determination of such damages shall, unless hereafter modified, be the date of this decision and determination.

“10. Within two years of the date of this decision the city must submit to this Commission for its approval maps showing the outside boundaries of the

lands proposed to be acquired about Honeoye lake. The Commission may require changes in this boundary if it finds such changes to be required by sanitary considerations. All that part of this area which is actually to be flooded or built under, over or upon, including a marginal protective strip about the reservoir at least 200 feet in width, shall be acquired before any of the water from the reservoir is used. All of the remainder of the land shown on such map must have been acquired or proceedings for the condemnation thereof must be under way within eight years of the date of this decision."

Thereafter, the board of supervisors of Ontario county, brought certiorari proceedings to review the above decision. The decision was affirmed by the Appellate Division of the Supreme Court, Third Department, on November 20, 1929, and by the Court of Appeals on November 18, 1930. Thereafter, final judgment thereon was entered in the office of the county clerk, of Albany county, on November 29, 1930.

In view of the fact that the applicant, the city of Rochester, could not, during the pendency of these certiorari proceedings, proceed with the work and as considerable time has elapsed since the decision was made, we are of the opinion that the above quoted conditions of the original decision should be changed in such manner as to extend the time limits therein specified; it is, therefore,

Ordered that said decision of June 22, 1928, is hereby modified by eliminating the above quoted conditions 9 and 10 therefrom and substituting therein new conditions 9 and 10 to read as follows:

"9. Damages resulting from the execution of this project shall be determined and paid in accordance with the provisions of Section 527 of the Conservation Law. The date used in the determination of such

damages shall, unless hereafter modified, be November 29, 1930.

“10. Prior to November 29, 1932, the city must submit to this Commission for its approval maps showing the outside boundaries of the lands proposed to be acquired about Honeoye lake. The Commission may require changes in this boundary if it finds such changes to be required by sanitary considerations. All that part of this area which is actually to be flooded or built under, over or upon, including a marginal protective strip about the reservoir at least 200 feet in width, shall be acquired before any of the water from the reservoir is used. All of the remainder of the land shown on such map must have been acquired or proceedings for the condemnation thereof must be under way prior to November 29, 1938.”

In all other respects said decision shall remain in full force and effect.

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In the Matter of the Application of the VILLAGE OF MANNSVILLE for Approval of Its Acquisition of a Source of Water Supply and of Its Financial and Engineering Plans for the Construction of a Water Supply System

Water Supply Application No. 577

(Water Power and Control Commission, December 9, 1930)

**Application rejected.**

BY THE COMMISSION.—Thomas Dixon, mayor of the incorporated village of Mannsville, in the town of Ellisburg, Jefferson county, acting on behalf and in the name of said municipality, on October 7, 1930, made application to the Water Power and Control Commission for approval of the plans of said village for the acquisition or taking of a water supply, the