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EPA Won't Force NYC To Build \$1.6B Reservoir Cap

By **Dietrich Knauth**

Law360, New York (August 22, 2011, 5:48 PM EDT) -- The U.S. Environmental Protection Agency on Friday backed off on enforcing a regulation requiring New York City to build a \$1.6 billion concrete cap to cover a drinking water reservoir, saying it would seek a more cost-effective way to keep the water clean.

The regulation, which would have forced the city to build a concrete cover over the 90-acre Hillview Reservoir in Yonkers, N.Y., had been opposed by Mayor Michael Bloomberg, Sens. Charles Schumer, D-N.Y., and Kirsten Gillibrand, D-N.Y., and Rep. Joseph Crowley, D-N.Y., who said it provided few health benefits.

In a letter sent Friday to Schumer, EPA Administrator Lisa Jackson said "[the EPA] should and can find cost-effective ways of achieving these public health protections" and pledged that "science will drive our ultimate decision."

Bloomberg said Sunday that the city did not need to build a 90-acre concrete cover to protect water that the city is already successfully keeping clean.

"This mandate is exactly the kind of unduly burdensome requirement that President [Barack] Obama committed to eliminate through his comprehensive review of federal regulations, and it's encouraging that the EPA has committed to a meaningful review that could save New York and other cities billions," Bloomberg said.

The EPA's decision will allow New York to spend its limited resources on infrastructure investments that would be more effective in promoting public health and safety, according to Bloomberg.

The EPA regulation was mandated by the 2006 Safe Drinking Water Act, which called for water in reservoirs to be either covered or treated to kill microbiological pathogens before being used for drinking water.

New York City officials had argued that the cost of the cap far exceeded its benefits, and would drive up the cost of water for city residents. The city is already building an ultraviolet treatment facility north of Hillview to kill bacteria, and Hillview is the only place where water would be exposed after being disinfected, according to a March letter to the EPA from the New York City Department of Environmental Protection.

Studies have shown that Hillview is not a source of bacteria, and it is not at risk for contamination because it is an elevated man-made structure that receives no runoff from the surrounding environment, the DEP said.

While federal rules does not require the Hillview reservoir cover to be built until 2028, the DEP says that the extended time line "simply defers an expenditure that should not be required in the first place."

The DEP said that EPA regulations had forced it to spend \$19 billion spent on water and wastewater infrastructure improvements between 2002 and 2010, more than the city spent on any other social need, including education and public safety.

Federal funds paid for just 1.3 percent of the projects, while water bills for New Yorkers rose 117 percent over the same period, the agency said.

--Editing by Andrew Park.

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