

Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed



February 2, 2004

TO ALL CONCERNED:

At the December 11, 2003 meeting, the draft minutes of the October 9, 2003 Commission meeting were approved as written. Please attach this notice to your copy of the October 9, 2003 minutes.

- DRAFT -

SUSQUEHANNA RIVER BASIN COMMISSION
1721 N. FRONT ST.
HARRISBURG, PA 17102

**MINUTES OF THE
SUSQUEHANNA RIVER BASIN COMMISSION**

December 11, 2003
#2003-11&12

The meeting was held at the Cecil Community College, One Seahawk Drive, North East, Maryland. Chairman William Gast called the meeting to order at 8:35 a.m.

ROLL CALL

Commissioners Present

Mr. William A. Gast, Chief, Division of Water Use Planning, Pa. Dept. of Environmental Protection
Mr. Kendl Philbrick, Act. Sec., Md. Dept. of the Environment
Col. Robert J. Davis, Jr., District Engineer, U.S. Army Corps of Engineers, Baltimore District
Mr. Kenneth P. Lynch, Director, Region 7, N.Y. Dept. of Environmental Conservation

**Alternate Commissioners
and Advisors Present**

Dr. Robert M. Summers, Dir., Water Management Administration, Md. Dept. of the Environment
Ms. Stacey E. Brown, U.S. Army Corps of Engineers
Mr. Scott J. Foti, N.Y. DEC, Region 8

Staff Present

Mr. Paul O. Swartz, Executive Director
Mr. Thomas W. Beauduy, Deputy Director
Mr. David W. Heicher, Chief
Watershed Assessment & Protection Division
Mr. Glen R. DeWillie, Chief
Water Resources Management Division

Mr. Duane A. Friends, Chief Admin. Officer
Mr. Richard A. Cairo, Counsel/Secretary
Ms. Deborah J. Dickey, Executive Administrator
Ms. Susan S. Obleski, Director of
Communications

INTRODUCTION/WELCOME

Chairman Gast introduced the members of the Commission and the Executive Director. The Executive Director, in turn, introduced Maryland Delegate David Rudolph of Cecil County, who both welcomed and thanked the Commission for the work it does to protect and improve the Chesapeake Bay, to provide a flood and ice warning network, and to reduce man-made debris entering the river.

MINUTES OF OCTOBER 9, 2003 COMMISSION MEETING

On a motion by Commissioner Lynch, seconded by Commissioner Philbrick, the minutes of the regular business meeting of October 9, 2003, were unanimously adopted as written.

MARYLAND ISSUES UPDATES/HYDROLOGIC CONDITIONS REPORT

a. Sediment Management Study

Deputy Director Tom Beauduy provided background information on the problem of sedimentation in the Susquehanna River Basin, the status of the sediment management feasibility studies, and their significance to Maryland's Chesapeake Bay restoration efforts.

Under natural conditions and unaffected by the activities of man, the basin delivered about 1 million tons of sediment per year to the Chesapeake Bay. During the period between the mid-nineteenth century and the early twentieth century when man was heavily developing the basin, the amount of sedimentation rose to an astounding 9 million tons per year. Currently, the basin produces about 3.1 million tons of sediment, about two-thirds of which is trapped behind the Conowingo Dam before it reaches the Bay, reducing the delivered load to the Bay to 1 million tons, or the equivalent of pre-development levels.

Other lower Susquehanna hydro dams once performed the same function as the Conowingo Dam, but they have now trapped their full capacity of sediment and are at a steady state level. Conowingo has an estimated 17 to 20 years of remaining capacity before it, too, reaches a steady state level.

This estimate of storage capacity life assumes statistical averages for scour. Periodic high water events can add or extend capacity to the lower Susquehanna hydro dams by scouring out trapped sediment. For example, the Agnes Flood of 1972 scoured approximately 19 million tons from behind the Conowingo Dam. The ice jam flood of 1996 scoured approximately 9 million tons. In all, there were 14 major scouring events in the last century.

In removing sediments from the river before they reach the Bay, the Conowingo Dam now acts as a very efficient default Best Management Practice (BMP). It performs essentially the same function as a totally forested basin would perform, i.e., reducing sediments that reach the Bay to no more than 1 million tons per year, although the concentration of fine sediments is higher than it would be with a natural load.

Maintaining the sediment storage capacity behind the Conowingo Dam is critical to the efforts of the tributary states to protect the Bay. Not only does the sediment itself constitute a potential problem, but the phosphorus that clings to the sediment poses a serious threat as well. Therefore, the control of sediments will have to be an important element of the states' efforts to meet their commitments to reduce nutrient inflows to the Bay as they develop their tributary strategies.

The Commission has been working to find a solution. In 1999, with funding provided by the Pennsylvania delegation to the Chesapeake Bay Commission, the Commission convened a Sediment Symposium to discuss the dimensions of the problem and focus on possible solutions. The Commission also organized a Sediment Task Force to work on the problem and has conducted a \$400,000 study to characterize the sediment stored behind the Conowingo Dam. The characterization study indicates that there is as much as 50 million tons of coal in these sediments that may have a recoverable value. Meanwhile, the Corps of Engineers has completed a reconnaissance level study of the problem under the Chesapeake Bay Shoreline Erosion Study authorized and funded by Congress.

While all these studies have preliminarily examined such issues as sediment transport, sediment dredging and other management strategies, it is clear that more information will be needed to make important management decisions move forward. The next steps that have to be identified include enhancement to the Bay water quality model covering re-suspension and shoreline erosion, development of a Susquehanna sediment transport model, a reservoir management feasibility study, and finalization of tributary strategies in April 2004.

b. Conowingo Management Plan

SRBC Water Resources Engineer Andrew Dehoff described the Conowingo Pool, which extends from the Conowingo Dam location in Maryland to a point 10 miles above the Mason-Dixon Line in Pennsylvania. The pool itself is intensely used for both thermal and hydroelectric power production, water supply and recreation. However, there are limitations on use resulting from Federal Energy Regulatory Commission licensing provisions governing factors such as seasonal minimum flows through the dam and fluctuation of the pool level.

Added to the FERC provisions are upstream events, such as large withdrawals and an ever-increasing amount of consumptive use. Recent droughts have exacerbated these system demands, dramatically underscoring the need for a pool management plan. To that end, the Commission has joined with a pool stakeholders group¹ to produce a plan that will identify strategies for maintaining the viability of the pool under all conditions. Mr. Dehoff described an operating model that is being developed for the pool and a number of upcoming activities that will contribute to the identification of management strategies.

¹ Besides SRBC, the pool stakeholders group includes the Cecil and Harford County Departments of Planning and Zoning, the Lancaster and York County Planning Commissions, the Cities of Baltimore and Lancaster, the Chester Water Authority, Connectiv Mid-Merit, Inc., Exelon Corp., EPA Region III, the Federal Energy Regulatory Commission, the Maryland Departments of Environment and Natural Resources, the Pennsylvania Department of Environmental Protection, the Pennsylvania Fish & Boat Commission, the New York Department of Environmental Conservation, PPL, Inc., the Safe Harbor Water and Power Corp., the U.S. Fish & Wildlife Service, the U.S. Geological Survey, and the York Water Company.

c. Hydrologic Conditions

SRBC Water Management Division Chief Glen DeWillie reported on continuing wet conditions in the Susquehanna River Basin. In one year, the Susquehanna River Basin progressed from one of the driest years on record to one of the wettest. Interestingly, the southern basin, which was the driest part of the basin last year, is now the wettest. Cecil County, Maryland is the wettest of all, with precipitation amounts not recorded since the 1800s.

All indicators, including streamflow, groundwater levels, and Palmer Soil Moisture Index are at or approaching record highs throughout the basin. Virtually all reservoirs are also spilling. It has been an incredible one-year turn around.

d. ICEJAMS & Ice Monitoring

Mr. Andrew Dehoff presented information on the Susquehanna River Ice Monitoring Network, known as ICEJAMS. The monitoring network was established in 1996 following the devastating ice jam/flash flood on the Susquehanna in January of that year.

The Susquehanna basin, because of its relatively steep topography, is one of the most flood-prone river basins in the nation. Though the basin covers only 6 percent of the nation's land area, it accounts for 13 percent of annual U.S. flood damages. The basin's annual flood damages now average about \$150 million, with a large flood event occurring about every 20 years.

Coping with the usual meteorological conditions that spawn floods is, of itself, a tremendous challenge to forecasters. The unusual conditions of January 1996 greatly complicated that task, exposing deficiencies in the then existing Flood Forecast and Warning System (FFWS). (See more on the FFWS under Action Item a.)

By mid-January, two blizzards had left a large snow pack covering most of the Susquehanna basin. Extreme cold placed a thick covering of ice on the Susquehanna River. A sudden increase in temperature, warm winds and 2-3 inches of rain unleashed what could only be described as a basinwide flash flood on the Susquehanna River. The thick ice broke up into massive floes, forming jams at several points in the river and destroying important infrastructure, such as the western span of Harrisburg's Walnut Street Bridge and the skimmer wall at Safe Harbor Dam.

Accurately predicting how the mixture of ice jams in the river, rapidly melting snow pack, and heavy rain would interact proved to be a very difficult task. In particular, the ice jams quickly backed up floodwaters onto some areas and then, upon their eventual breakup, created sudden downstream surges of water. In some areas, the river rose as much as 8 feet in one hour. Warning times were reduced, leading to an increase in flood damages to communities like Port Deposit, Maryland. The FFWS still managed to provide four hours of valuable warning time and saved an estimated \$100 million in additional property damage.

The ice jam flood pointed to the need for better assessments of snow pack content and the formation of an ice monitoring network. The first two improvements have been incorporated into the FFWS. SRBC, in cooperation with federal, state and local governments, lower Susquehanna hydroelectric licensees and private citizens, has organized an interstate ice-monitoring network known as ICEJAMS. The network includes a communications plan and other tools to help communities be prepared for flood events. It also includes updated flood forecast maps in hard copy and electronic format that show the areal extent of flooding in relation to predicted flood stages.

ACTION ITEMS

a. Flood Forecast and Warning System Funding

The Commission just learned that the U.S. House of Representatives eliminated the \$1.3 million line item appropriation for the Flood Forecast and Warning System (FFWS) in the FY-2004 Consolidated Appropriations Act, with a directive to the National Weather Service (NWS) advising that agency to fund the system from its own budget. This action came after the President had included the line item appropriation in his FY-2004 budget and both the House and Senate Appropriations Committees had approved it.

The Executive Director noted that the FFWS delivers about \$20 in benefits for every dollar spent on the system. This includes flood damages avoided and flood relief dollars saved. The system not only needs adequate funding to continue operating, it also needs additional funding to modernize and take advantage of new technologies.

Mr. Swartz, therefore, presented a resolution (Exhibit A) calling on the NWS to provide the full \$1.3 million out of its budget and directing staff to work with the Susquehanna Congressional Task Force and members of the U.S. Senate to ensure that this level of funding is provided. The resolution further directed staff to work with these same congressional authorities to maintain a separate identity for the FFWS in subsequent budget years, obtain a baseline \$1.5 million line item appropriation for the system in FY-2005, and seek an additional \$0.5 million for operation and maintenance expenses and new technological developments.

On a motion by Commissioner Philbrick, seconded by Commissioner Davis, the Commission unanimously adopted this resolution.

b. Public Hearing – Project Review

The Commission convened a public hearing on applications from project sponsors before the Commission for review and approval.

SRBC Water Management Division Chief Glen DeWillie first provided some background information on the Commission's review authority and water use regulations. The main purpose of these regulations is to avoid adverse environmental impacts and conflicts among users, particularly during periods of drought and low flow. Cumulative impacts are also considered. He explained the methods available for compliance with the consumptive use regulation,

including discontinuance of use, provision of storage water, and payment into the SRBC Water Management Fund to enable purchase of water storage for release during low flow periods. Unless otherwise noted, projects described have chosen payment as their compliance method.

Mr. DeWillie listed the standard requirements for each project sponsor, including: 1) notice of application; 2) coordination with member jurisdictions; 3) aquifer tests for ground-water withdrawals; 4) metering, monitoring and reporting of water use; 5) mitigation or other special conditions where there is a potential for adverse impacts; 6) water conservation; and 7) docket reopening authority.

The dockets recommended for action included the following 10 projects:²

- Village of Newark Valley (Exhibit B1)
- Corning, Inc.-Diesel Ceramics Mfg. Facility (Exhibit B2)
- Cascades Tissue Group-Pennsylvania, Inc., A Division of Cascades Tissue Group, Inc. (Exhibit B3)
- RUTGERS Organics Corporation (Exhibit B4)
- New Enterprise Stone & Lime Co., Inc. Ashcom Quarry (Exhibit B5)
- New Enterprise Stone & Lime Co., Inc., Tyrone Quarry (Exhibit B6)
- Kunzler & Company, Inc. (Exhibit B7)
- Pilgrim's Pride Corporation of Va., Inc. (Exhibit B8)
- Lancaster County Solid Waste Management Authority, Solid Waste Recovery Facility (Exhibit B9)
- Ski Roundtop Operating Corporation (Exhibit B10)

Mr. DeWillie focused particular attention on the two quarry operations. He explained how such projects consume water in their operations and what actions might be expected of quarries to comply with the SRBC consumptive use regulation. The Commission works closely with company consultants to find solutions to compliance problems.

Mr. DeWillie also singled out the Ski Roundtop Operating Corporation for special explanation. Snowmaking operations make large peak demands on water sources. Therefore, the company has constructed ten storage ponds to meet extraordinary peak demands. Stream withdrawals will be limited to no more than 20 percent of average daily flow and adjacent wells will be monitored. This project was tabled at the last meeting, but the company has now provided adequate information to the Commission, allowing the project to be presented for action.

On a motion by Commissioner Philbrick, seconded by Commissioner Lynch, the Commission unanimously approved the staff recommendations for all of the dockets presented.

² Docket decisions are not included with the hard copy of the minutes. However, they are available upon request and at www.srbc.net.

c. City of Aberdeen Request for Extension on Back-up Supply

The Deputy Director provided an update on the status of separate applications by the City of Aberdeen (City) to withdraw water from Deer Creek, Harford County, Maryland, to supply Aberdeen Proving Ground (APG) and its own City water system. Last December, the Commission had approved the former. Soon thereafter, however, attention focused on an emergency allocation to the City that was allowed for as part of that approval. Rather than move immediately forward with the second application regarding water for its own system, the City requested a delay so that it could supplement the record. That delay has now continued for about one year while a series of technical and policy meetings have been held involving the Commission and officials from the City, Harford County, and the Maryland Department of the Environment (MDE). The Commission and MDE have agreed that MDE should act on the Maryland appropriation's permit before the Commission acts on the City's second application. Meanwhile, the Commission continues to hold the record open on that application.

Commissioner Philbrick asked Mr. Matt Pajeroski of MDE to provide an update on the status of the water appropriation application. That application process began as early as the summer of 2000. The state held a joint public hearing with the Commission in March 2002 and has been attempting to coordinate its actions very closely with the Commission. Both the state and the Commission recognized very early that withdrawals from Deer Creek would need to be limited during low flow conditions. Therefore, the City would need to have a backup source for any withdrawals from Deer Creek to safeguard the public health and welfare.

The Commission's original approval of December, 2002 gave the City until December 31, 2003 to provide a backup source for its approval to supply APG from Deer Creek. By letter of October 17, 2003, the City requested an extension of the deadline to provide the backup supply so that it might coordinate the acquisition of this backup with the acquisition of backup for any subsequently approved withdrawal to supply the City system.

Several members of the audience offered comments on the requested extension and the City's pending application to supply its own system.

Mr. Lee McDaniel, of the Deer Creek Watershed Association, asked whether there had ever been any discussion by MDE of bypassing the Commission staff on the City of Aberdeen application and directly lobbying the commissioners. Mr. Pajeroski responded that he recalled no such discussion by MDE.

Ms. Terry Knutsen, an Agricultural Business Representative for Harford County's Agricultural Advisory Board, voiced concerns about the effects on agriculture of withdrawals from Deer Creek. She mentioned the purpose of the SRBC's Out-of-Basin Diversion Policy to discourage diversion of the basin's waters and the priority assigned by that policy to in-basin uses of water. She also listed the many efforts that have been made to promote agriculture in the Deer Creek watershed, including agricultural land preservation activities, marketing of local farm products, and agricultural education programs in the local schools. Agriculture in the Deer Creek watershed must be assured of an adequate and uninterrupted source of water.

Ms. Jeannette Hillyer asked why the City could not have simply built a new water withdrawal and treatment facility on the Susquehanna River instead of on Deer Creek. Mr. Don Brand, attorney for the City, cited the significant extra expense of constructing such a facility, as opposed to simply taking over the Army's Deer Creek facilities.

Ms. Winifred Jones mentioned that perchlorate contamination of the City's existing well field by APG has been given as the reason for making withdrawals from Deer Creek to feed the City system. She therefore suggested that the Army be asked to pay for remediation of the perchlorate problem, so as to remove the need for a Deer Creek withdrawal. She further alleged that the real reason the City wanted the Deer Creek water was to fuel growth and business expansion. Mr. Brand responded that the perchlorate contamination has forced the City to immediately seek other sources of water to meet state-mandated guidelines applying to perchlorate levels in drinking water.

As Deputy Director Tom Beauduy explained, the extension of the backup supply deadline was essentially a modification of *Condition (f)* of the December 12, 2002 docket approval. This modification could be accomplished by a simple resolution (Exhibit C), which he presented to the Commission. This six-month extension would allow the City time to acquire the needed backup supply before the onset of any low flow event on Deer Creek that could possibly result in a curtailment of withdrawals.

Commissioner Davis moved adoption of the resolution providing for an extension of the backup supply deadline to June 30, 2004. Commissioner Philbrick seconded this motion.

Before the Chairman called the question on the resolution, Commissioner Philbrick noted that the Commission was voting on an extension only, not on the overall approval of the City's second application. Moreover, he felt that the City of Aberdeen and Harford County were making good progress in resolving their differences. This action will make sure that the City can continue to supply water to its residents in a prudent and safe manner. He asked the Deputy Director if all other conditions of the first approval were being met and the Deputy Director indicated that they were. He asked if anyone had any further comments before the vote was called.

Mr. Jim Stuhltrager of the Mid-Atlantic Environmental Law Center criticized the Commission for not insisting that the original deadline imposed on the City in the December 12, 2002 docket be met. He said that the reason the City is having trouble coming up with a backup source is because Deer Creek is an inherently unreliable source of water for the City. He indicated that there are also endangered species issues related to the withdrawal and it appears that cost is the main reason the City is going to Deer Creek instead of another source. Mr. Stuhltrager opined that the Commission should be prepared to use, not only the carrot, but also the stick on those project sponsors who do not meet required deadlines.

In response, the Deputy Director noted the logic of coordinating the acquisition of backup for the two closely-related Aberdeen applications. Also, at the time the one-year backup

deadline was established in December of 2002, all the parties had the reasonable expectation that the second application for the City system would be acted on within one year.

In further response to Mr. Stuhltrager's comment, the Executive Director pointed out that, while the Commission tries to work with project sponsors to resolve issues in an amicable way, the Commission has not hesitated to use the stick when appropriate as evidenced by several sizable penalties that the Commission has recently imposed on delinquent project sponsors.

Mr. Bill Shimick commended the Commission for bifurcating the City applications. He said that the City's application should be based only on need.

Mr. Charles Day suggested that the City ought to be charged the Commission's \$0.14 per thousand gallons consumptive use charge in the intervening time until the backup requirement is met. The Deputy Director noted that the Commission is acting consistent with past practice in not charging a consumptive use fee in this instance, because the diversion/consumptive use was in place prior to the effective date of the consumptive use regulation.

Chairman Gast called the question, and the resolution presented by the Deputy Director to extend the backup deadline was unanimously adopted.

d. Extension of Deadline to Implement Cecil County Pipeline

Mr. DeWillie explained that six years ago, the Commission approved a water supply pipeline for Cecil County (County) that would supply Susquehanna River water to the U.S. Route 40 corridor. The usual three-year deadline to implement the project was included in that approval. The County was not able to implement the project within the three-year period and obtained a three-year extension from the Commission in 2000.

During the three-year extension period, the County has defined an urban growth boundary for a proposed service area and obtained a number of cooperative agreements with municipalities, such as the Town of North East; however, the County has still not been able to actually implement the project as originally proposed. A number of details of the project have changed, leading the SRBC staff to wonder whether the project was substantially the same project as first approved six years ago. For this reason, the staff recommended that the Commission not grant any further extensions of the implementation deadline.

Mr. Al Wein, representing Cecil County, reiterated the progress made by the County in developing the urban growth boundary plan and the agreements reached with the municipalities. However, under questioning from Chairman Gast, he admitted that changes had been made in the project from six years ago, such as the extension of the pipeline only to the Town of North East instead of to Elkton. He further admitted that, in essence, this amounted to a change in the service area of the proposed project. While he felt that the County could implement a project substantially similar to the one approved six years ago, he understood the Commission's reluctance to extend the implementation deadline when a definitive project was not yet on the table.

Chairman Gast asked Mr. DeWillie if the Commission had adopted policy changes since the initial approval of the pipeline project six years ago. Mr. DeWillie indicated that, indeed, there has been a major change in Commission policy with the adoption of an out-of-basin diversion policy and that a similar application submitted today would be subject to a new set of review criteria. The Commission staff is willing to work with the County when a more defined project is presented. But until that time, it would be unwise to commit this quantity of water to the pipeline project and thereby possibly disadvantage other potential water users.

Commissioner Philbrick agreed that the project simply was not sufficiently defined to merit extension of the implementation deadline. The County should reapply for Commission approval when the project is fully defined.

Ms. Jeannette Hillyer stated that, if the County could not meet the original implementation deadline, it should not be granted an extension. Mr. Tom McWilliams spoke in favor of the extension, noting its importance for the economic development of the County's Route 40 corridor. Commissioner Philbrick agreed that economic development was a worthy goal for the County, but that this project was not well enough defined to allow for an extension of the implementation deadline. Chairman Gast added that the Commission certainly is not against economic growth, but that there needs to be a clear plan on how and where the water is to be used.

Commissioner Davis moved denial of the extension request. This motion was seconded by Commissioner Lynch and unanimously adopted by the Commission.

e. Audit Report

The Chief Administrative Officer presented the unqualified report on the independent audit of the Commission's financial records for FY-2003 conducted by the firm of Hamilton and Musser. The audit covered the Commission's Water Management Fund, as well as its general fund, and met the requirements of the Single Audit Act.

On a motion by Commissioner Philbrick, seconded by Commissioner Davis, the Commission unanimously approved the audit report as presented.

f. Grant Approvals

SRBC Watershed Assessment and Protection Chief David Heicher presented the following four grant contracts for ratification by the Commission:

1. **National Weather Service** – This is a grant in the amount of \$170,000 from the National Weather Service to conduct the public outreach and education programs for the Susquehanna Flood Forecast and Warning System in conjunction with the National Weather Service. There is no SRBC match.
2. **Surface Water Assessments & AMD Sampling** – This is a grant in the amount of \$189,200 from Pa. DEP to continue unassessed waters evaluations and

sampling of streams impacted by abandoned mine drainage to provide data for use in TMDL development. There is no SRBC match required and the grant scored 10 out of 10 on the SRBC grant evaluation scale.

3. **Chesapeake Bay Nutrient Monitoring Program** – This is a grant in the amount of \$145,000 from Pa. DEP for continued monitoring to maintain a long-term nutrient and suspended sediment database for the main stem and selected tributaries and to evaluate nutrient loading trends. There is no SRBC match required and this grant also scored 10 out of 10 on the SRBC grant evaluation scale.
4. **Drinking Water State Revolving Fund** – This is a grant in the amount of \$50,000 from Pa. DEP to operate and maintain the Early Warning System network to enhance source water protection efforts by providing a forum for communication among water suppliers, water users, emergency management personnel and select government agencies. The network utilizes both traditional communication methods and internet-based technology to provide real-time monitoring of select water-quality parameters at drinking water intake locations on the Susquehanna River. There is no SRBC match required and this grant scored 9 out of 10 on the SRBC grant evaluation scale.

On a motion by Commissioner Davis, seconded by Commissioner Philbrick, the Commission unanimously ratified the grant contracts submitted by staff.

g. Expenditure Plan

The Chief Administrative Officer presented an expenditure plan to the Commission, which recommends expenditures for necessary maintenance of the SRBC headquarters building, improvement of the Commission's data management capability, and other items requiring approval by the commissioners. The plan originally envisioned an expenditure of \$623,000 over a three-year period, but this was reduced to \$406,000 through the delay in the implementation of data management portion of the plan. Under the plan, \$206,000 would be spent in FY-2004, \$97,000 in FY-2005, and \$105,000 in FY-2006.

Commissioner Philbrick commented that the requirement to obtain Commission approval for any expenditure exceeding \$5,000 seemed to be set too low. He suggested that counsel return to the Commission with a proposal to increase that threshold amount.

On a motion by Commissioner Davis, seconded by Commissioner Lynch, the Commission unanimously approved the expenditure plan.

PRESENTATIONS

a. Agricultural Water Use Advisory Committee Charter Members Recognition

Mr. David Heicher presented a resolution (Exhibit D) recognizing and honoring the charter members of the SRBC Agricultural Water Use Advisory Committee for their many contributions since the advisory committee was formed over 12 years ago. The Executive Director noted that a formal copy of the resolution, along with a book on the Susquehanna River, will be presented to each of the members named in the resolution.

On a motion by Commissioner Lynch, seconded by Commissioner Philbrick, the Commission unanimously adopted the resolution.

PUBLIC COMMENT

Mr. Tom McWilliams suggested that the Commission check into the feasibility of mining coal from the sediments trapped behind the lower Susquehanna hydro projects. The Executive Director responded that, in fact, dredging and possible use of dredged sediments was one of the alternatives to be investigated in the Corps of Engineers Shoreline Erosion Study. However, to get the feasibility portion of the Corps Study underway, there needs to be a non-federal sponsor.

Ms. Jeannette Hillyer commented that the river looks better and there appears to be less debris making its way downstream. With a fast growing population in certain portions of the basin, she wondered whether the Commission had any long-term view of how this will affect the water resources of the basin. The Executive Director noted the Commission's participation in the Section 22 water use study in the Lower Susquehanna Subbasin and other water resources planning efforts, such as the Environmental Restoration and Low Flow Management Plan. The objective is to prepare management strategies that can be put into action whenever drought and low flow affect the basin.

On the debris issue, staff member Susan Obleski recounted the Commission's efforts since it sponsored a special conference on debris in June 1999. The Commission has devoted a great deal of public information resources toward educating the public on the hazards of man-made debris and helping to organize streamside clean-up events to remove man-made debris. Using Growing Greener grants provided by the Commonwealth of Pennsylvania, the Commission has established a Streamside Clean-up Academy to train community activists who wish to learn how to conduct their own clean-up program. Growing Greener has also been used to fund a mini-grant program that provides small grants to organizations sponsoring clean-up events. In addition to the Commonwealth, other partners in the effort have included PPL, Inc. and the Lower Susquehanna River Heritage Greenway. The Greenway organization conducts a cleanup every April.

The Executive Director emphasized that all of these efforts have focused on man-made debris. Woody debris, which constitutes the majority of debris flowing downstream, is a natural phenomenon that cannot be curtailed.

ADJOURNMENT

There being no further business before the Commission, Chairman Gast adjourned the meeting at approximately 12:32 p.m.

NEXT MEETING

The next regular meeting of the Commission is tentatively scheduled for March 10, 2004, in Harrisburg, Pennsylvania.

Date Adopted



Richard A. Cairo
General Counsel/Secretary to the Commission

RESOLUTION NO. 2003-12

A RESOLUTION of the Susquehanna River Basin Commission expressing profound concern regarding the elimination of a line item appropriation for the Susquehanna Flood Forecast and Warning System and urging restoration of that appropriation, which saves lives and significantly reduces damages during floods.

WHEREAS, the Susquehanna River Basin (the “basin”) is one of the most flood prone watersheds in the United States, with average annual flood damages of nearly \$150 million; and

WHEREAS, the Susquehanna Flood Forecast and Warning System (the “System”), during its 17 years of operation, has helped save lives and has reduced average annual flood damages by \$32 million, giving it a benefit-to-cost ratio of 20-to-1; and

WHEREAS, the System has certain critical operation and maintenance demands that require a minimum level of funding to maintain the system; and

WHEREAS, the Susquehanna River Basin Commission (the “Commission”) was instrumental in the initiation of the System in the 1980s and has previously expressed its formal support for adequate funding of the System in Commission Resolution No. 99-01 of January 14, 1999, as reaffirmed by the Commission on February 6, 2003; and

WHEREAS, the Commission provides certain vital support services to the System, including intergovernmental coordination, technical assistance to communities, and public information services; and

WHEREAS, intergovernmental coordination among federal and state agencies responsible for various flood-related systems is critical; and

WHEREAS, in conducting such coordination, the Commission is fulfilling one of the purposes of the Susquehanna River Basin Compact; namely, “to provide cooperative and coordinated planning and action by the signatory parties with respect to water resources;” and

WHEREAS, the flood-related deaths of six persons in the basin during 2003 alone clearly indicate the importance of ongoing efforts by the Commission to educate the public about the dangers of flooding in accordance with the goals of its own mission statement, which states that the Commission shall “provide public information about the water resources of the basin;” and

WHEREAS, Members of Congress representing the basin have consistently recognized the importance of the System and have advocated funding for it; and

WHEREAS, it was the clear intent of the President of the United States to fund the System by including a \$1.3 million line item for the System in his FY 2004 budget request to the Congress; and

WHEREAS, several such members, including U.S. Representatives Boehlert, Hinchey, Gilchrist, Holden, Houghton, Platts and Ruppertsburger signed an April 11, 2003 letter to the U.S. House Appropriations Committee requesting \$1.313 million for the System in FY 2004; and

WHEREAS, the Commerce, Justice, State and the Judiciary Appropriations Committees in both the U.S. House of Representatives and the U.S. Senate included \$1.3 million for the System in their respective FY 2004 appropriation bills; and

WHEREAS, additional funding will be needed in the future to meet growing operation and maintenance demands of the system and to incorporate new technologies in the system; and

WHEREAS, the U.S. House of Representatives has inexplicably excluded the line item appropriation for the System in the FY 2004 Consolidated Appropriations Bill, instead instructing the National Weather Service (NWS) to fund the System out of the agency's budget, thereby clearly expressing the intention of the House members that the System must be funded by the NWS; and

WHEREAS, this action by the U.S. House forces the System to compete with the nationwide demands placed on the NWS budget and is therefore likely to result in reduction in the level of funding for the System, further compromising its already tenuous finances; and

WHEREAS, reduced funding could force discontinuance of stream gages and delay the maintenance of other important System infrastructure, thereby reducing the System's ability to provide timely and accurate flood forecasts, and contributing to the likelihood of increased loss of life, injury and flood damage; and

NOW THEREFORE BE IT RESOLVED THAT:

1. The Commission expresses its profound concern regarding the elimination of the line item appropriation for the Susquehanna Flood Forecast and Warning System by the U.S. House of Representatives.

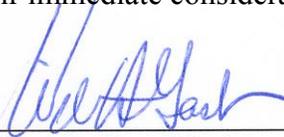
2. The Commission calls upon the NWS to provide the full amount of \$1.3 million from its FY 2004 appropriation and directs staff to work with the Susquehanna River Basin Task Force (SRBTF) and members of the U.S. Senate to ensure that this level of funding is provided.

3. The Commission further recommends that, to meet the serious flood problems that are unique to the Susquehanna River Basin, a separate identity be maintained for the Susquehanna Flood Forecast and Warning System in FY 2005 and subsequent fiscal years.

4. Staff is further directed to work with the SRBTF and members of the U.S. Senate to obtain a baseline \$1.5 million line item appropriation for the System in FY 2005 and seek an additional \$0.5 million for operation and maintenance expenses and new technological developments.

5. This Resolution shall be effective immediately and shall be forwarded to the appropriate members of Congress and the NWS for their immediate consideration.

Date: December 11, 2003



William A. Gast, Chair
Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

Phone (717) 238-0423 • Fax (717) 238-2436

Web <http://www.srbc.net>

Docket No. 20031201

Approval Date: December 11, 2003

VILLAGE OF NEWARK VALLEY

Groundwater Withdrawal (30-Day Average) of 0.280 mgd from Well 4,
and a Total System Groundwater Withdrawal Limit (30-Day Average) of 0.280 mgd,
for Public Water Supply,
Village of Newark Valley, Tioga County, New York

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.43, relating to groundwater withdrawals. The Commission received the application on July 2, 2001, and supplemental information on April 9, 2003.

Description

Purpose. The purpose of the application is to request approval for the withdrawal of groundwater for distribution in a municipal water supply system.

Location. The project is located in the Upper Susquehanna River Subbasin, HUC 02050103, East Branch Owego Creek Watershed, Village of Newark Valley, Tioga County, New York.

Project Features. The project sponsor has requested approval for the withdrawal (30-day average) of 0.280 million gallons per day (mgd) of water from Well 4. The project sponsor currently utilizes a reservoir and two wells, Well 3 and 4, to supply water to a municipal water supply system. Wells 3 and 4 were drilled in 1965 and 2000, respectively. Well 3 use predates Commission Regulation §803.43. The project sponsor proposes to use Well 4 as a mechanical backup well for Well 3. Only one well is used at a time.

Well 4 is located adjacent to East Branch Owego Creek, approximately 3,000 feet south southeast of Well 3, in a sand and gravel (glacial outwash) aquifer that fills a bedrock valley. Well 3 was drilled and constructed as a 12-inch-diameter screened well in 1965. The well is constructed to a completed depth of 101 feet below ground surface (bgs). It is cased with 83.5 feet of steel set to 81 feet bgs, and 20 feet of slotted screen set to the completed depth.

Well 4 was drilled and constructed as a 12-inch-diameter screened well in August 2000. The well is constructed to a completed depth of 70 feet bgs. It is cased with 52.5 feet of steel set to 50 feet bgs, and 20 feet of 90-slot screen set to the completed depth.

The municipal water supply system had an average metered daily demand of 0.102 mgd in 2001 and 2002, and an existing maximum daily demand of 0.279 mgd. The average daily demand is projected to remain unchanged through 2028. The project sponsor serves the Village of Newark Valley.

The wastewater generated throughout the water system is discharged to individual on-lot sewage treatment facilities.

Pumping Test. A 24-hour constant-rate pumping test was conducted August 30–31, 2000, for Well 4. Pumping at an average rate of 770 gallons per minute (gpm), drawdown stabilized at approximately 2.7 feet after 10 minutes of pumping. At the end of the test, total drawdown was 2.79 feet. The water level recovered to within 90 percent of the pretest water level approximately 3 minutes after the end of the pumping test. Drawdown in one observation well, located approximately 15 feet east of Well 4, was 1.1 feet at the end of the 24-hour test. Stream water level in East Branch Owego Creek was not monitored during the testing.

Coordination. Commission staff has coordinated with the New York State Department of Environmental Conservation (NYSDEC) Region 7 Office during review of the project. NYSDEC issued a Water Supply Permit on April 4, 2003.

Findings

The project is subject to Commission approval and reporting requirements, as per Commission Regulation §803.43.

Pumping test results, including the early drawdown stabilization in this well and the rapid recovery, indicate that Well 4 draws water from an unconfined aquifer of high permeability.

Commission staff recommends approval of a maximum instantaneous pumping rate of 400 gpm, the pumping rate permitted by NYDEC, and a 30-day average withdrawal rate of 0.280 mgd from Well 4, providing that the total groundwater withdrawal from the system is limited to 0.280 mgd. The project sponsor proposes to use Well 4 as a mechanical backup well for Well 3. The 30-day average withdrawal rate of 0.280 mgd from the water supply system will be adequate to supply the Village of Newark Valley's projected increase in maximum daily demand during the term of this approval. The project sponsor has agreed to the 0.280 mgd, which is a reduction from the requested application amount of 0.384 mgd, because of recent repairs to the system that have reduced the demand.

Commission staff recommends that the project sponsor maintain the existing metering on Well 4, and provide to the Commission documentation of the usage of the well and the total system. The project sponsor has agreed to the monitoring requirement.

The pumping test protocol was not reviewed and approved by Commission staff. The testing was conducted in August 2000 and does not meet current Commission standards with

respect to “Ground-Water Availability Analysis” and “Hydrologic Description.” However, Commission staff recommends that the test be accepted because of the nature of the hydrogeologic setting and the lack of potential adverse impacts to any existing use and the environment.

The project is subject to the Commission’s water conservation requirements, as per Commission Regulation §804.20(a). The water system is 100 percent metered. According to 1999 billing records, the average daily withdrawal was approximately 102,000 gpd. However, metered data for Well 3 indicate a much larger withdrawal. The discrepancy in the data is primarily attributed to meter failure at the well site. Thus, it is not possible to accurately quantify system losses. The project sponsor has agreed to replace the meter at Well 3 after Well 4 is on line. Staff recommends that the project sponsor review its system losses after one year of data are collected with the new metering, and report to the Commission. If the system losses are greater than 20 percent, the project sponsor must achieve compliance with the regulations within five years.

The project sponsor has paid the appropriate application fee, in accordance with Commission Regulation §803.28, and in accordance with Commission Resolution 98-19, as amended by Commission Resolution 2000-06. The project sponsor has provided all proofs of notification, as required by Commission Regulation §803.25.

No adverse impacts on other area groundwater withdrawals and on the environment are anticipated. The project is physically feasible, does not conflict with or adversely affect the Commission’s comprehensive plan, and does not adversely influence the present or future use and development of the water resources of the basin.

Compliance Incentive Program

Commission staff has determined that the project sponsor is eligible to participate in the Commission’s Compliance Incentive Program (CIP). Therefore, the project sponsor would not be subject to penalties for water withdrawn in violation of Commission Regulation §803.43 prior to January 1, 2001.

Decision

The project’s groundwater withdrawal of 0.280 mgd (30-day average) from Well 4, and a total system 30-day average groundwater withdrawal limit of 0.280 mgd, are approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

- a. The project sponsor shall comply with all Commission regulations, including groundwater withdrawal reporting requirements, as per Commission Regulation §803.43.
- b. The project sponsor shall keep daily records of the metered withdrawal from Well 4, and the total system withdrawal, and weekly water levels from Well 4. The required reporting data shall be submitted to the Commission annually, and as otherwise required. Monitoring reports are due within sixty (60) days after the close of the preceding year. The project sponsor shall maintain a meter, accurate to within five (5) percent, on Well 4. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

c. The maximum instantaneous rate of production from Well 4 shall not exceed 400 gpm.

d. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §804.20(a). The project sponsor shall report to the Commission concerning its system losses after one year of data are collected with the new metering.

e. If the Commission determines that the operation of the project's groundwater withdrawal from Well 4 adversely affects any existing groundwater or surface-water withdrawal, the project sponsor shall be required to provide, at its expense, an alternate water supply or other mitigating measure.

f. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program. Therefore, the project sponsor is not subject to penalties for its prior noncompliance.

g. Commission approval shall not be construed to exempt the project sponsor from obtaining all necessary permits and/or approvals required for the project from other federal, state, or local government agencies having jurisdiction over the project. The Commission reserves the right to modify, suspend, or revoke this action if the project sponsor fails to obtain or maintain such approvals.

h. The Commission reserves the right to inspect or investigate the project facility, and the project sponsor shall allow authorized employees or agents of the Commission, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is being constructed, operated, or maintained. Such employees or agents shall be authorized to conduct tests or sampling, to take photographs, to perform measurements, surveys, and other tests, to inspect the methods of construction, operation, or maintenance, to inspect all measurement equipment, to audit, examine, and copy books, papers, and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is constructed, operated, or maintained in accordance with the terms and conditions of this approval or any other rule, regulation, or order of the Commission.

i. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

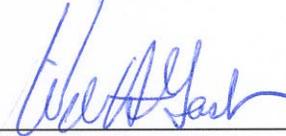
j. The Commission reserves the right to reopen any project docket or issue such additional orders, as may be necessary, to mitigate or avoid adverse impacts or otherwise to protect public health, safety, welfare, or the environment.

k. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

l. This approval is effective until December 11, 2028. The project sponsor shall submit a renewal application by June 11, 2028, and obtain Commission approval prior to continuing operation beyond December 11, 2028.

m. If the project is discontinued for such a period of time and under such circumstances that an abandonment of the project may reasonably be inferred, the Commission may rescind the approval of the project unless a renewal is requested by the project sponsor and approved by the Commission.

By the Commission:



William A. Gast, Chair
Pennsylvania Commissioner

Dated: December 11, 2003



SUSQUEHANNA RIVER BASIN COMMISSION

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Web <http://www.srbc.net>

Docket No. 20031202

Approval Date: December 11, 2003

CORNING, INC. – DIESEL CERAMIC MANUFACTURING FACILITY

Consumptive Water Use of Up to 0.250 mgd,
for Manufacture of Ceramic Substrates and Filters,
Town of Erwin, Steuben County, New York

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on September 19, 2003.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water associated with the manufacture of ceramic substrates and filters for controlling emissions from diesel engines.

Location. The project is located in the Chemung Subbasin, HUC 02050104, Canisteo River Watershed, Town of Erwin, Steuben County, New York.

Project Features. The project sponsor originally requested approval for the consumptive use of water of up to 0.130 million gallons per day (mgd), and subsequently, modified its request to 0.250 mgd. The project sponsor estimates that the project's maximum average 30-day consumptive water use will be approximately 0.175 mgd, and peak-day consumptive water use will be approximately 0.250 mgd over the duration of the approval.

Construction of the new facility began in March 2002, and initial (Phase I) production is expected to begin in January 2004. The project sponsor anticipates that Phase II operations will begin in late 2004 or 2005. The implementation of additional phases and requisite increases in water use are anticipated with increased levels of production at the facility.

The Town of Erwin water supply system provides water to the facility. The water is metered as it enters the facility through one incoming water line, and will be used for processing,

noncontact process cooling, boiler makeup, building heating and cooling, and sanitary purposes. Water also will be entrained in manufactured products.

Process wastewater generated during Phase I operations will be discharged to an on-site 10,000-gallon equalization tank. Effluent from the equalization tank will combine with the facility's sanitary wastewater, water softener regeneration water, and blowdown from the cooling towers and boilers. The facility's combined wastewater effluent will be measured using a parshall flume, and conveyed to the Town of Erwin sanitary sewer system.

A pretreatment plant for the process wastewater will be constructed and operational in Phase II. Treated process wastewater will combine with the sanitary wastewater, water softener regeneration water, and blowdown from the cooling towers and boilers. As with the proposed Phase I operations, the facility's combined wastewater effluent will be measured by the parshall flume and conveyed to the Town of Erwin sanitary sewer system. Sludge produced during the treatment process will be transported off site for disposal.

Findings

The project is subject to Commission approval and reporting requirements, as per Commission Regulation §803.42.

All water evaporated by the facility's cooling towers and from various manufacturing processes, used for boiler makeup, and entrained in manufactured products is considered to be used consumptively. Additionally, all water contained in the process wastewater sludge hauled off site is considered to be entirely consumptively used.

The project sponsor obtains water from a public water supplier, and the water is metered prior to being used at the facility. The combined wastewater effluent from the facility will be measured using a parshall flume. The project sponsor proposes that the facility's consumptive water use be calculated as the total metered water supplied to the facility by the Town of Erwin, minus the measured combined outflow from the facility. Metered water and wastewater will be monitored on a daily basis. Commission staff concurs with this proposed accounting procedure, and recommends that all measurements be recorded at approximately the same time each day.

Sometimes process wastewater may not be treated and discharged on the same day the water is used in the facility. Should the proposed accounting procedure utilizing daily metered inflow minus daily measured outflow consistently result in negative values, the Commission reserves the right to modify the accounting procedure. Commission staff will direct the project sponsor by written notice of any required change in the accounting procedure. Any alternative monitoring/accounting procedure will be reviewed and approved by Commission staff.

The project sponsor has requested a consumptive water use approval of up to 0.250 mgd. Based on the facility's design capacities provided by the project sponsor, Commission staff is recommending approval of the requested quantity. Should the project's future consumptive water use exceed or be expected to exceed 0.250 mgd, the project sponsor must apply for a modification to this docket at that time.

The project's consumptive use of water is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water.

The project is subject to the Commission's water conservation requirements, as per Commission Regulation §804.20(b).

The project sponsor has paid the appropriate application fee, in accordance with Commission Regulation §803.28, and in accordance with Commission Resolution 98-19, as amended by Commission Resolution 2000-06. The project sponsor has provided all proofs of notification, as required by Commission Regulation §803.25.

The project is physically feasible, does not conflict with or adversely affect the Commission's Comprehensive Plan, and does not adversely influence the present or future use and development of the water resources of the basin.

Decision

The project's consumptive water use of up to 0.250 mgd is approved, pursuant to Article 3, Section 3.10 of the Compact, subject to the following conditions:

a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42.

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity evaporated by the facility's cooling towers and from various manufacturing processes, used for boiler makeup, entrained in manufactured products and contained in the process wastewater sludge hauled off site. The project sponsor shall install and maintain metering on the inflow and outflow to the facility, accurate to within five (5) percent. The Commission reserves the right to modify the accounting procedure. Any alternative monitoring or accounting procedures shall be reviewed and approved by Commission staff.

c. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project. The daily quantity of water consumptively used shall be the quantity evaporated by the facility's cooling towers and from various manufacturing processes, used for boiler makeup, entrained in manufactured products and contained in the process wastewater sludge hauled off site. Payments shall be made quarterly and shall be calculated by applying this rate to the daily amount of water consumptively used by the project during the preceding calendar quarter. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

d. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §804.20(b).

e. Commission approval shall not be construed to exempt the project sponsor from obtaining all necessary permits and/or approvals required for the project from other federal, state, or local government agencies having jurisdiction over the project. The Commission reserves the right to modify, suspend, or revoke this action if the project sponsor fails to obtain or maintain such approvals.

f. The Commission reserves the right to inspect or investigate the project facility, and the project sponsor shall allow authorized employees or agents of the Commission, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is being constructed, operated, or maintained. Such employees or agents shall be authorized to conduct tests or sampling, to take photographs, to perform measurements, surveys, and other tests, to inspect the methods of construction, operation, or maintenance, to inspect all measurement equipment, to audit, examine, and copy books, papers, and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is constructed, operated, or maintained in accordance with the terms and conditions of this approval or any other rule, regulation, or order of the Commission.

g. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

h. The Commission reserves the right to reopen any project docket or issue such additional orders, as may be necessary, to mitigate or avoid adverse impacts or otherwise to protect public health, safety, welfare, or the environment.

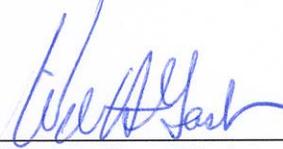
i. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

j. This approval is effective until December 11, 2028. The project sponsor shall submit a renewal application by June 11, 2028, and obtain Commission approval prior to continuing operation beyond December 11, 2028.

k. The project sponsor has a period of three (3) years from the date of this approval to initiate the project or such approval will automatically expire, unless an extension is requested by the project sponsor and approved by the Commission. Likewise, if the project is discontinued for such a time and under such circumstances that an abandonment of the project may be

reasonably inferred, the Commission may rescind the approval of the project unless a renewal is requested by the project sponsor and approved by the Commission.

By the Commission:



Dated: December 11, 2003

William A. Gast, Chair
Pennsylvania Commissioner



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Docket No. 20011006

Approval Date: October 11, 2001

Modification Date: December 11, 2003

CASCADES TISSUE GROUP - PENNSYLVANIA, INC.

A Division of Cascades Tissue Group, Inc.

Surface Water Withdrawal of Up to 2.60 mgd and
Consumptive Water Use of Up to 0.620 mgd,
for the Manufacture of Tissue Paper for Sanitary Paper Products,
Ransom Township, Lackawanna County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, §803.42, relating to the consumptive use of water, and §803.44, relating to surface-water withdrawals. The current modification request was received by the Commission on May 21, 2003.

Description

Purpose. The Commission originally approved the project on October 11, 2001, as Docket No. 20011006 (docket). As approved, the project sponsor was authorized to consumptively use up to 0.125 million gallons per day (mgd) of water for the manufacture of tissue paper and paper towels for sanitary paper products, subject to conditions enumerated in the docket. The project sponsor has requested approval for an increase in the consumptive water use of up to 0.620 mgd. This docket modification approves the requested increase.

Project Features. The maximum daily consumptive water use approved in the docket was based on two months of metered inflow and measured outflow data. These limited water use data did not accurately account for the water use in the manufacturing process. Consequently, significant seasonal and papermaking process specific variations in daily consumptive water uses were not well understood or documented, and numerous exceedences of the consumptive water use approval have occurred over the past two years.

While the facility's average daily consumptive water use is only 0.082 mgd, the maximum 30-day average consumptive water use has been 0.183 mgd, and peak-day consumptive water use has reached 0.600 mgd. When notified of the exceedences of its approved quantity of consumptive water use, the project sponsor submitted this modification request. Water withdrawals from the Susquehanna River are within the approved amount of 2.6 mgd. The project sponsor has not requested an increase in this amount.

As part of its review, Commission staff reexamined the nature of the consumptive water uses, metering strategies, and data recording procedures. In particular, stormwater entering the facility's process and wastewater streams has caused negative daily consumptive water uses during and following significant precipitation events. Commission staff recommends modifications to the accounting procedure to correct these inconsistencies.

Findings

The project sponsor has requested approval for a consumptive water use of up to 0.620 mgd. Based on an analysis of records supplied by the project sponsor, Commission staff is recommending approval of the requested quantity. The single peak-day use during 2003 was 0.600 mgd, which is consistent with the requested quantity. The increase should accommodate the peak usage days likely to occur over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.620 mgd, the project sponsor must apply for a modification to this docket at that time.

A handful of reported peak-day consumptive uses above the 0.600 mgd level are attributed to anomalies such as main breaks, cleanup from a fire, and metering problems. These extraordinary events were not considered in the Commission staff's recommendation for the approval amount of consumptive water use.

Within the facility, water is used consumptively in numerous areas, including processing pulp, generating steam for drying product, chiller cooling towers for noncontact cooling and building air conditioning, sludge trucked off site, cleaning equipment, and evaporation from wastewater treatment lagoons. The project sponsor is currently using a spreadsheet accounting procedure, approved in the docket, whereby the daily measured wastewater treatment plant discharge plus the estimated precipitation bed overflow (outflows) are subtracted from the metered and calculated daily Susquehanna River water withdrawal plus the estimated daily withdrawal from Wells 1 and 2 (inflows) to determine the facility's total quantity of daily consumptive water use.

The project sponsor has estimated withdrawals from Wells 1 and 2 to be a constant usage rate of 3,500 gpd, which averages 0.2 percent of total water withdrawals. Also, the project sponsor has determined that the precipitation bed overflow is not measured as a part of the facility's inflow. Since this water flows directly back to the river at the point of withdrawal, the project sponsor recommends that precipitation bed overflow be eliminated as a project outflow and not be tracked in the proposed modified spreadsheet accounting procedure.

The current spreadsheet does not account for stormwater from 4.3 acres of parking lot and roof areas and from the recycled paper, polyethylene, and sludge storage pads that is collected and enters the facility's process water stream for treatment in the facility's wastewater treatment plant. Also, precipitation falling directly on the wastewater treatment plant's 5.1 acres of aeration/sedimentation and surge basins is treated and discharged to the river, but is not accounted for as project inflow. The project sponsor proposes to determine daily stormwater inflow to the process water and wastewater stream by installing a precipitation gage at the project site to monitor daily precipitation, and calculate the daily volume of stormwater inflow by multiplying daily precipitation times the impervious and wastewater treatment basin areas

entering the plant's water stream. Commission staff concurs with these recommended changes to the spreadsheet accounting procedure.

Should the proposed accounting procedure consistently result in negative values, the Commission reserves the right to modify the accounting procedure. Commission staff will direct the project sponsor by written notice of any required change in the accounting procedure. Any alternative monitoring/accounting procedure will be reviewed and approved by Commission staff.

Commission staff recommends that all conditions in Commission Docket No. 20011006 that are not inconsistent with those approved under this modification should remain effective.

While the project's recent consumptive water use has been in noncompliance with Commission regulations, there have been no adverse impacts associated with the consumptive use, and the project sponsor has cooperated with Commission staff during its review. The project sponsor has paid the consumptive water use fees for the water used in excess of the original approval amount. Commission staff does not recommend the assessment of fines and penalties associated with this noncompliance.

The project sponsor has paid the appropriate application fee, pursuant to Commission Regulation §803.28 and in accordance with Commission Resolution 98-19, as amended by Commission Resolution 2000-06. The project sponsor has submitted all proofs of notification, as required by Commission Regulation §803.25.

Based on Commission Regulation §803.30(a), the prior docket approval is effective until October 11, 2026. Commission staff recommends the duration of this docket modification be consistent with the term of the prior docket approval.

Decision

Commission Docket No. 20011006, as approved October 11, 2001, is hereby amended and the project's consumptive water use of up to 0.620 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42 and surface water reporting requirements, as per Commission Regulation §803.44.

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the total quantity of inflows (determined by summing the metered and calculated daily Susquehanna River water withdrawal with the estimated daily withdrawal from Wells 1 and 2, plus any calculated daily stormwater volume) minus the outflows (determined by the daily measured wastewater treatment plant discharge). Within ninety (90) days from the date of this approval, the project sponsor shall install and begin maintaining a precipitation gage at the project site, accurate to within five (5) percent, for calculating daily stormwater inflow to the project. The project sponsor may propose alternative monitoring of local daily precipitation to the Commission for staff review and approval. The project sponsor shall maintain the meters and measuring devices, accurate to within five (5)

percent, to calculate the consumptive water use. Commission staff shall review and approve any required modifications to the spreadsheet accounting procedure to calculate consumptive water use.

c. The Commission reserves the right to inspect or investigate the project facility, and the project sponsor shall allow authorized employees or agents of the Commission, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is being constructed, operated, or maintained. Such employees or agents shall be authorized to conduct tests or sampling, to take photographs, to perform measurements, surveys, and other tests, to inspect the methods of construction, operation, or maintenance, to inspect all measurement equipment, to audit, examine, and copy books, papers, and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is constructed, operated, or maintained in accordance with the terms and conditions of this approval or any other rule, regulation, or order of the Commission.

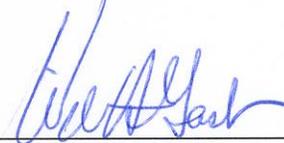
d. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance. This condition hereby rescinds and replaces condition (j) of the original docket.

e. All other conditions in Commission Docket No. 20011006 not inconsistent herewith shall remain effective.

f. Based on Commission Regulation §803.30(a), this approval is effective until October 11, 2026. The duration of this docket modification is in accordance with the term of the prior docket approval. The project sponsor shall submit a renewal application by April 11, 2026, and obtain Commission approval prior to continuing operation beyond October 11, 2026.

g. If the project is discontinued for such a period of time and under such circumstances that an abandonment of the project may reasonably be inferred, the Commission may rescind the approval of the project unless a renewal is requested by the project sponsor and approved by the Commission.

By the Commission:



William A. Gast, Chair
Pennsylvania Commissioner

Dated: December 11, 2003



SUSQUEHANNA RIVER BASIN COMMISSION

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Web <http://www.srbc.net>

Docket No. 20031203

Approval Date: December 11, 2003

RÜTGERS ORGANICS CORPORATION

Consumptive Water Use of Up to 0.100 mgd,
for Manufacture of Chemical Products,
College Township, Centre County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on July 2, 2001.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water associated with a chemical manufacturing facility.

Location. The project is located in the West Branch Susquehanna Subbasin, HUC 02050204, Bald Eagle Creek Watershed, College Township, Centre County, Pennsylvania.

Project Features. The project sponsor originally requested approval for the consumptive use of water of up to 0.022 million gallons per day (mgd), and subsequently, modified its request to 0.100 mgd. The facility includes a manufacturing plant and the project's corporate office. Chemical manufacturing began at the current location in 1959 by the Nease Chemical Company. In 1977, RÜTGERS AG acquired the facility. The facility operated under the name Ruetgers-Nease Corporation until RÜTGERS AG underwent a major reorganization in 1997, at which time RÜTGERS Organics Corporation was formed.

The College Township Water Authority (CTWA) water supply system provides water to the facility. The water supplied by CTWA is metered at two separate locations prior to being used in the manufacturing plant and corporate office. The water supplied to the manufacturing plant is used for processing, noncontact process cooling, boiler make-up, equipment cleaning, and sanitary purposes. Water also is incorporated into some products. The water supplied to the corporate office is used for research and development (R&D) operations, and sanitary purposes.

Based on quarterly metered water-use data for the years 2001 and 2002 submitted by the project sponsor, Commission staff calculates the project's maximum average 30-day

consumptive water use to be approximately 0.046 mgd. Current peak-day consumptive water use is estimated to be approximately 0.100 mgd.

The process wastewater generated at the manufacturing plant is discharged to one of several on-site storage tanks, and trucked to locations off site for disposal. The project sponsor records the quantity of process wastewater that is hauled off site. Water softener regeneration water, and blowdown from the manufacturing plant's two cooling towers and two boilers, is discharged through one outfall to a monitoring manhole located on the project's property, and then conveyed to the University Area Joint Authority (UAJA) sanitary sewer system. Sanitary wastewater from the manufacturing plant is discharged through three separate outfalls to the UAJA sanitary sewer system. The wastewater discharged to the UAJA sanitary sewer system from the manufacturing plant is not metered.

The wastewater from the corporate office is discharged through one outfall to the UAJA sanitary sewer system. The wastewater from the corporate office is not metered.

The project sponsor also operates an on-site groundwater remediation system to withdraw and treat contaminated groundwater. Groundwater currently is withdrawn from a total of 11 existing on-site wells and is treated by the use of air stripping towers and carbon filters. The treated groundwater is discharged through a metered outfall to a drainage swale that flows into Spring Creek. The project's groundwater withdrawal is metered, and the project sponsor calculates the project's maximum average 30-day withdrawal to be 0.061 mgd.

Findings

The project is subject to Commission approval and reporting requirements, as per Commission Regulation §803.42.

All water supplied to the manufacturing plant and used for boiler make-up, evaporated by the facility's cooling towers and from various manufacturing processes, and incorporated into products is considered to be used consumptively. Additionally, all process wastewater hauled to locations off site is considered to be entirely consumptively used. Water supplied to the corporate office is used for R&D purposes and sanitary uses, and Commission staff finds that consumptive water use is nominal. Therefore, corporate office use will not be accounted for in determining the facility's consumptive water use.

The project sponsor obtains water for its manufacturing plant from a public supplier. The water is metered, and the meter currently is read quarterly by CTWA. The project sponsor measures and records the quantity of process wastewater hauled off site. Water softener regeneration water, and blowdown from the cooling towers and boilers, is discharged through one outfall, and currently is not metered. Sanitary wastewater from the manufacturing plant is discharged through three outfalls, and currently is not metered.

The project sponsor proposes that the facility's consumptive water use be calculated as the total metered water supplied to the manufacturing plant by CTWA. The project sponsor has determined that the quantity of wastewater discharged to the UAJA sanitary sewer system is nominal, and has requested that it not be accounted for in determining the facility's consumptive water use. Commission staff concurs with this proposed accounting procedure, and recommends

that the project sponsor monitor and record the metered water supplied to the manufacturing plant on a daily basis.

Commission staff and the project sponsor have agreed to a pre-1971 consumptive water use of 1,305 gallons per day (gpd) for the project and, for purposes of this docket, this quantity of water is considered “grandfathered” and is exempt from water compensation requirements.

The project’s consumptive use of water in excess of the grandfathered quantity is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water.

The project sponsor has requested a consumptive water use approval of up to 0.100 mgd. Based on an analysis of water use records supplied by the project sponsor and recognizing that inflow has been recorded on a quarterly basis, Commission staff is recommending approval of the requested amount, which represents the estimated peak-day use. Should the project’s future consumptive water use exceed or be expected to exceed 0.100 mgd, the project sponsor must apply for a modification to this docket at that time.

The project’s on-site groundwater remediation system began operating in 1986. The remedial action is being conducted with oversight by the United States Environmental Protection Agency, Region III (USEPA), and the Pennsylvania Department of Environmental Protection, Northcentral Region Office (Pa. DEP). The groundwater withdrawal and discharge to Spring Creek are metered. Based on monthly groundwater withdrawal records for the years 2001 and 2002 submitted by the project sponsor, Commission staff finds that the wells in the remediation system currently are utilized at less than 100,000 gpd on a 30-day average and, thus, the withdrawal is not subject to review and approval under Commission Regulation §803.43. If the groundwater withdrawal from the wells exceeds or is expected to exceed 100,000 gpd on a 30-day average (3,000,000 gallons in any consecutive 30-day period), the project sponsor must submit a groundwater withdrawal application to the Commission.

The project is subject to the Commission’s water conservation requirements, as per Commission Regulation §804.20(b).

The project sponsor has paid the appropriate application fee, in accordance with Commission Regulation §803.28, and in accordance with Commission Resolution 98-19, as amended by Commission Resolution 2000-06. The project sponsor has provided all proofs of notification, as required by Commission Regulation §803.25.

The project is physically feasible, does not conflict with or adversely affect the Commission’s Comprehensive Plan, and does not adversely influence the present or future use and development of the water resources of the basin.

Compliance Incentive Program

Commission staff has determined that the project sponsor is eligible to participate in the Commission’s Compliance Incentive Program (CIP). Therefore, the project sponsor would not be subject to penalties for water consumed in violation of Commission Regulation §803.42 prior

to January 1, 2001. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all consumptive water used by the project beginning January 1, 2001.

Decision

The project's consumptive water use of up to 0.100 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42.

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity supplied to the manufacturing plant from the public water supplier. The project sponsor shall maintain metering on the public water supply, accurate to within five (5) percent.

c. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project. The daily quantity of water consumptively used shall be the daily metered water supplied to the manufacturing plant by CTWA. Payments shall be made quarterly and shall be calculated by applying this rate to the daily amount of water consumptively used by the project, less the grandfathered quantity of 1,305 gpd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

d. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §804.20(b).

e. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used above the grandfathered quantity of 1,305 gpd during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (c) above.

f. Commission approval shall not be construed to exempt the project sponsor from obtaining all necessary permits and/or approvals required for the project from other federal, state,

or local government agencies having jurisdiction over the project. The Commission reserves the right to modify, suspend, or revoke this action if the project sponsor fails to obtain or maintain such approvals.

g. The Commission reserves the right to inspect or investigate the project facility, and the project sponsor shall allow authorized employees or agents of the Commission, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is being constructed, operated, or maintained. Such employees or agents shall be authorized to conduct tests or sampling, to take photographs, to perform measurements, surveys, and other tests, to inspect the methods of construction, operation, or maintenance, to inspect all measurement equipment, to audit, examine, and copy books, papers, and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is constructed, operated, or maintained in accordance with the terms and conditions of this approval or any other rule, regulation, or order of the Commission.

h. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

i. The Commission reserves the right to reopen any project docket or issue such additional orders, as may be necessary, to mitigate or avoid adverse impacts or otherwise to protect public health, safety, welfare, or the environment.

j. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

k. This approval is effective until December 11, 2028. The project sponsor shall submit a renewal application by June 11, 2028, and obtain Commission approval prior to continuing operation beyond December 11, 2028.

l. If the project is discontinued for such a period of time and under such circumstances that an abandonment of the project may reasonably be inferred, the Commission may rescind the approval of the project unless a renewal is requested by the project sponsor and approved by the Commission.

By the Commission:



William A. Gast, Chair
Pennsylvania Commissioner

Dated: December 11, 2003



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20031204

Approval Date: December 11, 2003

NEW ENTERPRISE STONE AND LIME CO., INC. ASHCOM QUARRY SNAKE SPRING VALLEY TOWNSHIP, PA.

Consumptive Water Use of Up to 0.235 mgd,
for Processing of Aggregate and Production of Concrete,
Snake Spring Valley Township, Bedford County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on March 9, 2001.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water associated with aggregate processing and concrete production.

Location. The project is located in the Juniata Subbasin, HUC 02050303, Cove Creek Watershed, Snake Spring Valley Township, Bedford County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.235 million gallons per day (mgd) from two wells, a quarry pond, five settling ponds, and two surface water intakes on Cove Creek, a tributary of the Raystown Branch of the Juniata River. Water is used for aggregate processing and concrete production. The project's current maximum daily consumptive water use is 0.125 mgd, based upon water use records submitted by the project sponsor.

Quarry operations began at the site in the early 1900s. New Enterprise Stone and Lime purchased the property in the 1940s, and has been operating the quarry since that time. The project sponsor quarries limestone of the middle Ordovician-age Bellefonte Formation in an open pit, along bedrock strike (NE-SW), for the production of crushed stone aggregate and concrete.

Water is pumped from the sump on the floor of the quarry, through a 6- to 8-inch pipe, to the Quarry Pond, located south of the Pennsylvania Turnpike. The Quarry Pond supplies water trucks (3,500 gallon capacity) equipped with sprayers to control dust on haul roads and the quarry floor. The withdrawal is not metered; however, the project sponsor maintains a log documenting the daily number of truckloads of water withdrawn.

Well 1 is located in the quarry floor, approximately 1,200 feet from Cove Creek. Water withdrawn from Well 1 is supplied to the processing plant to operate dust suppression equipment at the primary crusher. Well 1 has been in operation since 1981, and has a pump capacity of 30 gallons per minute (gpm). Well 1 is equipped with a meter.

Well 2 also is located in the quarry floor, approximately 100 feet southwest of Well 1. It is utilized for dust suppression at the secondary chip plant. Well 2 has been in operation since 1983, and has a pump capacity of 6 gpm. Well 2 is equipped with a meter.

Cove Creek Intake 1 (CC1) is located on Cove Creek north of the Turnpike, and supplies water to the Redi-Mix plant for concrete making. In addition, water is used to rinse the plant mixer bowl, and wash truck beds and mixer truck bowls. Water used for washing out the plant mixer bowl and washing out truck beds on site is captured in sediment ponds that overflow back into Cove Creek. According to the project sponsor, the pump capacity is rated at approximately 200 gpm. CC1 has been in operation since 1991, and is not equipped with a meter.

Cove Creek Intake 2 (CC2) is located on Cove Creek north of the Turnpike, and supplies water to the wash plant. Water from the creek is pumped to five settling ponds on site and then to the wash plant to be used in processing. The settling ponds have a surface area of 38,300 square feet (0.88 acre). According to the project sponsor, the pump capacity is rated at approximately 160 gpm. CC2 has been in operation since 1950s, and is not equipped with a meter.

Based on daily water use data for the years 2001 (estimated) and 2002 submitted by the project sponsor, Commission staff determined the project's maximum average 30-day consumptive use to be 0.076 mgd, and current peak-day consumptive water use to be 0.125 mgd.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (Pa. DEP), Bureau of District Mining Operations, during review of the project. Pa. DEP approved the project's withdrawal of groundwater for dewatering at the quarry sump during its review of the quarry operation, and the Commission considered this review to be adequate to meet the requirement of Commission Regulation §803.43. Pa. DEP, Bureau of District Mining Operations staff has reviewed this docket for consistency with its Noncoal Surface Mining Permits No. 05920301, No. 05960302, and No. 05960301.

Findings

The project is subject to Commission approval and reporting requirements, as per Commission Regulation §803.42.

All water retained in the aggregate, used for the manufacture of concrete, used for equipment washing, evaporated from the ponds, and used for dust control is considered to be used consumptively.

Commission staff recommends that the project's total daily consumptive water use be calculated by summing the daily consumptive water use from these categories of use, as described below.

The total quantity of water supplied to the primary crusher and secondary chip plant from Wells 1 and 2 is metered and read daily, and is consumptively lost either through evaporation or retention in the aggregate product at these locations.

The total quantity of water supplied to the wash plant from the CC2 intake, minus the quantity of wash water (density compensated) discharged from the concrete plant through the settling ponds to Cove Creek, is the quantity of water retained in the aggregate product at this location. Commission staff recommends that the project sponsor install meters to measure the daily quantity of water entering and leaving the wash plant system.

The total quantity of water supplied to the Redi-Mix concrete plant from the CC1 intake, minus the quantity of water (density compensated) discharged from the wash plant through the settling ponds to Cove Creek, is the quantity of water used consumptively in the manufacture of concrete and equipment washing. Commission staff recommends that the project sponsor install meters to measure the daily quantity of water entering and leaving the Redi-Mix concrete plant system.

Water evaporated from the ponds (total acreage is 0.88 acre) will be calculated by the project sponsor employing a methodology acceptable to the Commission.

The project sponsor withdraws water from the Quarry Pond to control dust on the property. Commission staff recommends that the quantity of water withdrawn from the Quarry Pond be calculated based on the capacity of the water trucks (3,500 gallons) and the number of truckloads of water. The project sponsor maintains a log of the daily number of truckloads of water withdrawn.

Commission staff and the project sponsor have agreed to a pre-1971 consumptive water use of 34,600 gallons per day (gpd) for the project and, for purposes of this docket, this quantity of water is considered "grandfathered," and is exempt from water compensation requirements.

The project's consumptive use of water in excess of the grandfathered quantity is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water.

The project sponsor has requested a consumptive water use approval of up to 0.235 mgd. Based on an analysis of water use records supplied by the project sponsor, Commission staff is recommending approval of the requested amount, which represents an increase of approximately 88 percent above the current estimated peak-day use of 0.125 mgd. The project sponsor notes that large highway contracts can double or triple the projects needs over the period of those

contracts. This requested amount will allow for these large and periodic “peaks” in consumptive water use, as well as the anticipated increase in water usage over the 25-year duration of this approval. Should the project’s future consumptive water use exceed or be expected to exceed 0.235 mgd, the project sponsor must apply for a modification to this docket at that time.

Under the terms of the Memorandum of Understanding between the Commission and the Pennsylvania Department of Environmental Protection (Pa. DEP), the project has been reviewed and approved for the groundwater withdrawal at the quarry sump for the quarry dewatering.

Commission staff recommends that the project sponsor install and maintain metering, accurate to within 5 percent, on the groundwater withdrawal for the quarry sump weekly, and report the data to the Commission quarterly. The project sponsor could propose an alternative to metering for Commission staff’s review and approval.

The project’s withdrawals from Wells 1 and 2 have been in operation since 1981. These wells are metered and monitored daily. Commission staff finds that the wells currently are utilized at less than 100,000 gpd on a 30-day average and, thus, the withdrawal is not subject to review and approval under Commission Regulation §803.43. If the combined groundwater withdrawal from the wells exceeds or is expected to exceed 100,000 gpd on a 30-day average (3,000,000 gallons in any consecutive 30-day period), the project sponsor must submit a groundwater withdrawal application to the Commission.

The project sponsor operates two surface-water intakes capable of a combined withdrawal of 360 gpm from Cove Creek without engineering controls in place to allow for a passby flow. Cove Creek is classified as a Class B – cold-water fishery (CWF) (25 Pa. Code Chapter 93). Commission staff has calculated the 7-day, 10-year low flow (Q7-10 flow) for Cove Creek to be 5.63 cubic feet per second (cfs) (2,537 gpm) at the point of withdrawal. The project sponsor’s surface-water withdrawal rate of 360 gpm is greater than 10 percent of the Q7-10 flow of Cove Creek (254 gpm) at the point of withdrawal, thereby requiring a passby flow to protect aquatic resources and downstream users. Commission staff recommends that the project sponsor either allow a passby flow of not less than 20 percent of annual average daily flow (ADF), which equals 10.9 cfs (4,903 gpm) or install engineering controls on the pump stations to limit at all times the combined instantaneous withdrawal rate to less than 254 gpm.

Commission staff recommends that the project sponsor either replace its intake structures and incorporate passive passby flow devices or install engineering controls on the pump stations. The project sponsor should submit its design and a proposed construction schedule within 60 days following Commission action for review and approval by Commission staff prior to any construction or modification. During operation of the intake structures, the project sponsor must maintain the passby system or engineering controls, keeping them fully functional and free of debris. The Commission reserves the right to inspect the passby flow devices and intake structures at any time.

The project is subject to the Commission’s water conservation requirements, as per Commission Regulation §804.20(b).

The project sponsor has paid the appropriate application fee, in accordance with Commission Regulation §803.28, and in accordance with Commission Resolution 98-19, as

amended by Commission Resolution 2000-06. The project sponsor has provided all proofs of notification, as required by Commission Regulation §803.25.

The project is physically feasible, does not conflict with or adversely affect the Commission's Comprehensive Plan, and does not adversely influence the present or future use and development of the water resources of the basin.

Compliance Incentive Program

Commission staff has determined that the project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor would not be subject to penalties for water consumed in violation of Commission Regulation §803.42 prior to January 1, 2001. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all consumptive water used by the project beginning January 1, 2001.

Decision

The project's consumptive water use of up to 0.235 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42.

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity retained in the aggregate, used for the manufacture of concrete, used for equipment washing, evaporated from the ponds, and used for dust control. The project sponsor shall maintain metering on the wells, accurate to within five (5) percent. Commission staff shall review and approve the method of calculation of evaporative loss from the ponds. The project sponsor may propose alternative accounting procedures to the Commission for staff review and approval.

c. The project sponsor shall install and maintain metering on the wash plant system and the Redi-Mix concrete plant system, accurate to within five (5) percent. Commission staff shall review and approve the metering systems. The project sponsor may propose alternative methods for calculating consumptive water use of these systems.

d. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain meters, accurate to within five (5) percent, on the groundwater withdrawal from the quarry sump and keep weekly records for the project's withdrawal. The project sponsor shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The project sponsor may propose alternative monitoring to the Commission for staff review and approval.

e. The maximum instantaneous rates of production from intakes CC1 and CC2 shall not exceed 200 gpm, and 160 gpm, respectively.

f. If an increase in the project's combined groundwater withdrawal from Wells 1 and 2 exceeds the threshold specified in Commission Regulation §803.43, the project sponsor shall submit the appropriate application for review and approval by the Commission.

g. Within sixty (60) days from the date of this approval, the project sponsor shall install and maintain metering on the surface-water withdrawals, accurate to within five (5) percent, and keep daily records of the project's surface-water withdrawal. The project sponsor shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The project sponsor may propose alternative monitoring to the Commission for staff review and approval. If the surface-water withdrawal exceeds the threshold specified in Commission Regulation §803.44, the project sponsor shall submit the appropriate application for review and approval by the Commission.

h. The project sponsor shall allow a flow to pass in Cove Creek directly below the CC2 intake of not less than 10.9 cfs (4,903 gpm). When the streamflow below the intake is less than this amount, the withdrawal shall be reduced to maintain 10.9 cfs (4,903 gpm) in the stream channel below the intake. When the natural flow is equal to or less than 10.9 cfs (4,903 gpm), no water may be withdrawn, and the entire natural flow shall be allowed to pass the CC1 and CC2 intakes to maintain such natural flow in the channel below the intake as may prevail above. The project sponsor may propose, as an alternative, to install engineering controls on the pump stations to limit at all times the combined instantaneous withdrawal rate to less than 254 gpm.

i. The project sponsor shall submit its design and a proposed construction schedule for the flow measurement devices or the required engineering controls within sixty (60) days from the date of this approval for review and approval by Commission staff prior to any construction. Following approval, the project sponsor shall complete construction in accordance with the approved schedule and shall certify to the Commission that construction has been completed in accordance with the approved design. The passby system shall be kept fully functional and free of debris.

j. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the quantity retained in the aggregate, used for the manufacture of concrete, used for equipment washing, evaporated from the ponds, and used for dust control. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.0346 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

k. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §804.20(b).

l. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used in excess of the grandfathered quantity of 0.0346 mgd during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (j) above.

m. If the Commission determines that the operation of the project's groundwater withdrawal from the Quarry sump adversely affects any existing groundwater or surface-water withdrawal, the project sponsor shall be required to provide, at its expense, an alternate water supply or other mitigating measure.

n. Commission approval shall not be construed to exempt the project sponsor from obtaining all necessary permits and/or approvals required for the project from other federal, state, or local government agencies having jurisdiction over the project. The Commission reserves the right to modify, suspend, or revoke this action if the project sponsor fails to obtain or maintain such approvals.

o. The Commission reserves the right to inspect or investigate the project facility, and the project sponsor shall allow authorized employees or agents of the Commission, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is being constructed, operated, or maintained. Such employees or agents shall be authorized to conduct tests or sampling, to take photographs, to perform measurements, surveys, and other tests, to inspect the methods of construction, operation, or maintenance, to inspect all measurement equipment, to audit, examine, and copy books, papers, and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is constructed, operated, or maintained in accordance with the terms and conditions of this approval or any other rule, regulation, or order of the Commission.

p. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

q. The Commission reserves the right to reopen any project docket or issue such additional orders, as may be necessary, to mitigate or avoid adverse impacts or otherwise to protect public health, safety, welfare, or the environment.

r. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

s. This approval is effective until December 11, 2028. The project sponsor shall submit a renewal application by June 11, 2028, and obtain Commission approval prior to continuing operation beyond December 11, 2028.

t. If the project is discontinued for such a period of time and under such circumstances that an abandonment of the project may reasonably be inferred, the Commission may rescind the approval of the project unless a renewal is requested by the project sponsor and approved by the Commission.

By the Commission:



William A. Gast, Chair
Pennsylvania Commissioner

Dated: December 11, 2003



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Docket No. 20031205

Approval Date: December 11, 2003

NEW ENTERPRISE STONE AND LIME CO., INC. TYRONE QUARRY WARRIORS MARK TOWNSHIP, PA.

Consumptive Water Use of Up to 0.235 mgd,
for Processing of Aggregate and Production of Concrete,
Warriors Mark Township, Huntingdon County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on March 9, 2001.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water associated with aggregate processing and concrete production.

Location. The project is located in the Juniata Subbasin, HUC 02050302, Warriors Mark Township, Huntingdon County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.235 million gallons per day (mgd). The project's maximum daily consumptive water use, based on water use records for the years 2001 and 2002 submitted to the Commission, is approximately 0.193 mgd and maximum average consumptive water use is 0.112 mgd.

The project sponsor operates a limestone/dolomite quarry. Excavation began in 1958, and the quarry opened in 1959. New Enterprise Stone and Lime took over operations in 1979.

The quarry consists of an open pit located along bedrock strike (NE-SW) of high calcium carbonates of Middle Ordovician-age (Coburn and Loysburg formations). Bedding dips NW from approximately 80 degrees to almost vertical. The quarry contains both limestone and dolomite, but is being mined exclusively for dolomite at this time. New Enterprise has secured

additional land adjacent to the quarry that will allow it to extend quarry operations to the southeast, approximately 1,000 feet perpendicular to strike.

The project consumptively uses water in its Redi-Mix concrete plant, at five crushing plants for stone washing and dust suppression, and in water trucks for dust suppression along quarry roads. Water for the quarry's operation is supplied by three wells (Wells 1, 2, and 3) within the quarry, and two withdrawals from Logan Spring Run (intakes LS1 and LS2).

Well 1 supplies water to the Redi-Mix concrete plant. It is located in a valley north of the main quarry, approximately 150 feet east of Logan Spring Run. Well 1 has been in operation since the late 1950s, and has a pump capacity of 150 gallons per minute (gpm). Well 1 is not metered; however, water used in concrete production, per truckload, is recorded. It produces, on average, 4,000 gpd for concrete production. In addition, each mixer truck that leaves the concrete plant carries a 300-gallon water tank.

Well 2 provides water for dust suppression at crushing plant 3. It is located on the floor of the southern quarry, approximately 75 feet east of Logan Spring Run (buried). Well 2 has been in operation since the late 1950s, and has a pump capacity of 30 gpm. It produces, on average, 5,000 gpd for dust control at crushing plant 3. Well 2 is metered and monitored daily.

Well 3 is located on the floor of the southern quarry, approximately 500 feet east of Logan Spring Run (buried). Well 3 has been in operation since 1992, and has a pump capacity of 40 gpm. It produces, on average, 5,400 gpd for dust control at crushing plants 1 and 2. Well 3 is metered and monitored daily.

Logan Spring Run intake 1 (LS1) supplies water to the wash plant. Water is pumped from LS1 to the wash plant for use in processing. LS1 is located near the point where Logan Spring Run enters the culvert that carries it beneath the southern quarry, approximately 1,500 feet north of State Route 453. LS1 has been in operation since 1996, and has a pump capacity of approximately 900 gpm, although the project sponsor indicates that it is currently operated at 150 gpm. The project sponsor estimates that LS1 is currently operated two weeks out of the year.

Logan Spring Run intake 2 (LS2) provides water for dust control at crushing plants 4 and 5, and is used to fill the water truck that sprays water to suppress dust along haul roads and on the quarry floor. It is located approximately 1,500 feet downstream of LS1, along Logan Spring Run, and approximately 500 feet north of State Route 453, where the stream reemerges from a culvert. LS2 has been in operation since the late 1950s, and has an estimated pump capacity of 150 gpm. The water line that supplies crushing plants 4 and 5 is metered and monitored daily.

At the wash plant, water is mixed with the excavated aggregate to separate the various aggregate sizes. The sediment-laden water discharges to the settling pond, where the silts and clays settle out. A similar settling pond receives sediment-laden water from the Redi-Mix concrete plant. The total surface area the settling ponds is 4,350 square feet (0.10 acres).

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (Pa. DEP), Bureau of District Mining Operations, during review of the

project. Pa. DEP staff has reviewed this docket for consistency with its Non-Coal Surface Mining Permit No. 4275SM14(T).

Findings

The project is subject to Commission approval and reporting requirements, as per Commission Regulation §803.42.

All water retained in the aggregate, used for the manufacture of concrete, used for equipment washing, trucked off site, evaporated from the settling ponds, and used for dust control is considered to be used consumptively. Commission staff recommends that the project's total daily consumptive water use be calculated by summing the daily consumptive water use from these categories of use, as described below.

All of the water used at the five crushing plants is considered to be used consumptively, and is metered and monitored daily.

The total quantity of water supplied to the wash plant from the LS1 intake, minus the quantity of wash water discharged from the wash plant (density compensated) through the settling ponds to Logan Spring Run, is consumptively lost either through evaporation or retention in the aggregate product at this location. Commission staff recommends that the project sponsor install meters to measure the daily quantity of water entering and leaving the wash plant system.

The total quantity of water supplied to the Redi-Mix concrete plant from the Well 1, minus the quantity of water discharged from the concrete plant (density compensated) through the settling ponds to Logan Spring Run, is consumptively lost either through the manufacture of concrete and equipment washing. Commission staff recommends that the project sponsor install meters to measure the daily quantity of water entering and leaving the Redi-Mix concrete plant system.

The project sponsor withdraws water from LS2 to control dust on the property, and currently maintains a log of the daily number of truckloads of water withdrawn. Commission staff recommends that the quantity of water withdrawn from LS2 for dust control should be calculated based on the capacity of the water trucks (8,000 gallons) and the number of truckloads of water.

Commission staff and the project sponsor have agreed to a pre-1971 consumptive water use of 32,000 gallons per day (gpd) for the project and, for purposes of this docket, this quantity of water is considered "grandfathered," and is exempt from water compensation requirements.

The project's consumptive use of water in excess of the grandfathered quantity is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water.

The project sponsor has requested a consumptive water use approval of up to 0.235 mgd. Based on an analysis of water use records supplied by the project sponsor, Commission staff is recommending approval of the requested amount, which represents an increase of 22 percent

above the current estimated peak-day use of 0.193 mgd. The project sponsor notes that large highway contracts can double or triple the projects needs over the period of those contracts. This requested amount will allow for these large and periodic “peaks” in consumptive water use, as well as the anticipated increase in water usage over the 25-year duration of this approval. Should the project’s future consumptive water use exceed or be expected to exceed 0.235 mgd, the project sponsor must apply for a modification to this docket at that time.

The project sponsor operates a surface-water intake on Logan Spring Run. Logan Spring Run is classified as a warm-water fishery (WWF) (25 Pa. Code Chapter 93). Commission staff has calculated the 7-day, 10-year low flow (Q7-10 flow) for Logan Spring Run to be 4.4 cubic feet per second (cfs) (1,961.4 gpm) at the point of withdrawal. The two surface-water intakes have a combined pump capacity of 1,050 gpm (currently operated at 300 gpm). The withdrawal (300 gpm) is greater than 10 percent of the Q7-10 flow (0.44 cfs, or 196.14 gpm) at the point of withdrawal, thereby requiring a passby flow to protect aquatic resources and downstream users. Commission staff recommends that the project sponsor allow a passby flow of not less than 20 percent of annual average daily flow (ADF), which equals 1.78 cfs (806.9 gpm), and to cease all withdrawals when streamflow is less than 1.78 cfs, or install engineering controls on the pump stations to limit at all times the combined instantaneous withdrawal rate to less than 196 gpm.

Commission staff recommends that the project sponsor either replace its intake structures and incorporate passive passby flow devices or install engineering controls on the pump stations. The project sponsor should submit its design and a proposed construction schedule within 60 days following Commission action for review and approval by Commission staff prior to any construction or modification. During operation of the intake structures, the project sponsor must maintain the passby system or engineering controls, keeping them fully functional and free of debris. The Commission reserves the right to inspect the passby flow devices and intake structures at any time.

The project sponsor operates three on-site wells (Wells 1, 2, and 3). Withdrawals from Wells 1 and 2 have been in operation since the late 1950s, and have a combined current use of 9,000 gpd, and from Well 3 since 1992. The wells are utilized at less than 100,000 gpd on a 30-day average and, therefore, this withdrawal is less than the threshold specified in Commission Regulation §803.43, relating to groundwater withdrawals. If the combined groundwater withdrawal from the wells exceeds or is expected to exceed 109,000 (100,000 plus 9,000) gpd on a 30-day average (3,270,000 gallons in any consecutive 30-day period), the project sponsor must submit a groundwater withdrawal application to the Commission.

The project sponsor has paid the appropriate application fee, in accordance with Commission Regulation §803.28, and in accordance with Commission Resolution 98-19, as amended by Commission Resolution 2000-06. The project sponsor has provided all proofs of notification, as required by Commission Regulation §803.25.

The project is physically feasible, does not conflict with or adversely affect the Commission’s comprehensive plan, and does not adversely influence the present or future use and development of the water resources of the basin.

Compliance Incentive Program

Commission staff has determined that the project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor would not be subject to penalties for water consumed in violation of Commission Regulation §803.42 prior to January 1, 2001. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all consumptive water used by the project beginning January 1, 2001.

Decision

The project's consumptive water use of up to 0.235 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42.

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the water retained in the aggregate, used for the manufacture of concrete, used for equipment washing, trucked off site, evaporated from the ponds, and used for dust control. The project sponsor shall maintain metering on the wells, accurate to within five (5) percent. Commission staff shall review and approve the method of calculation of evaporative loss from the ponds. The project sponsor may propose alternative accounting procedures to the Commission for staff review and approval.

c. The project sponsor shall install and maintain metering on the wash plant system and the Redi-Mix concrete plant system, accurate to within five (5) percent. Commission staff shall review and approve the metering systems. The project sponsor may propose alternative methods for calculating consumptive water use of these systems.

d. The maximum instantaneous rates of production from intakes LS1 and LS2 shall not exceed 900 gpm and 150 gpm, respectively.

e. If an increase in the project's combined groundwater withdrawal from Wells 1, 2, and 3 exceeds 109,000 gpd on a 30-day average as specified in Commission Regulation §803.43, the project sponsor shall submit the appropriate application for review and approval by the Commission.

f. Within sixty (60) days from the date of this approval, the project sponsor shall install and maintain metering on the surface-water withdrawals, accurate to within five (5) percent, and keep daily records of the project's surface-water withdrawal. The project sponsor shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The project sponsor may propose alternative monitoring to the Commission for staff review and approval. If the surface-water withdrawal exceeds the threshold specified in Commission Regulation §803.44, the project

sponsor shall submit the appropriate application for review and approval by the Commission.

g. The project sponsor shall allow a flow to pass in Logan Spring Run directly below the LS2 intake of not less than 1.78 cfs (806.9 gpm). When the streamflow below the intake is less than this amount, the withdrawal shall be reduced to maintain 1.78 cfs (806.9 gpm) in the stream channel below the intake. When the natural flow is equal to or less than 1.78 cfs (806.9 gpm), no water may be withdrawn, and the entire natural flow shall be allowed to pass the LS1 and LS2 intakes to maintain such natural flow in the channel below the intake as may prevail above. The project sponsor may propose, as an alternative, to install engineering controls on the pump stations to limit at all times the combined instantaneous withdrawal rate to less than 196 gpm.

h. The project sponsor shall submit its design and a proposed construction schedule for the flow measurement devices or the required engineering controls within sixty (60) days from the date of this approval for review and approval by Commission staff prior to any construction. Following approval, the project sponsor shall complete construction in accordance with the approved schedule, and shall certify to the Commission that construction has been completed in accordance with the approved design. The passby system shall be kept fully functional and free of debris.

i. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the quantity retained in the aggregate, used for the manufacture of concrete, used for equipment washing, trucked off site, evaporated from the ponds, and used for dust control. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.032 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

j. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §804.20(b).

k. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used in excess of the grandfathered quantity of 0.032 mgd during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (i) above.

l. Commission approval shall not be construed to exempt the project sponsor from obtaining all necessary permits and/or approvals required for the project from other federal, state, or local government agencies having jurisdiction over the project. The Commission reserves the right to modify, suspend, or revoke this action if the project sponsor fails to obtain or maintain such approvals.

m. The Commission reserves the right to inspect or investigate the project facility, and the project sponsor shall allow authorized employees or agents of the Commission, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is being constructed, operated, or maintained. Such employees or agents shall be authorized to conduct tests or sampling, to take photographs, to perform measurements, surveys, and other tests, to inspect the methods of construction, operation, or maintenance, to inspect all measurement equipment, to audit, examine, and copy books, papers, and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is constructed, operated, or maintained in accordance with the terms and conditions of this approval or any other rule, regulation, or order of the Commission.

n. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

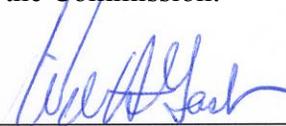
o. The Commission reserves the right to reopen any project docket or issue such additional orders, as may be necessary, to mitigate or avoid adverse impacts or otherwise to protect public health, safety, welfare, or the environment.

p. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

q. This approval is effective until December 11, 2028. The project sponsor shall submit a renewal application by June 11, 2028, and obtain Commission approval prior to continuing operation beyond December 11, 2028.

r. If the project is discontinued for such a period of time and under such circumstances that an abandonment of the project may reasonably be inferred, the Commission may rescind the approval of the project unless a renewal is requested by the project sponsor and approved by the Commission.

By the Commission:



William A. Gast, Chair
Pennsylvania Commissioner

Dated: December 11, 2003



SUSQUEHANNA RIVER BASIN COMMISSION

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Web <http://www.srbc.net>

Docket No. 20031206

Approval Date: December 11, 2003

KUNZLER & COMPANY, INC.

Consumptive Water Use of Up to 0.088 mgd, for Processing of Meat Products,
City of Lancaster, Lancaster County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on June 22, 2001, and additional information on May 1, 2003, and October 12, 2003.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water associated with the processing of meat products.

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050306, Conestoga River Watershed, City of Lancaster, Lancaster County, Pennsylvania.

Project Features. The project sponsor originally requested approval for the consumptive use of water of up to 0.085 million gallons per day (mgd). Based on monthly metered water use data for the period January 2001 to October 2003 submitted by the project sponsor, Commission staff estimates the project's maximum average 30-day consumptive water use to be approximately 0.060 mgd, and estimates current peak-day consumptive water use to be approximately 0.080 mgd. The processing of meat products began at the current location in 1901. The facility underwent expansions in 1969 and 1993.

The City of Lancaster Authority (CLA) water supply system provides water to the facility. The water supplied by CLA is metered at two separate locations prior to being used in the manufacturing plant and in the office building located across the street from the manufacturing plant. The water supplied to the manufacturing plant is used for processing, product refrigeration, noncontact process cooling, boiler makeup, steam elimination, equipment cleaning, and sanitary purposes. Water also is incorporated into products. The water supplied to the office building is used for sanitary purposes.

Makeup water for the facility's three cooling towers and three boilers is not metered. Additionally, water used for the steam elimination system is not metered. Blowdown water from the cooling towers, boilers and steam elimination system is not metered, and is discharged to the City of Lancaster storm sewer system.

The process wastewater generated at the facility is treated at an on-site pretreatment plant. The treated process wastewater is measured by a parshall flume and conveyed to the City of Lancaster sanitary sewer system. Sludge produced during the pretreatment process is transported off site for disposal.

Sanitary wastewater from the manufacturing plant and office building is discharged through separate outfalls to the City of Lancaster sanitary sewer system. The sanitary wastewater is not metered.

Findings

The project is subject to Commission approval and reporting requirements, as per Commission Regulation §803.42.

All water supplied to the manufacturing plant and evaporated by the facility's cooling towers and from various manufacturing processes, used for boiler makeup, and incorporated into products is considered to be used consumptively. Additionally, all water contained in the process wastewater sludge hauled off site is considered to be entirely consumptively used.

Water supplied to the office building is metered separately, and is used for sanitary purposes. Commission staff finds that consumptive water use in the office building is nominal. Therefore, staff recommends office building water use will not be accounted for in determining the facility's consumptive water use.

The project sponsor obtains water from a public water supplier. The water is metered as it enters the manufacturing plant, and the meter currently is read monthly by CLA. The project sponsor measures and records the quantity of process wastewater discharged from the pretreatment plant to the City of Lancaster sanitary sewer system. Blowdown from the cooling towers, boilers, and steam elimination system is discharged through separate outfalls to the storm sewer system, and currently is not metered. Sanitary wastewater discharged from the manufacturing plant is not metered.

The project sponsor proposes that the facility's consumptive water use be calculated as the total metered water supplied to the manufacturing plant by CLA, minus the total outflow from the facility, including treated process wastewater, blowdown from the cooling towers, boilers, and steam elimination system, and sanitary wastewater. Commission staff concurs with this proposed accounting procedure, and recommends that the project sponsor install and maintain metering to quantify the blowdown and sanitary wastewater discharges. The project sponsor may propose to the Commission alternative monitoring to quantify the blowdown and sanitary wastewater for staff review and approval. Meter readings of incoming water and outflow from the facility should be recorded at approximately the same time each day.

Commission staff and the project sponsor have agreed to a pre-1971 consumptive water use of 0.031 gallons per day (gpd) for the project and, for purposes of this docket, this quantity of water is considered “grandfathered” and is exempt from water compensation requirements.

The project’s consumptive use of water in excess of the grandfathered quantity is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water.

The project sponsor has requested a consumptive water use approval of up to 0.085 mgd. Based on an analysis of water use records supplied by the project sponsor, Commission staff is recommending approval of up to 0.088 mgd, which represents an increase of 10 percent above the current estimated peak-day use of 0.080 mgd. This will allow for an anticipated increase in water usage over the 25-year duration of this approval. Should the project’s future consumptive water use exceed or be expected to exceed 0.088 mgd, the project sponsor must apply for a modification to this docket at that time.

The project is subject to the Commission’s water conservation requirements, as per Commission Regulation 804.20(b).

The project sponsor has paid the appropriate application fee, in accordance with Commission Regulation §803.28, and in accordance with Commission Resolution 98-19, as amended by Commission Resolution 2000-06. The project sponsor has provided all proofs of notification, as required by Commission Regulation §803.25, with the exception of the requirement to notice contiguous property owners. Since all of the project’s water supply has historically been, and will continue to be, provided by a public supplier and there are no water withdrawals on the project site with the potential to impact other users, Commission staff recommends that the requirement for notice to contiguous property owners be waived.

The project is physically feasible, does not conflict with or adversely affect the Commission’s comprehensive plan, and does not adversely influence the present or future use and development of the water resources of the basin.

Compliance Incentive Program

Commission staff has determined that the project sponsor is eligible to participate in the Commission’s Compliance Incentive Program (CIP). Therefore, the project sponsor would not be subject to penalties for water consumed in violation of Commission Regulation §803.42 prior to January 1, 2001. In accordance with the CIP, payment to the Commission as a method of compensation for the project’s consumptive water use shall be effective and applicable to all consumptive water used by the project beginning January 1, 2001.

Decision

The project's consumptive water use of up to 0.088 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42.

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity evaporated by the facility's cooling towers and from various manufacturing processes, used for boiler makeup, incorporated into products, and contained in the process wastewater sludge hauled off site. The project sponsor shall maintain metering on the inflow to the facility, accurate to within five (5) percent.

c. Within sixty (60) days from the date of this approval, the project sponsor shall install and maintain metering on the outflow to the facility, accurate to within five (5) percent. The project sponsor may propose alternative monitoring to the Commission for staff review and approval.

d. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the quantity evaporated by the facility's cooling towers and from various manufacturing processes, used for boiler makeup, incorporated into products, and contained in the process wastewater sludge hauled off site. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.031 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

e. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used in excess of the grandfathered quantity of 0.031 mgd during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (c) above.

f. The contiguous property owner notification requirement specified in Commission Regulation §803.25(a) is hereby waived.

g. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §804.20(b).

h. Commission approval shall not be construed to exempt the project sponsor from obtaining all necessary permits and/or approvals required for the project from other federal, state, or local government agencies having jurisdiction over the project. The Commission reserves the right to modify, suspend, or revoke this action if the project sponsor fails to obtain or maintain such approvals.

i. The Commission reserves the right to inspect or investigate the project facility, and the project sponsor shall allow authorized employees or agents of the Commission, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is being constructed, operated, or maintained. Such employees or agents shall be authorized to conduct tests or sampling, to take photographs, to perform measurements, surveys, and other tests, to inspect the methods of construction, operation, or maintenance, to inspect all measurement equipment, to audit, examine, and copy books, papers, and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is constructed, operated, or maintained in accordance with the terms and conditions of this approval or any other rule, regulation, or order of the Commission.

j. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

k. The Commission reserves the right to reopen any project docket or issue such additional orders, as may be necessary, to mitigate or avoid adverse impacts or otherwise to protect public health, safety, welfare, or the environment.

l. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

m. This approval is effective until December 11, 2028. The project sponsor shall submit a renewal application by June 11, 2028, and obtain Commission approval prior to continuing operation beyond December 11, 2028.

n. If the project is discontinued for such a period of time and under such circumstances that an abandonment of the project may reasonably be inferred, the Commission may rescind the approval of the project unless a renewal is requested by the project sponsor and approved by the Commission.

By the Commission:

Dated: December 11, 2003



William A. Gast, Chair
Pennsylvania Commissioner



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Docket No. 20020622

Approval Date: June 12, 2002

Modification Date: December 11, 2003

PILGRIM'S PRIDE CORPORATION OF VIRGINIA, INC.

Consumptive Water Use of Up to 0.380 mgd,
for the Manufacture of Food Products,
Borough of New Oxford, Adams County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The current modification request was received by the Commission on September 26, 2003.

Description

Purpose. The purpose of the application is to request approval for an increase in the consumptive use of water associated with the manufacture of food products at Pilgrim's Pride Corporation of Virginia, Inc. (Pilgrim's Pride). The original Commission approval for consumptive water use was issued on June 12, 2002, as Docket No. 20020622 (docket). This docket modification approves the requested increase.

Project Features. The project sponsor has requested approval for an increase in the consumptive water use from 0.130 million gallons per day (mgd) up to 0.380 mgd for use in the processing of turkeys. Consumptive water use at Pilgrim's Pride is directly proportional to production.

The 3 1/2 years of metered consumptive water use data, based on metered inflow minus metered outflow, available for the Pilgrim's Pride facility, indicate that peak monthly consumptive water use currently averages 0.117 mgd, peak weekly consumptive water use currently averages 0.142 mgd, and peak daily use reaches 0.217 mgd. During that period, the facility's maximum 30-day average consumptive water use has increased by 2 percent per year. Peak monthly consumptive water use is 10 percent greater than the facility's average annual consumptive water use, and 20 percent greater than typical first quarter consumptive water use. Further, the facility operates on a 5-day work week; so peak daily consumptive water use has increased more rapidly than peak monthly consumptive water use.

Currently, peak daily consumptive water use reaches 0.217 mgd, or 1.85 times peak monthly use. Additionally, within the next few months, refrigeration capacity at the facility will be increased by 400 tons, increasing peak daily evaporation from the cooling towers by almost 15,000 gpd.

Findings

The project sponsor has requested approval for a consumptive water use of up to 0.380 mgd. Based on an analysis of water use records supplied by the project sponsor and proposed increased refrigeration capacity, Commission staff is recommending approval of the requested quantity.

The requested amount considers a 2 percent annual increase in production and a proposed increase in refrigeration capacity, which is expected to increase peak daily evaporation from the cooling towers by approximately 15,000 gpd. The increase should accommodate the peak usage days likely to occur over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.380 mgd, the project sponsor must apply for a modification to this docket at that time.

The project sponsor is currently using a spreadsheet accounting procedure, approved in the docket, whereby the difference between the metered public and well water supply (inflow) and the metered pretreatment and estimated sanitary wastewater discharge (outflow) is the total quantity of daily consumptive water use at the facility. However, daily consumptive water use in the prior docket was determined based on the project's metered weekly inflow minus weekly outflow, prorated to a daily basis.

Current data indicate that, during the weekend, the facility's water use is negligible, water storage levels in the treated water storage tank and wastewater pretreatment plant show little fluctuation, and negative daily consumptive water values would not occur. As a result of this determination, Commission staff has requested that the project sponsor monitor the facility's two inflow meters and one discharge meter daily, reading the meters at approximately the same time each day. Beginning January 1, 2004, the project sponsor has agreed to commence daily monitoring of the facility's consumptive water use.

Should the proposed accounting procedure utilizing daily metered inflow minus daily measured outflow consistently result in negative values, the Commission reserves the right to modify the accounting procedure. Commission staff will direct the project sponsor by written notice of any required change in the accounting procedure. Any alternative monitoring/accounting procedure will be reviewed and approved by Commission staff.

Commission staff recommends that all conditions in Commission Docket No. 20020622 that are not inconsistent with those approved under this modification should remain effective.

When the project sponsor determined that exceedences of daily consumptive water use were occurring, Commission staff was notified, and a modification request submitted. While the project's recent consumptive water use has been in noncompliance with Commission regulations, there have been no adverse impacts associated with the consumptive use, and the project sponsor has cooperated with Commission staff during its review. The project sponsor has paid the

consumptive water use fees for the water used in excess of the approved amount. Commission staff does not recommend the assessment of penalties associated with this noncompliance.

The project sponsor has paid the appropriate application fee, pursuant to Commission Regulation §803.28 and in accordance with Commission Resolution 98-19, as amended by Commission Resolution 2000-06. The project sponsor has submitted all proofs of notification, as required by Commission Regulation §803.25.

Based on Commission Regulation §803.30(a), the prior docket approval is effective until June 12, 2027. Commission staff recommends the duration of this docket modification be consistent with the term of the prior docket approval.

Decision

Commission Docket No. 20020622, as approved June 12, 2002, is hereby amended and the project's consumptive water use of up to 0.380 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42.

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the total quantity of water provided to the facility by the public water supply system and water withdrawn from Well 1, minus the total quantity of metered wastewater generated from the manufacturing process and estimated sanitary water discharged by the facility to the sanitary sewer system. The facility's public and well water inflow meters and pretreatment plant discharge meter shall be read and recorded at approximately the same time each day. The project sponsor shall continue to maintain the existing meters, accurate to within five (5) percent, to calculate the consumptive water use. Commission staff shall review and approve any required modifications to the spreadsheet accounting procedure.

c. The Commission reserves the right to inspect or investigate the project facility, and the project sponsor shall allow authorized employees or agents of the Commission, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is being constructed, operated, or maintained. Such employees or agents shall be authorized to conduct tests or sampling, to take photographs, to perform measurements, surveys, and other tests, to inspect the methods of construction, operation, or maintenance, to inspect all measurement equipment, to audit, examine, and copy books, papers, and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is constructed, operated, or maintained in accordance with the terms and conditions of this approval or any other rule, regulation, or order of the Commission.

d. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate

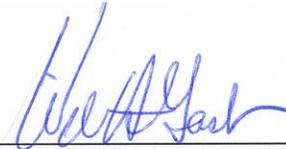
finances and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance. This condition hereby rescinds and replaces condition (j) of the original docket.

e. All other conditions in Commission Docket No. 20020622 not inconsistent herewith shall remain effective.

f. Based on Commission Regulation §803.30(a), this approval is effective until June 12, 2027. The duration of this docket modification is in accordance with the term of the prior docket approval. The project sponsor shall submit a renewal application by December 12, 2026, and obtain Commission approval prior to continuing operation beyond June 12, 2027.

g. If the project is discontinued for such a period of time and under such circumstances that an abandonment of the project may reasonably be inferred, the Commission may rescind the approval of the project unless a renewal is requested by the project sponsor and approved by the Commission.

By the Commission:



William A. Gast, Chair
Pennsylvania Commissioner

Dated: December 11, 2003



SUSQUEHANNA RIVER BASIN COMMISSION

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

Phone (717) 238-0423 • Fax (717) 238-2436

Web <http://www.srbc.net>

Docket No. 19880901

Approval Date: September 8, 1988

**Modification Dates: November 9, 1989, September 27, 1994,
May 11, 1995, and December 11, 2003**

LANCASTER COUNTY SOLID WASTE MANAGEMENT AUTHORITY SOLID WASTE RECOVERY FACILITY

Consumptive Water Use of Up to 0.95 mgd,
for Waste Incineration Processes and Generation of Electricity,
Conoy Township, Lancaster County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The current modification request was received on May 7, 2001.

Description

Purpose. The Commission originally approved the project on September 8, 1988, as Application 19880901, hereafter referred to as Docket 19880901. As approved, the project sponsor was authorized to consumptively use up to 0.95 million gallons per day (mgd) of water for the processes associated with the incineration of solid wastes and the cogeneration of electricity. The Commission on November 9, 1989, September 27, 1994, and May 11, 1995, granted modifications to the original approval. The project sponsor has requested a change in the approved method of consumptive loss makeup compliance. This docket modification approves the requested change.

Project Features. The solid waste resource recovery facility was designed and constructed to process 1,200 tons per day of solid waste using mass burn technology, and has the potential to expand to 1,600 tons per day capacity. The net electric power production capacity of the project is approximately 28 megawatts. Electricity generated by the facility is sold to Met-Ed, a subsidiary of FirstEnergy Corporation. Construction began in March 1989, and consumption of water began in December 1990.

Water for the facility is obtained from the Elizabethtown Wastewater Treatment Plant effluent pipeline, which discharges to the Susquehanna River, south of Bainbridge, Pa. Water

from the treatment plant pipeline is treated by the project sponsor and entered into a closed-loop system with no discharge. The maximum consumptive use of the facility is 0.95 mgd. Average consumptive use for 2002 was 0.63 mgd.

Findings

The Commission's September 8, 1988, approval of the project sponsor's application was based on the project sponsor's inability to locate a compensating source of water in order to comply with former Commission Regulation §803.61. Since no source of makeup water could be located, the project sponsor requested that the Commission accept payment as an interim method of compensation for the project's consumptive use.

Subsequent modifications (1989 and 1994) approved the project sponsor's participation in the Curwensville Feasibility Study, and in May 1995, the docket was further modified to include the abandoned Cornwall open pit mine pool as the project sponsor's source of makeup water.

Since the May 11, 1995, modification, ownership of the mine pool was transferred from LCSWMA to Elizabethtown Borough for use as an alternate water supply source. LCSWMA retained, as a condition of transfer, the right to withdraw up to 1.4 mgd, if necessary, for LCSWMA consumptive loss makeup releases. After purchasing the mine pool, Elizabethtown Borough applied to Pa. DEP to withdraw water from the mine pool and discharge it into Conewago Creek, where it would flow naturally along with the other waters of the Conewago watershed, downstream to the Elizabethtown Borough withdrawal point. Having received all necessary approvals, Elizabethtown Borough constructed a pumping station, which withdraws water from the mine pool and discharges it by pipeline into the Conewago Creek. Additionally, both the Pa. DEP and Commission approvals of the Elizabethtown mine pool withdrawal require a conservation flow into the natural mine pool overflow channel whenever the mine pool is drawn down, which can prevent this overflow from occurring naturally. The overflow channel water flows into Snitz Creek.

The project sponsor has requested a modification of the existing method of consumptive water use compensation. It has requested that the Commission recognize that the pumping of water by Elizabethtown Borough from the mine pool to Conewago Creek be considered as a method of LCSWMA consumptive water use compliance.

Commission staff evaluated LCSWMA's proposal to utilize Elizabethtown Borough's newly constructed pumping station and discharge pipeline to Conewago Creek to provide makeup water and finds that it is an acceptable method of compliance with Commission Regulation §803.42. Commission staff likewise recommends that the project sponsor prepare an operations plan that summarizes the manner in which pumping will occur during low flow periods, both when Elizabethtown Borough is utilizing the mine pool for water supply purposes and likewise in those instances when Elizabethtown Borough is not using the mine pool as a supplemental water supply source.

Decision

Commission Docket 19880901, as approved September 8, 1988, and modified November 9, 1989, September 27, 1994, and May 11, 1995, is hereby further modified pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42.

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission annually, and as otherwise required. Annual monitoring reports are due within sixty (60) days of the end of the calendar year. The total and consumptive use shall be metered or the quantity calculated as approved by Commission staff. The Commission reserves the right to review plans for determining total and consumptive use, inspect measurement equipment, and audit all measurement records.

c. The project sponsor shall comply with Commission water conservation requirements as per Commission Regulation §804.20(b).

d. The Cornwall open-pit mine pool is approved as a source of makeup water for compliance by the LCSWMA with Commission Regulation §803.42.

e. The project sponsor shall provide to Commission staff within one hundred twenty (120) days of this approval an operations plan, described above, for Commission staff review and approval.

f. A conservation release of 0.20 cfs shall be pumped from the mine pool in addition to all other water being pumped. The conservation release shall commence upon the start of pumping and continue after the need for makeup water has ceased, until the mine pool level has recovered to an elevation that will sustain flow over the sill of the brick-lined tunnel that presently serves as the outlet for the mine pool.

g. The need for makeup water will be based on flows at the U.S. Geological Survey Susquehanna River gage 01570500 at Harrisburg, Pa. The project sponsor shall make releases, or shall cause such releases to be made on its behalf, when flow at the referenced river gage is less than 3,000 cfs.

h. The Commission reserves the right to inspect or investigate the project facility, and the project sponsor shall allow authorized employees or agents of the Commission, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is being constructed, operated, or maintained. Such employees or agents shall be authorized to conduct tests or sampling, to take photographs, to perform measurements, surveys, and other tests, to inspect the methods of construction, operation, or maintenance, to inspect all measurement equipment, to audit, examine, and copy books, papers, and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is

constructed, operated, or maintained in accordance with the terms and conditions of this approval or any other rule, regulation, or order of the Commission.

i. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

j. All other conditions in Commission Docket 19880901, as previously modified, not inconsistent herewith shall remain effective.

k. Based on Commission Regulation §803.30(a), this approval is effective until September 8, 2018. The duration of this docket modification is in accordance with the term of the prior docket approval. The project sponsor shall submit a renewal application by April 8, 2018, and obtain Commission approval prior to continuing operation beyond September 8, 2018.

l. If the project is discontinued for such a period of time and under such circumstances that an abandonment of the project may reasonably be inferred, the Commission may rescind the approval of the project unless a renewal is requested by the project sponsor and approved by the Commission.

By the Commission:



William A. Gast, Chair
Pennsylvania Commissioner

Dated: December 11, 2003



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20031209

Approval Date: December 11, 2003

SKI ROUNDTOP OPERATING CORPORATION

Surface-Water Withdrawals of Up to 5.76 mgd From the Compressor House Pond, When Available, and Up to 2.88 mgd From the Western Pond, When Available, and a Consumptive Water Use of Up to 1.267 mgd, for Snowmaking, Warrington Township, York County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, §803.42, relating to the consumptive use of water, and §803.44, relating to surface-water withdrawals. The Commission received the application for the consumptive use of water on June 27, 2001, which was subsequently revised on September 20, 2002. The Commission received the application for the surface-water withdrawals on September 19, 2003. An application for a ground-water withdrawal from Well 1 also was received on September 20, 2002; however, this application was subsequently withdrawn by the project sponsor on September 19, 2003.

Description

Purpose. The purpose of the application is to request approval for the surface-water withdrawal and consumptive use of water for the production of snow at an existing ski resort.

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050306, West Conewago Creek Watershed, Warrington Township, York County, Pennsylvania.

Project Features. The project sponsor has requested approval for a maximum daily withdrawal of up to 8.64 million gallons per day (mgd) of water from the Compressor House Pond, when available, and a maximum daily withdrawal of up to 2.88 mgd of water from the Western Pond. The project sponsor also has requested approval for a consumptive water use of up to 1.267 mgd. The project sponsor calculates the project's current maximum average 30-day consumptive water use to be 0.257 mgd, and current peak-day consumptive water use to be 1.9 mgd for snowmaking on 105 acres of trails.

The primary source of water is an existing withdrawal from the Compressor House Pond, one of a series of ponds (the North Slope Ponds) on an unnamed tributary of Beaver Creek

(locally called Fortney Run) that also receives snowmelt from the ski resort. An additional surface-water source is Western Pond on the North Branch of Beaver Creek.

The project sponsor also operates Well 1, located between the Upper and Middle off-stream ponds about 6,500 feet south of the Western Pond. Well 1 is 8 inches in diameter, and is 180 feet deep with 21.5 feet of casing. The well is developed in diabase. A 225-gallons-per-minute (gpm) submersible pump is installed in the well.

The project currently collects runoff in five ponds at the North Slope of Roundtop Mountain (Discovery, Ski-Patrol, Compressor House, Chair 4, and Chair 6) and in the Western Pond. Additionally, the project has three off-stream ponds (Upper, Middle, and Lower) adjacent to North Branch Beaver Creek, about 1.4 miles downstream from the Western Pond. The three off-stream ponds can be filled from either Well 1 or the Western Pond. The Compressor House and Western Ponds were constructed prior to 1971; however, both have been enlarged since 1971. All other ponds were constructed after 1971.

The five North Slope Ponds are connected in series. Water from the two most downstream ponds can be pumped back up to the Middle or Compressor House Pond where withdrawals for snowmaking are made. Water from the three off-stream ponds and from the Western Pond can be pumped to the North Slope Ponds at maximum rates of 2,000 gpm. Neither the North Slope Pond system, nor the Western Pond, is currently equipped with passby devices. The project sponsor also recently has completed the construction of a new pond called the Upland Pond. The Upland Pond adds an additional storage capacity of approximately 14.5 million gallons to the project's pond system. The project sponsor has calculated the surface area and storage volume of the project's ponds as follows, and Commission staff concurs with these pond statistics:

Pond Name	Storage Volume (million gallons)	Current Surface Area (acres)	Pre-1971 Surface Area (acres)
Discovery	5.2	1.5	N/A
Ski Patrol	1.0	0.4	N/A
Compressor House	5.5	1.0	0.7
Chair 4	1.3	0.4	N/A
Chair 6	6.4	1.6	N/A
Western	10.0	2.8	1.4
Upland	14.5	5.7	N/A
Upper	6.5	2.0	N/A
Middle	5.5	1.7	N/A
Lower	4.0	1.9	N/A
Totals	59.9	19.0	2.1

N/A – Not Applicable

The project sponsor estimates the current total usable storage capacity of the ten existing ponds to be approximately 60 million gallons, when at full capacity. Without accounting for inflow, the approximately 60-million-gallon volume of the pond system should provide

approximately 43 days of storage, based on estimated passby flow rates at 20 percent at the North Slope Ponds for the Western Pond, and a maximum average 30-day average withdrawal of 1.167 mgd for snowmaking.

Pumping Test. A 73-hour, constant-rate pumping test was conducted for Well 1 from August 26-29, 2002, by the project sponsor's geologic consultant. The pumping test plan was reviewed and approved by Commission staff. In addition to Well 1, monitoring was conducted at nine domestic wells, five wetland piezometers, four pond staff gages, and two streamflow gages on North Branch Beaver Creek. Pumping at an average rate of 275 gpm, total drawdown in Well 1 at the end of the test was 70 feet. There was no measured impact to surface waterbodies or wetlands. However, significant drawdowns of up to 34 feet were observed at distances of 1,600 feet from Well 1 in the domestic wells located to the southeast from Well 1.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (Pa. DEP) and the Pennsylvania Fish and Boat Commission (PFBC) during the review of this project. According to Pa. DEP's Chapter 105 Regulations, the project sponsor must obtain a dam safety permit from Pa. DEP for the water impounding structure on the Western Pond. On June 17, 2003, the project sponsor submitted an application for a dam safety permit with the Division of Dam Safety of Pa. DEP. The project sponsor has committed to correct all deficiencies identified by Pa. DEP in the existing dam structure according to a mutually-agreed-upon schedule. Additionally, the project sponsor has obtained NPDES Permit No. PAG2006703026 from Pa. DEP for the discharge of stormwater to North Branch Beaver Creek during construction activities for the new Upland Pond.

Findings

The project is subject to Commission approval and reporting requirements, as per Commission Regulations §803.42 and §803.44.

All water pumped from the Compressor House Pond to the snowmaking system is metered at the Compressor House. The project sponsor has agreed to monitor and report this surface-water withdrawal daily. Additionally, the project sponsor has agreed to install a meter, accurate to within 5 percent, to monitor and record daily withdrawals from the Western Pond. Well 1 withdrawals are currently metered and monitored daily.

The project sponsor has requested surface-water withdrawals equivalent to the existing pumping capacity at the Western and Compressor House Ponds, plus an anticipated 50 percent increase at the Compressor House Pond. Current pumping capacity at the Compressor House Pond is 4,000 gpm, or 5.76 mgd, and current pumping capacity at the Western Pond is 2,000 gpm, or 2.88 mgd. Although these sources predate Commission Regulation §803.44, relating to surface-water withdrawals, the project sponsor has increased its withdrawals from these sources by more than 100,000 gpd since November 11, 1995, and, therefore, the withdrawals are subject to review and approval by the Commission under Regulation §803.44.

In an application dated September 20, 2002, the project sponsor also requested a ground-water withdrawal of 317,000 gpd (based on a 30-day average) from Well 1. Commission staff has reviewed the water budget analysis for Well 1 submitted by the project sponsor's geologic consultant as part of the pumping test evaluation. Commission staff has determined that without

further study, the 1-in-10-year recharge rate for Well 1 is equivalent to 135,000 gpd. This quantity represents the maximum amount (maximum 30-day average) that can be approved for Well 1. Additionally, approval of a groundwater withdrawal at this amount would entail additional monitoring, over a two-year period, of adjacent domestic wells, the stream, and nearby wetlands and the mitigation of any adverse impacts determined from the monitoring.

When informed of these constraints limiting the future use of Well 1, the project sponsor withdrew the ground-water application for Well 1 in September 2003. Since February 2002, the project sponsor has been operating Well 1, as needed, to supply the project's storage ponds, but daily withdrawals have been limited to less than 100,000 gpd, the Commission's threshold requiring review and approval of ground-water withdrawals. Daily metered ground-water withdrawals from Well 1 are currently reported to the Commission. No adverse impacts to area domestic wells have been identified over the past year, during the operation of Well 1 at withdrawals of less than 100,000 gpd. The project sponsor intends to continue operating Well 1, as needed, to fill project storage ponds at daily withdrawal rates of less than 100,000 gpd. The project sponsor has agreed to continue to monitor and report daily ground-water withdrawals from Well 1 to the Commission. Commission staff recommends that Well 1 be used at not more than 100,000 gpd.

All water evaporated from the Discovery, Ski Patrol, Chair 4, Chair 6, Upper, Middle, Bottom, and new Upland Ponds, and the increased surface area of the Compressor House and Western Ponds, as well as 22 percent of the water withdrawn from the storage ponds and used for snowmaking is considered to be used consumptively. The snowmaking system is equipped with a turbine meter that measures the quantity of water pumped through the snowmaking system. Water evaporated from the ponds will be calculated by the project sponsor employing a methodology acceptable to the Commission.

A 0.7-acre pond at the Compressor House and 1.4-acres of ponds at the Western Pond, predate the Commission's consumptive water use regulation; therefore, the project sponsor is not required to provide compensation for the evaporative losses from these areas.

The project sponsor has requested approval for a future consumptive water use of up to 1.9 mgd, based on a 50 percent increase in existing pumping capacity for snowmaking at the Compressor House Pond. This requested maximum daily consumptive water use would correspond to a maximum daily total withdrawal of 8.64 mgd from the Compressor House Pond.

Commission staff has insufficient daily operational data to evaluate whether existing supplies and storage will support the proposed increase in snowmaking capacity. Therefore, Commission staff recommends approval of the project's existing peak daily snowmaking capacity, which equals an amount of up to 1.267 mgd for consumptive water use and a maximum daily withdrawal of up to 5.76 mgd from the Compressor House Pond.

Overflow from the current North Slope storage pond system discharges to an unnamed tributary to Beaver Creek (locally called Fortney Run), a warm-water fishery (WWF) (Title 25, Chapter 93, Pennsylvania Code). Based on the stream's classification, Commission staff has determined a minimum flow of 20 percent of the annual average daily flow (ADF), is required downstream from Chair 6 Pond to help protect fish and aquatic life and other downstream uses and minimize loss of aquatic habitat.

Because the project sponsor is using a series of on-stream ponds as its source of water, the passby criteria must be modified to accommodate conditions when natural streamflow is less than 20 percent ADF. Therefore, Commission staff recommends that the project sponsor allow a downstream release of water from the North Slope storage ponds of 20 percent ADF, or an amount equal to the inflow of the stream entering the ponds when streamflow is less than 20 percent ADF.

The project sponsor also operates a surface-water intake in the Western Pond on North Branch Beaver Creek as a supplemental supply for the North Slope Pond system. North Branch Beaver Creek also is classified as a warm-water fishery (WWF) (Title 25, Chapter 93, Pennsylvania Code). Based on the stream's classification, Commission staff has determined a minimum passby flow of 20 percent of the annual average daily flow (ADF) is required downstream from the Western Pond to help protect fish and aquatic life and other downstream uses and minimize loss of aquatic habitat. Commission staff recommends that the project sponsor maintain a passby flow of not less than 20 percent ADF from the Western Pond.

Because the project sponsor is using an on-stream pond as its source of water, the passby criteria must be modified to accommodate conditions when natural streamflow is less than 20 percent ADF. Therefore, Commission staff recommends that the project sponsor allow a downstream release of water from the Western Pond of 20 percent ADF, or an amount equal to the inflow from North Branch Beaver Creek to the pond when streamflow is less than 20 percent ADF.

Commission staff further recommends that the project sponsor submit its proposed monitoring plan, and its design and a proposed construction schedule for the passby flow and inflow measuring devices, within 60 days following Commission action for review and approval by Commission staff prior to any construction.

Ski Roundtop Ski Resort and its sources of water supply are located within the watershed draining into Pinchot Lake, a reservoir used for water-related outdoor recreation in Gifford Pinchot State Park. Commission staff has determined that the maximum volume of consumptive water use resulting from snowmaking activities during any snowmaking season at Ski Roundtop is 23.0 million gallons (mg), and maximum annual evaporation from the storage ponds is 14.6 mg. Therefore, the maximum annual consumptive water use from the project is 37.6 mg.

The project's sources of water supply control approximately 15 percent of the watershed draining into Pinchot Lake, a reservoir used for water-related outdoor recreation in Gifford Pinchot State Park, which is referenced in the Commission's Comprehensive Plan. However, 78-percent of the project's water used for snowmaking is recycled through snowmelt and available for reuse. Consequently, during normal years the project's net consumptive water uses will only deplete inflows to Pinchot Lake by 0.8 percent, and during a 10-year frequency drought, by 1.7 percent. Commission staff has determined that these reductions in inflow are minimal and will not adversely effect water quality in Pinchot Lake or significantly reduce the ability of Pinchot Lake to refill.

The project sponsor has calculated the project's pre-1971 consumptive water use for snowmaking at 0.127 mgd based on the total acreage of trails having snowmaking prior to 1971.

Commission staff concurs with the project sponsor's calculation of the pre-1971 snowmaking consumptive water use. For purposes of this docket, this quantity of consumptive water use for snowmaking is considered "grandfathered" and is exempt from water compensation requirements.

The project's consumptive use of water for snowmaking, in excess of the grandfathered quantity, is subject to water compensation requirements, as per Commission Regulation §803.42. The project's consumptive water use from the evaporative loss of water resulting from increased pond surface area constructed since 1971 also is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water. The payment will be based on 22 percent of the daily quantity of water used for snowmaking, minus the pre-1971 snowmaking consumptive use of 0.127 mgd, plus the evaporative loss from the total post-1971 surface area of the project's storage ponds. If the daily grandfathered quantity exceeds the project's calculated daily consumptive water use, that day's consumptive water use is considered to be zero.

The project is subject to water conservation requirements, as per Commission Regulation §804.20(b).

The project sponsor has requested to pay the application fee in installments pursuant to Commission Regulation §803.28 and in accordance with Commission Resolution 98-19, as amended by Commission Resolution 2000-06. The first installment has been paid. The project sponsor has provided all proofs of notification, as called for in Commission Regulation §803.25.

The project is physically feasible, does not conflict with or adversely affect the Commission's Comprehensive Plan, and does not adversely influence the present or future use and development of the water resources of the basin.

Compliance Incentive Program

Commission staff has determined that the project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor would not be subject to penalties for water withdrawn and consumed in violation of Commission Regulations §803.42, §803.43, and §803.44 prior to January 1, 2001. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all consumptive water used by the project beginning January 1, 2001.

Decision

The project's surface-water withdrawals of up to 5.76 mgd from the Compressor House Pond, when available, and up to 2.88 mgd from the Western Pond, when available, and a consumptive use of water of up to 1.267 mgd are approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42, and surface-water withdrawal reporting requirements, as per Commission Regulation §803.44.

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity of evaporative loss from the post-1971 surface area of the project's ten storage ponds plus 22 percent of the quantity pumped to the snowmaking system. The project sponsor shall maintain existing metering on water pumped to the snowmaking system, accurate to within five (5) percent. Commission staff shall review and approve the method of calculation of evaporative loss from the storage pond system.

c. The project sponsor may pay the application fee in installments pursuant to Commission Regulation §803.28 and in accordance with Commission Resolution 98-19, as amended by Commission Resolution 2000-06. The project sponsor has paid one annual installment and shall be invoiced for the balance over each of the next two years.

d. Within sixty (60) days from the date of this approval, the project sponsor shall install and maintain metering on the surface-water withdrawal from the Western Pond, accurate to within five (5) percent. Additionally, the project sponsor shall continue to maintain metering on the surface-water withdrawal from the Compressor House Pond, accurate to within five (5) percent. The project sponsor shall keep daily records of the project's surface-water withdrawals from both the Western Pond and from the Compressor House Pond and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The project sponsor may propose alternative monitoring of individual surface-water withdrawals to the Commission for staff review and approval.

e. The project sponsor shall allow a downstream passby of water from the North Slope Ponds, located on Fortney Run, of 20 percent ADF, or when streamflow into the North Slope Ponds is less than 20 percent ADF, an amount equal to the total inflow of Fortney Run to the North Slope Ponds. The project sponsor shall install flow measurement devices that measure the inflow to the North Slope Ponds and the outflow of the North Slope Ponds. The project sponsor shall keep daily records of the inflow and outflow of the North Slope Ponds, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter.

f. The project sponsor shall allow a downstream passby of water from the Western Pond, located on North Branch Beaver Creek, of 20 percent ADF, or when streamflow into Western Pond is less than 20 percent ADF, an amount equal to the total inflow of North Branch Beaver Creek to the Western Pond. The project sponsor shall install flow measurement devices that measure the inflow to the Western Pond and the outflow of the Western Pond. The project sponsor shall keep daily records of the inflow and outflow of the pond, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter.

g. Within sixty (60) days from the date of this approval, the project sponsor shall submit a proposed flow monitoring plan for both the North Slope Ponds and the Western Pond, and proposed design and construction schedules for the passby flow and inflow measuring devices at these sources, for review and approval by Commission staff prior to any construction.

h. The project sponsor shall continue to maintain a meter on Well 1, accurate to within five (5) percent, to measure ground-water withdrawals. The daily withdrawal rate shall be limited to 100,000 gpd. Daily records of the Well 1 withdrawals shall be monitored and recorded. All required ground-water monitoring data shall be provided to the Commission quarterly. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. If the Commission determines that the operation of Well 1 adversely affects any other existing ground-water or surface-water withdrawal, the project sponsor shall be required to provide, at its expense, an alternate water supply or other mitigating measure.

i. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the quantity of evaporative loss from the post-1971 surface area of the project's ten storage ponds plus 22 percent of the quantity pumped to the snowmaking system. Payment amounts shall be calculated by applying this rate to the consumptive water used by the project, less the grandfathered snowmaking quantity of 0.127 mgd on days when water is pumped to the snowmaking system. If the daily grandfathered quantity exceeds the project's calculated daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

j. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §804.20(b).

k. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used in excess of the grandfathered snowmaking quantity of 0.127 mgd during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (i) above.

l. Commission approval shall not be construed to exempt the project sponsor from obtaining all necessary permits and/or approvals required for the project from other federal, state, or local government agencies having jurisdiction over the project. The Commission reserves the right to modify, suspend, or revoke this action if the project sponsor fails to obtain or maintain such approvals.

m. The Commission reserves the right to inspect or investigate the project facility, and the project sponsor shall allow authorized employees or agents of the Commission, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is being constructed, operated, or maintained. Such employees or agents shall be authorized to conduct tests or sampling, to take photographs, to perform measurements, surveys, and other tests, to inspect the methods of construction, operation, or maintenance, to inspect all measurement equipment, to audit, examine, and copy books, papers, and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is constructed, operated, or maintained in accordance with the terms and conditions of this approval or any other rule, regulation, or order of the Commission.

n. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

o. The Commission reserves the right to reopen any project docket or issue such additional orders, as may be necessary, to mitigate or avoid adverse impacts or otherwise to protect public health, safety, welfare, or the environment.

p. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

q. This approval is effective until December 11, 2028. The project sponsor shall submit a renewal application by June 11, 2028, and obtain Commission approval prior to continuing operation beyond December 11, 2028.

r. If the project is discontinued for such a period of time and under such circumstances that an abandonment of the project may reasonably be inferred, the Commission may rescind the approval of the project unless a renewal is requested by the project sponsor and approved by the Commission.

By the Commission:



William A. Gast, Chair
Pennsylvania Commissioner

Dated: December 11, 2003

RESOLUTION NO. 2003-09

A RESOLUTION of the Susquehanna River Basin Commission extending the deadline imposed on the City of Aberdeen, Maryland to develop and secure a backup supply to the Deer Creek withdrawal for Aberdeen Proving Ground.

WHEREAS, the Susquehanna River Basin Commission (the "Commission") approved Docket No. 20021210 on December 12, 2002 allowing the City of Aberdeen, Maryland (the "City") to withdraw and divert up to 3.0 million gallons per day (mgd) from Deer Creek to supply water to Aberdeen Proving Ground ("APG"), Harford County, Maryland; and

WHEREAS, Decision Item (f) of the said docket requires that the City develop and secure a backup supply or agreement for backup supply to the Deer Creek withdrawal for the amount approved (3 mgd) on or before December 31, 2003; and

WHEREAS, the City, by letter dated October 17, 2003, has requested an extension of the December 31, 2003 deadline to June 30, 2004 so that it may coordinate the acquisition of such backup supply with similar requirements that are anticipated to be imposed upon it by the Maryland Department of the Environment ("MDE") in the issuance of a contemplated water appropriations permit, currently under review; and

WHEREAS, the Commission finds that it is appropriate and in the public interest for the City to coordinate the acquisition of backup supplies adequate to satisfy both the requirements of the Commission and those anticipated to be imposed by MDE.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Commission hereby extends the deadline of December 31, 2003 set forth in Decision Item (f) of Docket No. 20021210 to June 30, 2004.
2. Also in accordance with Decision Item (f) of Docket No. 20021210, the City of Aberdeen shall continue to report to the Commission quarterly on its progress in acquiring a backup supply for the Deer Creek withdrawal.
3. This Resolution shall be effective immediately.

Date: December 11, 2003



William A. Gast, Chair
Pennsylvania Commissioner

RESOLUTION NO. 2003-11

A RESOLUTION of the Susquehanna River Basin Commission recognizing and honoring certain members of the Susquehanna River Basin Commission's Agricultural Water Use Advisory Committee.

WHEREAS, in 1992, the Susquehanna River Basin Commission (the "Commission") established an Agricultural Water Use Advisory Committee (the "Committee") to advise the Commission on regulatory, program, planning and policy issues affecting agriculture in the Susquehanna River Basin; and

WHEREAS, several individuals have served with distinction on the Committee from its inception, providing the benefits of their many years of experience in agriculture and their understanding of its particular needs; and

WHEREAS, the expertise and experience contributed by these individuals have greatly assisted the Commission in the formulation of sound public policy regarding agricultural water use in the basin, thus advancing the purposes of the Susquehanna River Basin Compact; and

WHEREAS, the Commission wishes to express its heartfelt thanks to these individuals for their continuing interest and participation in the Committee.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Commission hereby recognizes and honors the following individuals for their long service and valuable contributions to the Commission's Agricultural Water Use Advisory Committee: Murray Mahany of New York; Keith Masser, Harlan Keener, Leon Ressler, Ray Boltz, Michael Brubaker, Brenda Shambaugh, William Troxell and Dave Bingaman, all of Pennsylvania; and Royden Powell of Maryland.

2. This Resolution shall be effective immediately.

3. The Executive Director shall distribute copies of this Resolution to the individuals who are recognized and honored herein.

Date: December 11, 2003



William A. Gast, Chair
Pennsylvania Commissioner