

Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed



January 24, 2008

TO ALL CONCERNED:

At the December 5, 2007 meeting, the draft minutes of the September 12, 2007 Commission meeting were approved as written. Please attach this notice to your copy of the September 12, 2007 minutes.

- DRAFT -

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

**MINUTES OF THE
SUSQUEHANNA RIVER BASIN COMMISSION
December 5, 2007
#2007-04**

The meeting was held in the Woods Conference Room, Alumni Sports & Fitness Center, Franklin & Marshall College, 929 Harrisburg Pike, Lancaster, Pennsylvania. Chairman Sachs called the meeting to order at 1:30 p.m.

ROLL CALL

Commissioners Present

Mr. Herbert Sachs, Special Projects Coordinator,
Maryland Dept. of the Environment (MDE)

Ms. Susan K. Weaver, Chief, Division of Water
Use Planning, Pa. Dept. of Environmental
Protection (PADEP)

Col. Peter W. Mueller, Dist. Engineer, U.S. Army
Corps of Engineers (USACE), Baltimore District

Mr. Kenneth P. Lynch, Director, Region 7, N.Y.
Dept. of Environmental Conservation (NYDEC)

**Alternate Commissioners
and Advisors Present**

Ms. Amy M. Guise, Chief, Civil Project
Development Branch, USACE, Baltimore District

Mr. Scott J. Foti, Regional Solid and Hazardous
Materials Engineer, NYSDEC, Region 8

Staff Present

Mr. Paul O. Swartz, Executive Director

Mr. Thomas W. Beauduy, Deputy Director

Mr. Michael G. Brownell, Chief, Water Resources
Management Division

Ms. Susan S. Obleski, Director of Communications

Mr. David W. Heicher, Chief, Watershed
Assessment & Protection Division

Mr. Duane A. Friends, Chief Admin. Officer

Mr. Richard A. Cairo, General Counsel

Ms. Deborah J. Dickey, Secretary to the Comm.

Also Attending

Mr. Ray Yacuzzo, NYDEC, Region 8

INTRODUCTION/WELCOME

Chairman Sachs introduced Dr. Roger Thomas, Chairman of the Science, Technology and Society Department of Franklin & Marshall College, who welcomed the Commission to the campus of Franklin & Marshall and to Lancaster, Pennsylvania.

Chairman Sachs and the other commissioners each commented briefly on relevant events in their jurisdictions. The Executive Director then reviewed a list of SRBC accomplishments for 2007 including:

- 1) Implementation of a set of new project review regulations and the successful defense of a legal challenge thereto.
- 2) Legislative successes, including funding for the Whitney Point Lake Section 1135 Project Modification and the Lancashire No. 15 (Barnes & Tucker) AMD Treatment Facility, and the passage of the federal Water Resources Development Act of 2007.
- 3) Further amendment of the project review regulations to provide a qualified exemption to agricultural water users whose consumptive use is mitigated by the member states.
- 4) Implementation of the Paxton Creek Stormwater Project to promote innovation and cooperation in the handling of storm water problems.
- 5) Substantial completion of an AMD remediation plan for the West Branch and appointment of an AMD Coordinator for SRBC.
- 6) Improvement of the SRBC database to make more information available electronically to the public.
- 7) Progress on the revision of the SRBC Comprehensive Plan and completion of the SRBC Consumptive Use Mitigation Plan.
- 8) In New York, improved flood preparedness through an enhanced gaging network and flood inundation mapping project.
- 9) In Pennsylvania, development of a Yield Analysis Tool.
- 10) In Maryland, work in four interstate watersheds listed as impaired.
- 11) Improved efficiencies in project review, including electronic reporting of monitoring data.

1. Minutes of the September 12, 2007 Commission Meeting

On a motion by Commissioner Lynch, seconded by Commissioner Mueller, the minutes of the regular business meeting of September 12, 2007 were unanimously adopted as written.

PRESENTATIONS

2. Recognition of Pennsylvania State Senator Noah Wenger

Executive Director Paul Swartz and Deputy Director Thomas Beauduy presided over a brief ceremony honoring and recognizing former Pennsylvania State Senator Noah Wenger of Lancaster County, Pa., for the critical role he played in the appropriation of funds that will allow the operation and maintenance of several Pennsylvania mine treatment facilities. These treatment facilities will enable nearly 16 million gallons of water to be released during periods of low flow to compensate for the total agricultural consumptive water use in the Pennsylvania portion of the basin. At the same time, these projects will bring other water quality benefits such as the restoration of 25 miles of the West Branch Susquehanna River that has been degraded by abandoned mine lands.

Senator Wenger also has a long list of other accomplishments in support of the wise management of the basin's water resources and the protection of the Chesapeake Bay. Some of these include Pennsylvania's participation in the Chesapeake Bay Commission, preserving farmland and open space, the ban on phosphorous in detergents, and nutrient management planning.

3. Recognition of Scott J. Foti, New York Alternate Commissioner

The Commission honored Scott J. Foti, who has served as the New York Alternate Member of the Commission since July 1997 and will soon be leaving that post. During his tenure, Mr. Foti provided excellent service to the Commission and repeatedly demonstrated his commitment to the ideals and purposes of the Susquehanna River Basin Compact.

4. Hydrologic Conditions

SRBC Water Resources Management Division Chief Michael Brownell presented information on the current hydrologic conditions in the Susquehanna Basin. Though precipitation stood at near normal levels in most parts of the basin, the pattern of precipitation was erratic throughout most of 2007, leaving much uncertainty about conditions that will prevail in spring 2008.

ACTION ITEMS

PUBLIC HEARING

The Commission convened a public hearing covering five topics: 1) action on project applications, 2) enforcement actions on Cooperstown Dreams Park, Inc., Otsego County, N.Y., Sand Springs Development Corp., Luzerne County, Pa., and BC Natural Chicken, LLC, Lebanon County, Pa., 3) a request for an administrative hearing under Section 808.2 of the Commission's regulations, 4) extension of emergency certificates for the City of Lock Haven and the Houtzdale Municipal Authority, and 5) adoption of a revised project fee schedule for 2008. A stenographic transcript was made of this hearing and is part of the Commission's record.

5. Regulatory Program Actions

a. Project Applications

Michael Brownell first provided some background information on the Commission's review authority and its consumptive use and water withdrawal 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.

Mr. Brownell listed the standard requirements for each project sponsor, including: 1) notice of application, 2) coordination with member jurisdictions, 3) aquifer tests for groundwater withdrawals, 4) metering, monitoring, and reporting of water use, 5) mitigation or other special conditions where there is a potential for adverse impacts, 6) a right of inspection to ensure compliance, 7) water conservation standards, and 8) docket reopening authority.

The dockets recommended for action included the following projects¹:

- Village of Waverly (Well 4) (Modification) (Exhibit A1)
- Sno Mountain LLC (Modification) (Exhibit A2)
- Graymont (PA) Inc. (Modification) (Exhibit A3)
- Glenn O. Hawbaker, Inc. (Modification) (Exhibit A4)
- Parkwood Resources, Inc. (Exhibit A5)
- Mountainview Thoroughbred Racing Association, Inc. (Modification) (Exhibit A6)
- King Drive Corp.-The Golf Club at Felicita (Modification) (Exhibit A7)
- York Plant Holding LLC (Exhibit A8)

Mr. Brownell went on to describe these projects and the proposed conditions of approval for each. The Chairman then inquired whether there was anyone in the audience who wished to comment on any of these projects.

¹ Docket decisions are not included with the hard copy of the minutes. However, they are available upon request and at www.srbc.net.

Lebanon County Commissioner Jo Ellen Litz indicated that the Mountainview Thoroughbred Racing Association project was located very close to the Lebanon County border with Dauphin County and that Lebanon County would receive most of the runoff from the project. Lebanon County officials would therefore want to be kept well informed about the project and its impacts.

Attorney Jaromir Korvarik, representing East Hanover Township, Dauphin County, Pennsylvania, expressed the Township's general concerns about the impacts of the Mountain View project on the local aquifer, mentioned that the Township has a subdivision and land development ordinance that addresses groundwater recharge, and requested the Commission's assistance in enforcing the township's ordinance.

At a later point in the meeting after the close of the public hearing, Mountainview Attorney Scott Gould told the Commission that the township ordinance referred to by Mr. Korvarik is pre-empted by SRBC's regulations and that, in any case, the Mountainview facilities predate the adoption of the township ordinance.

On a motion by Commissioner Lynch, seconded by Commissioner Mueller, the Commission unanimously approved the recommendations of staff concerning the eight projects presented for approval.

b. Enforcement Actions

Mr. Brownell then presented settlement offers for three projects: 1) Cooperstown Dreams Park, Inc., Otsego County, N.Y., 2) Sand Spring Development Corp., Luzerne County, Pa.; and 3) BC Natural Chicken, LLC, Lebanon County, Pa. All of these settlements involved alleged violations of Commission docket conditions that were imposed at the time of approval. Each of the parties had submitted settlement proposals with accompanying settlement payments. In addition, BC Natural Chicken had agreed to stipulated penalties of \$500.00 per violation for any future infractions. The staff recommended acceptance of the settlement offers.

On a motion by Commissioner Mueller, seconded by Commissioner Weaver, the Commission unanimously accepted the settlement offers for the three projects as recommended by staff.

c. Request for Administrative Hearing Re: Approval of PPL Susquehanna LLC Docket²

Mr. Eric Joseph Epstein filed an administrative appeal under Section 808.2 of the Commission's regulations requesting an administrative hearing on the September 12, 2007 Commission approval of a docket modification for PPL Susquehanna LLC's Susquehanna Steam Electric Station (SSES) near Berwick, Pa.

Deputy Director Beauduy recounted the procedural history of this appeal, which grew out of the Commission's decision to approve a modification of PPL Susquehanna LLC's

² The account of this public hearing contained in these minutes should only be considered an unofficial summary. As noted above, a stenographic transcript was made containing the official record of the hearing.

consumptive use approval, plus approval of a surface water withdrawal, at the September 12, 2007 meeting in Binghamton, N.Y. Mr. Epstein had made several submissions to the Commission prior to the meeting in which he: 1) asked the Commission to delay the approval; 2) noted several concerns that he had about “unresolved” safety related issues that the Nuclear Regulatory Commission (NRC), in his opinion, had not addressed, 3) included several data requests, and 4) listed a number of contentions to which he requested responses from the Commission. He also requested that a public input hearing be held in the vicinity of the project at Berwick, Pa.

Mr. Epstein filed his administrative appeal on October 12, 2007 and an amended appeal on November 13, 2007, both of which included a request for a stay of the approval. The Executive Director, after consultation with the Commission Chair and host commissioner pursuant to Section 808.2, denied the stay request in a letter to Mr. Epstein dated October 25, 2007. There were a number of additional filings, with PPL filing responses, dated October 19, 2007 and November 21, 2007 respectively, to both Mr. Epstein’s appeal and amended appeal, and Mr. Epstein’s filing a reply to both the Executive Director’s letter and PPL on December 3, 2007.

Mr. Epstein made an oral presentation summarizing the contents of his appeal, to which PPL Counsel Mr. Terry Bossert responded. Mr. Bossert argued that: 1) the record was already sufficient and that, therefore, the granting of an administrative hearing under Section 808.2 was not appropriate, 2) there was no determination by the Executive Director which requires Commission action under Section 808.2 and Mr. Epstein had not formally appealed the Executive Director’s denial of a stay, 3) administrative review is not otherwise desirable under Section 808.2 because Mr. Epstein’s six contentions were already addressed by the Commission and these contentions only involved legal-jurisdictional issues rather than factual issues, 4) SRBC is clearly authorized to settle civil penalty matters, 5) Mr. Epstein had not demonstrated irreparable harm or that these harms have anything to do with the Commission’s approval of the PPL Susquehanna LLC project, and 6) PPL Susquehanna, LLP complied with all of the Commission’s notice requirements regarding its project application.

Mr. Beauduy also responded, recommending that the Commission deny Mr. Epstein’s request for the following reasons:

- 1) Other agencies are dealing with many of the issues raised by Mr. Epstein that are outside the authority of the SRBC.
- 2) A request by a single individual for a separate, localized hearing does not constitute sufficient public interest for the Commission to convene such a hearing.
- 3) The record upon which the Commission’s approval of the PPL Susquehanna LLC project is based is adequate.
- 4) The provisions of Section 808.2 do not accommodate a request for a public input hearing at this stage.
- 5) Mr. Epstein failed to demonstrate irreparable harm to him that would warrant the issuance of a stay, and the Commission should affirm the Executive Director’s denial thereof.

- 6) Mr. Epstein failed to demonstrate that any factual or scientific basis for the Commission's decision was flawed in a way that would suggest a likelihood of his success on the merits of the appeal.
- 7) Mr. Epstein failed to demonstrate any likely harm to the public or that the NRC would not eventually deal with the safety issues he raised such as storage of nuclear materials.
- 8) It would be inappropriate for the Commission to engage in regulatory creep by asserting authority over subject matter that is more properly subject to the authority of other agencies.
- 9) Contrary to Mr. Epstein's allegations, the Commission had coordinated with the NRC on matters relating to the consumptive use/withdrawal by PPL Susquehanna LLC.
- 10) Mr. Epstein has the burden of proving that the criteria for a stay are met, while the Executive Director does not have the burden of disproving it.
- 11) The Commission has the regulatory discretion to settle civil penalty matters and that administrative agencies have considerable enforcement discretion to negotiate such settlements.
- 12) Until directed otherwise by the Commission, staff considers settlement discussions to be confidential.

The Commission's General Counsel, Richard A. Cairo, concurred with the legal position taken by staff on this appeal as explained by Mr. Beauduy and further accepted the legal arguments put forth by PPL Counsel. He commented briefly on the adequacy of the record, the jurisdiction of other regulatory agencies, the coordination conducted by SRBC staff, and the Commission's authority to settle civil penalty cases. He further pointed out to Mr. Epstein that the Commission will exercise continuing oversight of this project and has the authority to modify the requirements of the docket approval if there is a demonstrated need to do so.

Commissioner Lynch moved that, based on staff recommendations and counsel's input, the Commission deny the request for an administrative hearing made in Mr. Epstein's appeal and affirm the decision of the Executive Director to deny a stay in this matter. Commissioner Weaver seconded that motion, which was unanimously adopted by the Commission.

d. Extension of Emergency Certificates – City of Lock Haven & Houtzdale Municipal Authority

Mr. Brownell explained that, under the authority of 18 CFR Section 806.34, the Executive Director, after required consultations with the Chair of the Commission, who is also the member from the affected state, issued emergency certificates on September 28, 2007 to the City of Lock Haven and the Houtzdale Municipal Authority for water withdrawals. The emergency conditions were brought about mainly by drought and low flow conditions, though a reservoir rehabilitation project was also a factor for Lock Haven.

The emergency certificates would expire today if no action was taken by the Commission to extend them. Both parties were seeking 90-day extensions to carry them through any problems arising during the winter months. Mr. Brownell presented two resolutions (Exhibits B

& C) to provide those extensions. The Executive Director read pertinent portions of the resolves indicating that the extensions would run to March 13, 2008, that all conditions would remain the same, and that the Executive Director would reserve the right to impose any other conditions that he deemed necessary.

On separate motions made by Commissioner Lynch, seconded by Commissioner Mueller, the Commission unanimously adopted both resolutions.

6. Fee Schedule Revision

The General Counsel presented a revised project fee schedule (Exhibit D) covering the period January 1, 2008 to December 31, 2008. After noting where notices of this public hearing had appeared, he explained that, when the Commission adopted the project fee schedule for the first time in its present general form in March 2005, it directed that, for five consecutive years beginning in December 2006, the fee schedule should be adjusted to increase the level of fees by 10 percent. This adjustment should occur after a Consumer Price Index adjustment was first made. Those adjustments were included in the proposed fee schedule for 2008.

In other changes that affect payments, a new fee category was added to cover withdrawals of water less than 100,000 gallons per day. Such withdrawals must be approved when they involve a consumptive use that is subject to approval.

In the current schedule, the Commission allows installment payments of fees exceeding \$6,000. The new schedule raises this figure to \$10,000 in recognition of the effects of inflation.

Finally, experience with the fee schedule over the last year and a half led staff to recommend a few other modifications to the schedule to improve its clarity:

- 1) Item No. 6 clarifies that groundwater withdrawal fees are based on a maximum 30-day average, while all other fees are based on peak day use.
- 2) Item No. 7 reiterates the consequences of not submitting a project fee, but clarifies the fact that if project sponsors erroneously submit an excessive fee, they will receive a refund.
- 3) Item No. 8 instructs project sponsors who have projects that involve more than one category of fee to submit an itemized list of fees with their payments.

The General Counsel requested that, after hearing any public testimony, the Commission adopt the resolution (attached to the fee schedule) (Exhibit D) approving a revised fee schedule for calendar year 2008. No public testimony was offered and, on a motion by Commissioner Weaver, seconded by Commissioner Lynch, the revised fee schedule was unanimously adopted.

At this point, the Chairman adjourned the public hearing portion of the meeting.

7. Final Rule Making: Agricultural Consumptive Water Use

At the September 12, 2007 meeting, the Commission had approved a proposed rule making action to revise the current project review regulations in recognition that the member states are making provisions for the mitigation of agricultural consumptive use in their respective jurisdictions. Mitigation projects being implemented by the member states will provide about 75 mgd of water for mitigation.

Under the main revision to 18 CFR Section 806.4 (a)(1), if the Commission determines that low flow augmentation projects sponsored by the Commission's member states provide sufficient mitigation for agricultural water use to meet the standards for consumptive use set forth in 18 CFR Section 806.22, such agricultural water use projects will not be subject to the requirements of Section 806.4. Another minor revision modifies the definition of "agricultural water use" to make clear that it is only the raising of "turf products" for sale that qualifies as an agricultural water use, not the mere growing of turf. A third revision makes a minor correction to an authority citation in Part 808.

The proposed rule making appeared in the Federal Register on October 1, 2007, the Pennsylvania Bulletin on October 13, 2007, the New York Register on October 10, 2007 and the Maryland Register on October 12, 2007. A public hearing on the proposed rule making action was held in Williamsport, Pa. on November 7, 2007 where no public testimony was received. Neither was any public comment offered during a comment period that ran through November 15, 2007.

Mr. Beauduy offered a resolution (Exhibit E) to adopt and promulgate a final rule making action containing the revisions described above. On a motion by Commissioner Lynch, seconded by Commissioner Weaver, the resolution was unanimously adopted. The final rule would also be published in the Federal Register and state rule making publications, and become effective on March 15, 2008.

8. Determination Re: Agricultural Consumptive Use Mitigation

The Deputy Director explained that the amended provisions of 18 CFR Section 806.4 (a)(1) just acted on by the Commission in Item No. 7 above are not self executing. The qualified exception for agricultural water uses provided for therein only applies after an affirmative determination that the member states are providing sufficient mitigation for agricultural consumptive use. He therefore presented a resolution (Exhibit F) making a determination that, as of the effective date of the final rule making just adopted by the Commission, the member states have provided sufficient mitigation for agricultural water uses.

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

9. Aquifer Testing Guidance

Mr. Brownell reported that the staff has produced a revised aquifer testing guidance for groundwater applicants seeking the staff's approval of an aquifer testing plan under 18 CFR Section 806.12. A major objective of this new guidance would be to ensure that aquifer tests are done correctly the first time, thus eliminating the time and expense of having to repeat a test. He presented a resolution (Exhibit G) for adoption of the revised guidance.

On a motion by Commissioner Lynch, seconded by Commissioner Mueller, the resolution was unanimously adopted.

10. FY-07 Audit

The Chief Administrative Officer presented the audit report for FY 2007 prepared by the firm of Hamilton & Musser and highlighted certain financial information contained therein. He also pointed out that the report contains a recommendation that the Commission utilize an Irrevocable Health Care Trust to provide health insurance benefits to eligible Commission retirees.

On a motion by Commissioner Mueller, seconded by Commissioner Lynch, the Commission unanimously accepted the report of the FY 2007 audit report.

11. Grant/Contract Approvals

Watershed Assessment and Protection Chief David Heicher presented a grant and three contracts for the approval of the Commission.

a. Grant Approval – Chesapeake Bay Nutrient Monitoring Program

The purpose of this grant is to provide a long-term nutrient and suspended sediment database to track and better define nutrient loading dynamics for the main stem and selected tributaries of the Susquehanna River. The work will compare load fluctuations to water discharge, provide nutrient concentration and loading data, and evaluate nutrient loading trends. The grant scored 10 out of 10 on the SRBC grant evaluation scale. The PADEP will provide \$131,200, the entire amount of the grant.

b. Contract Approvals – Yield Analysis Tool, New York Flood Maps, & Morrison Cove Study

The staff sought approval to execute a contract with Buchar-Horn Engineering for the production of a Yield Analysis Tool at a cost of \$50,000. The tool would assist the Commission and Pennsylvania in managing withdrawals. Subject to Commission ratification, the staff was also seeking authority to negotiate and execute contracts for work related to the production of New York State flood inundation maps and a comprehensive water resources study for the Morrison Cove area.

On a motion by Commissioner Mueller, seconded by Commissioner Weaver, the Commission unanimously approved/ratified the grant and authorized negotiation/execution of the contracts described by staff.

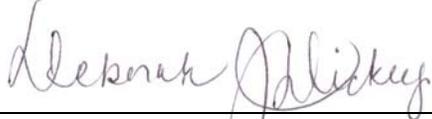
PUBLIC COMMENTS

The comment of Mr. Scott Gould on the Mountainview Thoroughbred Racing Association, Inc. project application is noted above.

ADJOURNMENT

The Chairman adjourned the meeting at 4:40 p.m. The next regular meeting of the Commission is tentatively scheduled for March 13, 2008 in Bedford, Pennsylvania.

Date Adopted



Deborah J. Dickey
Secretary to the Commission



SUSQUEHANNA RIVER BASIN COMMISSION

Exhibit A1

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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

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

Docket No. 20030207-1

Approval Date: February 6, 2003

Modification Date: December 5, 2007

VILLAGE OF WAVERLY

Groundwater Withdrawal (30-Day Average) of 0.576 mgd from Well 4,
and a Total System Withdrawal Limit (30-Day Average) of 1.100 mgd,
for Public Water Supply,
Village of Waverly, 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 (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received the request for modification on May 24, 2007, and additional information on October 30, 2007.

Description

Purpose. The purpose of the modification is to request approval for an increase in groundwater withdrawal from Well 4 from 0.500 million gallons per day (mgd) to 0.576 mgd. The Commission originally approved the project on February 6, 2003 as Docket No. 20030207 (Docket). As approved, the project sponsor was authorized to withdraw (30-day average) 0.500 mgd from Well 4 for use in the public water supply system, subject to conditions enumerated in the Docket. This docket modification approves the requested increase from Well 4, and also changes certain provisions contained within the Docket. No request has been made to increase the total system withdrawal limit of 1.100 mgd.

Project Features. The Village of Waverly's municipal water supply system is connected to the municipal supply system for the neighboring Town of Barton. The Town of Barton's only groundwater supply well, Well 1, was approved by the Commission for a withdrawal of 1.000 mgd in Docket No. 20030404. Both municipal water supply systems share a total system withdrawal limit of 1.100 mgd. Due to system design problems, the Town of Barton's Well 1 has not been able to pump at a rate up to its capabilities, and the Village of Waverly's Well 4 has operated to compensate for the decreased pumping at the Town of Barton's Well 1. The municipalities intend to correct the design problems and provide a means for disconnecting their water systems, but in the interim, the Village of Waverly requests an increased withdrawal approval amount from Well 4.

In addition to Well 4, the project sponsor currently utilizes three wells, Wells 1, 2, and 3, to supply water to the municipal system. Wells 1, 2, and 3 were drilled in 1943, 1963, and 1977, respectively. The Commission issued a groundwater withdrawal approval of 0.500 mgd from Well 3 on February 11, 1982 in Docket No. 19820202.

The project sponsor reports that its surface water reservoir, Dry Brook Reservoir, is only used on an infrequent emergency basis because of water quality issues. It was last used in 2001, when the average daily withdrawal was 0.550 mgd. The total reservoir storage capacity is 45 million gallons.

The wastewater generated throughout the water system is discharged to the sanitary sewer system and treated at the Village of Waverly's wastewater treatment facility, which discharges to the Cayuta Creek downstream of Wells 2 and 4.

Coordination. The New York State Department of Environmental Conservation (NYSDEC) approved a maximum pumping rate of 400 gallons per minute (gpm) for Well 4 in WSA #10,359 on May 22, 2003.

Findings

The project is subject to Commission approval and reporting requirements, as per Commission Regulation §806.4(2).

Well 4 was previously approved for a maximum instantaneous withdrawal rate of 400 gpm, which is the pumping rate used during the aquifer test conducted on Well 4 in April 1999. Commission staff reviewed the results of this testing and finds that new aquifer testing is not required for evaluation of the proposal. Therefore, Commission staff recommends a waiver of the aquifer testing requirement.

The maximum instantaneous withdrawal limit of 400 gpm is equal to the NYSDEC approved limit. Commission staff finds that there is likely minimal impact to any existing nearby water users and the aquifer from the requested increase in the 30-day average withdrawal. Therefore, Commission staff recommends approval of the requested increased withdrawal (30-day average) from Well 4 from 0.500 mgd to 0.576 mgd. The total withdrawal from the municipal system will continue to be limited to 1.100 mgd. Reporting requirements for Well 3 should be changed from annually/weekly to quarterly/daily, and withdrawals from other wells should be reported.

The use of Wells 1 and 2 and Dry Brook Reservoir did not previously require approval by the Commission. However, Commission staff identified that the existing withdrawals from Wells 1 and 2 and the reservoir are subject to review and approval under Commission Regulation §806.4(a)(2)(ii). Commission staff recommends that the project sponsor submit applications within 180 days for withdrawals from these sources.

The project is subject to the Commission's water conservation requirements, as per Commission Regulation §806.25(a). The water system is 100 percent metered, which is in compliance with this regulation, and the Village of Waverly reports unaccounted for water losses of less than 20 percent, which is in compliance with Commission Regulation §806.25(a)(1).

The project sponsor has paid the appropriate application fee in accordance with Commission Regulation §806.13, and in accordance with Commission Resolution No. 2006-08. The project sponsor requested a waiver of the notification requirements for the adjacent property owners because they are serviced by the Village of Waverly's public water system. Commission staff recommends that this waiver be granted. The project sponsor has provided all other proofs of notification as required by Commission Regulation §806.15.

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.

This project is not required for the optimum planning, development, conservation, utilization, management, and control of the water resources of the basin and will not significantly affect the water resources of the basin.

Decision

1. Commission Docket No. 20030207, as approved February 6, 2003, is hereby modified to approve the project's groundwater withdrawal (30-day average) of 0.576 mgd from Well 4, pursuant to Article 3, Section 3.10, of the Compact.
2. The total system withdrawal limit shall continue to be 1.100 mgd.
3. The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision.
4. The project sponsor shall comply with all Commission regulations, including monitoring and reporting requirements contained in Commission Regulation §806.30.
5. Conditions "a," "b," "d," "f," "g," "h," "i," "j," "k," and "l" are hereby rescinded.
6. The project sponsor shall keep daily records of the metered withdrawals from Wells 1, 2, 3, and 4, Dry Brook Reservoir, and the total system withdrawal. The required reporting data shall be submitted to the Commission quarterly, and as otherwise required. Monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter.
7. The project sponsor shall submit withdrawal applications for Wells 1 and 2 and Dry Brook Reservoir for review and approval by the Commission within one hundred eighty (180) days of the date of this approval.

8. The contiguous property owner notification requirements specified in Commission Regulation §806.15 are hereby waived.

9. The constant-rate aquifer test requirement specified in Commission Regulation §806.12 is hereby waived for Well 4.

10. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §806.25(a). The project sponsor shall report its system loss to the Commission annually.

11. The project sponsor shall maintain any meters or other measuring devices approved by the Commission, accurate to within five (5) percent, so as to provide a continuous, accurate record of withdrawals and uses, and certify to the Commission once every five (5) years, or as otherwise requested, the accuracy of all measuring devices and methods to within five (5) percent of actual flow.

12. All other conditions in Commission Docket No. 20030207 not inconsistent herewith shall remain effective.

13. Pursuant to Article 12, Section 12.2, of the Compact, this project is hereby included in the Commission's Comprehensive Plan.

14. 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.

15. If the project sponsor fails to comply with the provisions of the Compact or any rule, regulation, or order of the Commission, or any term or condition of this docket, the project is subject to enforcement actions pursuant to Commission Regulation §808.

16. 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.

17. 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.

18. This approval is effective until February 6, 2028. The term of this docket modification is in accordance with the term of the prior Docket approval. As specified in Commission Regulation §806.31(e), if the project sponsor submits a renewal application no later than August 6, 2027, the existing approval shall be deemed extended until such time as the Commission renders decision on the application.

19. 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 5, 2007

Herbert M. Sachs, Chair
Maryland Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

Exhibit A2

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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

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

Docket No. 20030405-1

Approval Date: April 10, 2003

Modification Date: December 5, 2007

SNO MOUNTAIN LLC

Surface Water Withdrawal of up to 7.300 mgd (Peak Day)
from the Dam No. 5 Reservoir, When Available, and
Consumptive Water Use of up to 1.600 mgd (Peak Day),
for Snowmaking and the Water-Based Amusement Operations,
City of Scranton, Lackawanna County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10, of the Susquehanna River Basin Compact (Compact), P.L. 91-575, 84 Stat. 1509 et seq. and Susquehanna River Basin Commission (Commission) Regulations §806.4, relating to projects requiring review and approval, and §806.6(c), relating to transfer of approvals for projects undergoing a change of ownership. The Commission received the application on June 8, 2007.

Description

Purpose. The purpose of the application is to request a transfer of the docket approval due to a change in ownership and approval of modifications to authorize the surface water withdrawal and consumptive use of water associated with operation of attractions at a new water (amusement) park.

The Commission originally approved the surface water withdrawal and consumptive water use by Lackawanna County for Montage Mountain on April 10, 2003, as Commission Docket No. 20030405 (Docket). Subject to conditions enumerated in the Docket, Lackawanna County was authorized to withdraw up to 7.300 million gallons per day (mgd), when available, from the Dam No. 5 Reservoir (formerly referred to as the District No. 5 Reservoir) and consumptively use up to 1.600 mgd of water for snowmaking and the operation of a water slide. On July 10, 2006, Lackawanna County sold the project assets of Montage Mountain to Sno Mountain LLC.

This docket modification approves the transfer of the Docket approval to Sno Mountain LLC, and rescinds certain provisions, revises the method of calculation of consumptive water use, and modifies certain project features in the Docket.

Location. The project is located in the Middle Susquehanna Subbasin, HUC 02050107, Stafford Meadow Brook Watershed, City of Scranton, Lackawanna County, Pennsylvania.

Project Features. Sno Mountain LLC has requested approval for the transfer of the Docket approval of the surface water withdrawal of up to 7.300 mgd, when available, and a consumptive use of up to 1.600 mgd. The project sponsor intends to continue operations at the ski resort as described in the Docket. However, the project sponsor plans to replace the existing water slide with five new water attractions and operate a water-based amusement park during the spring and summer.

Operation of the ski resort does not require modifications to the Docket conditions.

Five water attractions are proposed, as listed in the table below. New consumptive water uses related to the construction and operation of the proposed water park include: surface evaporation and splash-out water from the water attractions, “walk away” water (water carried away from the attraction by wet patrons), wash-down activities, and filtration backwash systems. The project sponsor estimates the maximum daily loss due to patron occupancy will be 0.036 mgd, or approximately 10 gallons per bather per day (gal/person/day).

Summary of Total Bather Load and Maximum Occupancy Consumptive Use (Summer and Spring)		
Attraction	Maximum Bather Load	
Lazy River	587	Persons
Wave Pool	900	Persons
Kids Pool	400	Persons
Tornado Slide	720	Persons/Hour
Pro-Racer	960	Persons/Hour
Total	3,567	Persons

The project sponsor estimates consumptive loss due to routine maintenance to be 0.008 mgd, with a daily maximum consumptive use of 0.011 mgd for filtration system backwash. Backwash cycles of individual units (twice weekly for each filtration system) will be spread over a seven-day period to control daily discharge volume to the public sewer. Maintenance also includes daily wash-down activities of paved walkways, food service and eating areas, and ride areas to maintain clean walking areas and sanitary conditions at the park.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (PADEP) and the Pennsylvania Fish and Boat Commission (PFBC) during the review of this project.

Findings

Commission staff recommends approval of the transfer of the Docket, subject to the modifications identified below.

Twenty-two percent (22%) of withdrawals for snowmaking, and all water evaporated and splashed from the water attractions, carried away from the attraction by wet patrons (“walk away” water), evaporated during wash-down activities, and used by backwash of filtration systems is considered to be consumptively used.

The surface water pumping system is equipped with metering to measure the amount of water withdrawn from the Dam No. 5 Reservoir, and twenty-two percent (22%) of the daily quantity of water withdrawn for the snowmaking system is considered to be consumptively used. Commission staff recommends that the project sponsor meter the daily quantity of water used for operation and maintenance of the amusement park water features and wash down of the park to account for consumptive use during the spring and summer season.

The project sponsor should propose an accounting procedure for quantifying daily consumptive water use at the water park using metering rather than estimation for review and approval by Commission staff.

Should the proposed accounting procedure fail to accurately measure the project’s consumptive water use, the Commission reserves the right to modify the metering, monitoring, and accounting procedures. Commission staff will provide the project sponsor with written notice of any required change in the metering, monitoring, and accounting procedures. Any alternative monitoring or accounting procedure requested by the project sponsor will be reviewed and approved by Commission staff.

The project is approved for a maximum day consumptive water use of up to 1.600 mgd for snowmaking and for operation of a water slide. The requested modification to add a water park will not increase the peak day consumptive use at the project. Commission staff is recommending approval of the requested modification and the current amount of consumptive water use. Should the project’s future consumptive water use be expected to exceed 1.600 mgd, the project sponsor must apply for a modification to this docket.

The project’s consumptive use of water is subject to mitigation requirements, as per Commission Regulation §806.22(b). To satisfy these requirements, the project sponsor proposes to continue to maintain a conservation release of 20 percent of the annual average daily flow, or 670 gallons per minute (gpm), downstream of the reservoir.

The continuous conservation release was intended to provide protection to aquatic habitat in the Stafford Meadow Brook, as well as satisfy the consumptive water use compensation requirements. Formerly classified as a high quality cold-water fishery (HQCWF) (Title 25, Chapter 93, Pennsylvania Code), the PFBC recently revised its classification for Stafford Meadow Brook as a Wild Trout Stream that supports naturally reproducing trout populations (37 Pa. B. 1195, March 10, 2007).

Commission staff finds that the existing high quality aquatic habitat can be maintained by the conservation release (670 gpm). Commission staff recommends that the proposed mitigation should be accepted by the Commission.

The project sponsor has paid the appropriate application fee in accordance with Commission Regulation §806.13 and in accordance with Commission Resolution No. 2006-08. The project sponsor has provided all proofs of notification, as called for in Commission Regulation §806.15.

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.

Based on Commission Regulation §806.31(e), the prior Docket approval is effective until April 10, 2028. Commission staff recommends the duration of this docket modification be consistent with the term of the prior Docket approval.

Decision

1. The project's surface water withdrawal of up to 7.300 mgd (peak day) and consumptive water use of up to 1.600 mgd (peak day) are approved pursuant to Article 3, Section 3.10, of the Compact.
2. The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision.
3. Conditions "a," "b," "c," "g," "i," "j," "k," "l," "m," "n," and "o" of the existing approval (Docket No. 20030405) are hereby rescinded.
4. The project sponsor shall comply with all Commission regulations, including withdrawal and consumptive water use monitoring and reporting requirements specified in Commission Regulation §806.30.
5. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §806.25(b).
6. The project sponsor shall maintain existing metering on water withdrawn from the Dam No. 5 Reservoir and pumped to the snowmaking system, accurate to within five (5) percent.
7. The project sponsor shall keep daily records of the project's surface water withdrawals and consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be twenty-two percent (22%) of the daily quantity of water measured through the snowmaking system, and all water evaporated and splashed from the water

attractions, carried away from the attraction by wet patrons (“walk away” water), evaporated during wash-down activities, and used by backwash of filtration systems.

8. Within thirty (30) days from the date of this approval, the project sponsor shall submit a metering plan to the Commission for review and approval by Commission staff that accounts for the total consumptive water use at the water park. The project sponsor shall propose a methodology to account for its consumptive water use based on metering, rather than estimation. Following approval, the project sponsor shall execute the plan and complete any installation of any additional meters beyond those required in Condition 6 in accordance with the approved schedule, and shall certify to the Commission that the monitoring plan has been implemented.

9. The project sponsor shall maintain any meters or measuring devices, accurate to within five (5) percent, so as to provide a continuous, accurate record of withdrawals and uses, and certify to the Commission once every five (5) years, or as otherwise requested, the accuracy of all measuring devices and methods to within five (5) percent of actual flow.

10. To satisfy the Commission’s registration requirement, the project sponsor shall register with the PADEP all surface water and groundwater sources described in this docket in accordance with the Pennsylvania Water Resources Planning Act (Pennsylvania Act 220).

11. 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.

12. If the project sponsor fails to comply with the provisions of the Compact or any rule, regulation, or order of the Commission, or any term or condition of this docket, the project is subject to enforcement actions pursuant to Commission Regulation §808.

13. 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.

14. 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.

15. All other conditions in Commission Docket No. 20030405 not inconsistent herewith shall remain effective.

16. This approval is effective until April 10, 2028. The term of this docket modification is in accordance with the term of the prior Docket approval. As specified in Commission Regulation §806.31(e), if the project sponsor submits a renewal application no later than October 10, 2027, the existing approval shall be deemed extended until such time as the Commission renders decision on the application.

17. 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 5, 2007

Herbert M. Sachs, Chair
Maryland Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

Exhibit A3

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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

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

Docket No. 20050306-1

Approval Date: March 29, 2005

Modification Date: December 5, 2007

GRAYMONT (PA) INC. PLEASANT GAP FACILITY

Consumptive Water Use of up to 0.622 mgd, and a Groundwater Withdrawal (30-Day Average) of 0.099 mgd from the Wash Plant 11 Well, for the Mining and Processing of Limestone and Production of Industrial Lime, Spring 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 (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received the application for modification on August 28, 2007.

Description

Purpose. The Commission originally approved the Graymont (PA) Inc. (Graymont) facility, an underground limestone mine, an open-pit limestone mine, and associated mineral processing facilities on March 29, 2005, as Commission Docket No. 20050306 (Docket). The Graymont facility is part of a complex of open-pit and deep mines that exists in the area to the northeast of Pleasant Gap, which is collectively referred to as the Pleasant Gap Mine Complex.

Historically, this assemblage of mines had a number of owners and operators. Adjoining the Graymont facility to the southwest are two quarries, Brooks and White Rock, and the associated mineral processing facilities owned by Glenn O. Hawbaker, Inc. (Hawbaker). Recent cooperative agreements between Graymont and Hawbaker developed an improved water handling system and a cooperative mining arrangement in the Pleasant Gap Mining Complex. Those negotiations also resulted in the sale of the Wash Plant 11 Well to Graymont.

This docket modification adds a groundwater withdrawal from the Wash Plant 11 Well as an additional water source for dust suppression and other uses associated with limestone mining and processing operations. The project sponsor is not requesting any modification to the approved maximum daily consumptive water use for the project.

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

Project Features. The project sponsor has requested approval for the withdrawal of 0.099 million gallons per day (mgd) from the Wash Plant 11 Well for dust suppression and other plant uses. This well is located on the former Hawbaker Easement property, adjacent to Graymont's Pleasant Gap facility. The well was previously owned and controlled by Hawbaker, and approved in Commission Docket No. 20050307.

Specific locational information concerning discrete water-related project features has been withheld for security reasons.

The Docket approved the consumptive water use of up to 0.622 mgd for production at the facility, which is primarily supplied from mine dewatering pumpage. The project sponsor proposes to use withdrawals from Wash Plant 11 Well as a supplemental source.

Wash Plant 11 Well was drilled in July 1999 to a depth of 275 feet below ground surface. The 8-inch-diameter well is constructed in the Ordovician-age Bellefonte Formation with 112 feet of casing. Although not currently fitted with a pump, the well yield is reported to be less than 120 gallons per minute (gpm).

Aquifer Testing. Commission staff recommends approval of a waiver of the testing requirement. The well will be operated at less than 0.100 mgd, and has been used historically by Hawbaker without any reported well interference. It is also located within an area highly influenced by the existing underground mining operations.

Findings

The project is approved for a maximum day consumptive water use of up to 0.622 mgd in Commission Docket No. 20050306. The requested withdrawal from Wash Plant 11 Well of less than 0.100 mgd will supplement existing water sources and will not increase the consumptive water use of the project.

The project sponsor has requested a waiver from the Commission's required aquifer testing for the Wash Plant 11 Well. Commission staff recommends approval of the waiver because the proposed withdrawal rate from the Wash Plant 11 Well is relatively low and any potential surface water impacts will be minimal. Pumping at the Wash Plant 11 Well is not expected to cause any adverse impacts to other groundwater users.

Commission staff recommends approval of a 30-day average withdrawal of 0.099 mgd from the Wash Plant 11 Well. Commission staff recommends approval of a peak instantaneous pumping rate of 120 gpm for the well.

The project is subject to Commission monitoring and reporting requirements, as per Commission Regulation §806.30. The project sponsor should install appropriate metering on the

Wash Plant 11 Well and monitor withdrawals daily. The project sponsor should report these data to the Commission quarterly.

The project sponsor has paid the appropriate application fee, in accordance with Commission Regulation §806.13 and Commission Resolution No. 2006-08. The project sponsor requested a waiver of the notification requirements for adjacent property owners because the well has been historically used by Hawbaker without any reported interference. Commission staff recommends that this waiver be granted.

Commission staff recommends that this approval remain effective until March 29, 2030, the term of the prior Docket approval.

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

1. Commission Docket No. 20050306, as approved March 29, 2005, is hereby modified to approve the addition of the Wash Plant 11 Well as a groundwater supply source with a withdrawal (30-day average) of up to 0.099 mgd, pursuant to Article 3, Section 3.10, of the Compact.

2. Consumptive water use approval, specified in Commission Docket No. 20050306, will continue at a rate of up to 0.622 mgd.

3. The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision.

4. Within sixty (60) days of the date of this approval, the metering plan specified in Condition 4 of the Docket shall be revised, as necessary, to include the withdrawal and use related to the Wash Plant 11 Well. The project sponsor shall install necessary meter(s) at the well and notify the Commission, in writing, when the meters are installed.

5. Consumptive water use related to Wash Plant 11 Well shall be included in monitoring and reporting requirements specified in Condition 5 of the Docket. Quarterly monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter.

6. Withdrawals from Wash Plant 11 Well shall be included in monitoring and reporting requirements specified in Condition 6 of the Docket. Quarterly monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter.

7. The project sponsor shall maintain any meters or measuring devices, accurate to within five (5) percent, so as to provide a continuous, accurate record of withdrawals and uses, and certify to the Commission once every five (5) years, or as otherwise requested, the accuracy

of all measuring devices and methods to within five (5) percent of actual flow.

8. The contiguous property owner notification requirements specified in Commission Regulation §806.15 are hereby waived.

9. The constant-rate pumping test requirement specified in Commission Regulation §806.12 is hereby waived.

10. If the Commission determines that the operation of the project's groundwater withdrawal from Wash Plant 11 Well 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.

11. To satisfy the Commission's registration requirement, the project sponsor shall register with the Pennsylvania Department of Environmental Protection all surface water and groundwater sources described in this docket in accordance with the Pennsylvania Water Resources Planning Act (Pennsylvania Act 220).

12. 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.

13. If the project sponsor fails to comply with the provisions of the Compact or any rule, regulation, or order of the Commission, or any term or condition of this docket, the project is subject to enforcement actions pursuant to Commission Regulation §808.

14. 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.

15. 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.

16. All other conditions in Commission Docket No. 20050306 not inconsistent herewith shall remain effective.

17. This approval is effective until March 29, 2030. The term of this docket modification is in accordance with the term of the prior Docket approval. As specified in Commission Regulation §806.31(e), if the project sponsor submits a renewal application no later than September 29, 2029, the existing approval shall be deemed extended until such time as the Commission renders decision on the application.

18. 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 5, 2007

Herbert M. Sachs, Chair
Maryland Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20050307-2

Approval Date: March 29, 2005

Modification Date: June 13, 2007

Modification Date: December 5, 2007

GLENN O. HAWBAKER, INC.

PLEASANT GAP FACILITY

(WHITE ROCK QUARRY, BROOKS QUARRY & ASSOCIATED FACILITIES)

Consumptive Water Use of up to 0.875 mgd,
for the Mining and Processing of Limestone,
Spring 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 (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received the application from Graymont (PA) Inc. for modification of its docket approval on August 28, 2007.

Description

Purpose. The Commission originally approved the project on March 29, 2005, as Docket No. 20050307 (Docket). As originally approved, the Glenn O. Hawbaker, Inc. (Hawbaker) Pleasant Gap facility was authorized to consumptively use water up to 0.375 million gallons per day (mgd), subject to conditions enumerated in the Docket. The Docket was modified in June 2007 to increase its consumptive use of water associated with limestone mining and processing operations from 0.375 mgd up to 0.875 mgd. This docket modification revises certain project features to reflect the sale of the Wash Plant 11 Well to Graymont (PA) Inc.

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

Project Features. Water for production at the facility comes from several sources, the largest of which is White Rock Quarry, with a current flooded storage exceeding 300 million gallons of water. The Commission previously approved several additional sources for production water, including a groundwater withdrawal from the Wash Plant 11 Well.

Specific locational information concerning discrete water-related project features has been withheld for security reasons.

Recent cooperative agreements between Graymont (PA) Inc. and Hawbaker developed an improved water handling system and a cooperative mining arrangement in the Pleasant Gap Mining Complex. Those negotiations also resulted in the sale of the Wash Plant 11 Well to Graymont (PA) Inc., and both dockets should be modified to reflect the change in project features.

Findings

Commission staff recommends that approval of the Wash Plant 11 Well as a source of water supply for the Pleasant Gap facility be rescinded, and that metering, monitoring, and reporting requirements related to this well be rescinded.

The applicant should submit a new plan that removes the Wash Plant 11 Well from the metering plan submitted under Condition 4 of the Docket.

Commission staff finds the quantity of the current flooded storage within White Rock Quarry (exceeding 300 million gallons of water) and other permitted sources is sufficient to provide for production water needed at the facility while maintaining the conservation releases necessary to mitigate its consumptive water use in excess of the grandfathered quantity of 45,700 gallons per day.

Commission staff recommends that notification requirements contained in Commission Regulation §806.15 be waived due to the nature of this modification.

Commission staff recommends that this approval remain effective until March 29, 2030, the term of the prior Docket approval.

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

1. Commission Docket No. 20050307, as approved March 29, 2005, and modified on June 13, 2007, is hereby modified to rescind approval of the Wash Plant 11 Well as a source of water supply for the Pleasant Gap facility pursuant to Article 3, Section 3.10, of the Compact.

2. The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision.

3. All other conditions in Commission Docket No. 20050307 and its subsequent modification not inconsistent herewith shall remain effective.

4. This approval is effective until March 29, 2030, the term of the prior Docket approval. As specified in Commission Regulation §806.31(e), if the project sponsor submits a renewal application no later than September 29, 2029, the existing approval shall be deemed extended until such time as the Commission renders decision on the application.

5. 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 5, 2007

Herbert M. Sachs, Chair
Maryland Commissioner



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Docket No. 20071201

Approval Date: December 5, 2007

PARKWOOD RESOURCES, INC.– CHERRY TREE MINE

Consumptive Water Use of up to 0.315 mgd (Peak Day),
for the Mining and Processing of Bituminous Coal,
Burnside Township, Clearfield County, and Cherry Tree Borough and
Montgomery Township, Indiana County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10, of the Susquehanna River Basin Compact (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received the application on February 26, 2007.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water associated with the mining and processing of bituminous coal.

Location. The project is located in the West Branch Susquehanna Subbasin, HUC 02050201, West Branch Susquehanna Watershed, Burnside Township, Clearfield County, and Cherry Tree Borough and Montgomery Township, Indiana County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.315 million gallons per day (mgd) from water pumped from the mine for dewatering. Water is consumptively used for dust suppression, methane control, and material handling during the mining and processing of bituminous coal. The project's current maximum daily consumptive water use is 0.315 mgd, based upon the water use estimates recorded since June 2006, submitted by the project sponsor.

Cherry Tree Mine is a new underground room and pillar coal mine, extracting bituminous coal of the Pennsylvania-age Allegheny Group; specifically, the Upper Freeport coal seam. The box cut mine has an open-pit portal with a rail line to working areas. Three continuous miners shear coal from the working faces, automatically loading the crushed coal onto articulated conveyors for transport to the surface. On average, each continuous miner sprays 0.057 mgd of water for control of methane gas and dust suppression for miner safety. Water also is sprayed on the coal at the conveyors. The coal is stockpiled at the surface for bulk sale and trucked from the

facility. The coal stockpile area is underlain by a high density polyethylene (HDPE) geomembrane liner.

The Cherry Tree Mine is part of a complex of deep mines, mostly inactive or closed facilities, in the area along the Brush Valley Syncline in Indiana and Clearfield Counties. Historically, a number of owners operated mines working the bituminous coals of the Allegheny Group. Adjoining the Cherry Tree Mine to the south is the abandoned Greenwich Collieries No. 1 North Mine, operated by Pennsylvania Mines Corporation (Lower Freeport Coal); to the north is the Victor No. 11/14 Mine, operated by Elsworth Dunham Coal Company, the Arcadia No. 1 (also known as PC&C Arcadia No. 42) deep mine and the Commodore Mine, last operated by Clearfield Bituminous Coal Corporation; and in the existing permit boundary is the Spruce Hill Coal Company and the Pioneer Mine. Cherry Tree Mine is mining virgin coal from a mining claim formerly controlled by Pennsylvania Power Light.

Water for production at the facility primarily comes from mine dewatering pumpage. Water from the underground workings is collected in a series of intermediate sumps and pumped to a central sump located in the southwest corner of the mine access pit, and then pumped from the central sump to a series of three lined treatment ponds (Ponds 1, 2, and 3) before being discharged into the West Branch Susquehanna River.

The pump located at the central sump has a rated capacity of 500 gallons per minute (gpm) and is operated using a float system. The withdrawal is not currently metered, but the pump could be outfitted with an event recorder to document run time pumping water to Pond 1.

Some water from Pond 3 is recirculated back into the mine to be used by the continuous miners and along the conveyor system via a 6-inch freshwater pipeline. The siphoned withdrawal is metered. The fire suppression system also is supplied from the freshwater pipeline.

Water sprayed from the continuous miners becomes incorporated into the product (coal) and is considered to be consumptively used. Any excess spray water is collected in the mine sump(s) and recirculated to the surface as part of the mine dewatering.

Water from the 6-inch freshwater pipeline is used to fill the water truck (2,500-gallon capacity) equipped with sprayers to control dust on haul roads. The withdrawal is not metered; however, the project sponsor maintains a log documenting the daily number of truckloads of water withdrawn. If the truck overflows during the filling process, the spillage is collected in the HDPE liner under the stockpile area and directed into Pond 1.

The current settling pond system (Ponds 1, 2, and 3) is designed to treat and retain 722 gpm. As the mine expands, additional ponds and retention areas may be necessary to handle the intercepted groundwater. The three lined settling ponds have a combined surface area of 1.5 acres.

A potable well provides water for sanitary uses at the facility, and the wastewater is discharged to the Indiana County Municipal Authority.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (PADEP) Bureau of Mining during review of the project. PADEP approved the project's withdrawal of groundwater for mine dewatering during its review of the mining operation, and the Commission considered this review to be adequate to meet the requirement of Commission Regulation §806.23. PADEP Bureau of Mining, California District Office staff has reviewed this docket for consistency with its Mining Permit No. 17031301, originally issued on May 27, 2004. The mining permit covers 47 surface acres and 4,664 subsurface acres.

Findings

The project is subject to Commission review and approval standards and monitoring requirements, including Commission Regulations §806.21, §806.22, and §806.30.

All water retained in the coal, used for the control of methane gas, used for dust control both underground and at the surface, and evaporated from the settling ponds 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 project sponsor currently meters all of the freshwater siphoned from Pond 3 into the mine for use by the continuous miners, which includes water retained in the coal and the water used to fill the tanker trucks used to control dust on haul roads. Commission staff recommends that the quantity of the water pumped into the mine be recorded on a daily basis.

The project sponsor may propose an alternative to metering for review and approval by Commission staff.

The project sponsor currently maintains a log of the daily number of truckloads of water withdrawn from the ponds for dust suppression at the surface. Commission staff recommends that the volume of the water trucks and number of truckloads of water withdrawn from the ponds be recorded on a daily basis.

Water evaporated from the settling ponds will be calculated by the project sponsor, employing a methodology acceptable to the Commission. The total surface area of the settling ponds currently is 1.5 acres, but may increase as the mine expands and encounters more groundwater. Any increase in surface area must be accounted for in calculations of consumptive water use. Commission staff recommends that the project sponsor inform the Commission prior to constructing additional ponds and submit drawings of the completed construction.

Should the proposed accounting procedure fail to accurately measure the project's consumptive water use, the Commission reserves the right to modify the metering, monitoring, and accounting procedures. Commission staff will provide the project sponsor with written notice of any required change in the metering, monitoring, and accounting procedures. Any alternative monitoring or accounting procedure requested by the project sponsor will be reviewed and approved by Commission staff.

The project's consumptive use of water is subject to mitigation requirements, as per Commission Regulation §806.22(b). To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission.

The project sponsor has requested a consumptive water use approval of up to 0.315 mgd. The mine currently has three continuous miners operating two shifts daily (for a total of six mining shifts). Each mining shift is 9 hours, with 8 of the hours dedicated to production; this operational pattern works 23 production days per month. On a daily average, the three continuous miners spray a total of 0.172 mgd of water for methane control and dust suppression. Based on the estimated water use supplied by the project sponsor, Commission staff is recommending approval of the requested amount. Should the project's future consumptive water use be expected to exceed 0.315 mgd, the project sponsor must apply for a modification to this docket at that time.

The project sponsor operated the project without prior Commission approval since July 19, 2005, when its consumptive water use exceeded the regulation threshold. The project sponsor voluntarily submitted its application to the Commission, complied with application procedures, and cooperated with Commission staff during its review of the project. The project sponsor has offered a \$4,742 settlement to the Commission for the noncompliance with Commission Regulation §806.4. Commission staff recommends acceptance of the proposed settlement.

The existing mine permit boundary is entirely within the Susquehanna River Basin, but is within 3,000 feet of the basin divide with the Ohio River Basin. Westward expansion of Cherry Tree Mine is constrained by a geologic impingement (sandstone washout channel) and four abandoned mines.

PADEP approved the project's withdrawal of groundwater for mine dewatering during its review of the mining operation and, under its Memorandum of Understanding with PADEP, the Commission considered this review to be adequate to meet the requirement of Commission Regulation §806.23. Commission staff recommends that the project sponsor install and maintain metering, accurate to within five (5) percent, on the groundwater withdrawal, and report the data to the Commission quarterly. The project sponsor could propose an alternative to metering for review and approval by Commission staff.

In the PADEP permit application, the groundwater flow system had been identified to follow a man-made flow system, which has been impacted and influenced by the surrounding mine complex and dewatering operations. Hydraulic barriers exist between relic mining operations and will be maintained during the currently permitted mining operations.

Commission staff recommends that if the project sponsor seeks a PADEP permit modification to expand its mining westward towards the Ohio River Basin, Cherry Tree Mine must make application to the Commission to modify this docket approval when it files its request to PADEP. The application must demonstrate how the expansion will impact the groundwater flow system and whether mining will induce a shift in the basin divide. If groundwater will be diverted into or out of the Susquehanna River Basin, appropriate applications must be submitted for review and approval by the Commission.

The project is subject to the Commission's water conservation requirements, as per Commission Regulation §806.25(b).

The project sponsor has paid the appropriate application fee, in accordance with Commission Regulation §806.13, and in accordance with Commission Resolution No. 2006-08. The project sponsor has provided all proofs of notification, as required by Commission Regulation §806.15.

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

1. The project's consumptive water use of up to 0.315 mgd is approved pursuant to Article 3, Section 3.10, of the Compact.

2. The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision.

3. The project sponsor shall comply with all Commission regulations, including monitoring and reporting requirements, as per Commission Regulation §806.30.

4. The project sponsor shall maintain a meter, accurate to within five (5) percent, on the freshwater return line to measure the quantity of water siphoned underground to the continuous mining machines. The project sponsor may propose alternative accounting procedures to the Commission for staff review and approval.

5. 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 shall be submitted on-line and 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 water retained in the coal, used for the control of methane gas, used for dust control both underground and at the surface, and evaporated from the settling ponds. Commission staff shall review and approve the method of calculation of evaporative loss from the treatment ponds.

6. Within sixty (60) days from the date of this approval, the project sponsor shall install and maintain metering, accurate to within five (5) percent, to measure its groundwater withdrawal. The project sponsor shall keep daily records of the project's groundwater withdrawal and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports shall be submitted on-line and 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. The project sponsor shall notify the Commission, in writing, when the meter is installed.

7. To satisfy the Commission's current mitigation 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 of water retained in the coal, used for the control of methane gas, used for dust control both underground and at the surface, and evaporated from the settling ponds. 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.

8. The project sponsor shall maintain any meters or measuring devices, accurate to within five (5) percent, so as to provide a continuous, accurate record of withdrawals and uses, and certify to the Commission once every five (5) years, or as otherwise requested, the accuracy of all measuring devices and methods to within five (5) percent of actual flow.

9. The project sponsor has offered a settlement by agreement, pursuant to Commission Regulation §808.18, in the amount of \$4,742 for its consumptive water use found to be in noncompliance with Commission Regulation §806.4, and is hereby accepted. Except where the full amount of same has been tendered to the Commission in advance hereof, this action shall be contingent upon and shall not be effective until payment of the settlement amount is made to the Commission, or arrangements for such payment have been made that are acceptable to the Executive Director of the Commission. Failure to make such payment or payment arrangements with the Commission within forty-five (45) days hereof shall render this approval null and void.

10. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §806.25(b).

11. To satisfy the Commission's registration requirement, the project sponsor shall register with the PADEP all surface water and groundwater sources described in this docket in accordance with the Pennsylvania Water Resources Planning Act (Pennsylvania Act 220).

12. 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.

13. If the project sponsor fails to comply with the provisions of the Compact or any rule, regulation, or order of the Commission, or any term or condition of this docket, the project is subject to enforcement actions pursuant to Commission Regulation §808.

14. 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.

15. 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.

16. This approval is effective until December 5, 2022. As specified in Commission Regulation §806.31(e), if the project sponsor submits a renewal application no later than June 5, 2022, the existing approval shall be deemed extended until such time as the Commission renders decision on the application.

17. 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 5, 2007

Herbert M. Sachs, Chair
Maryland Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

Exhibit A6

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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

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

Docket No. 20020819-1

Approval Date: August 15, 2002

Modification Date: December 5, 2007

MOUNTAINVIEW THOROUGHBRED RACING ASSOCIATION, INC.

Consumptive Water Use of up to 0.438 mgd (Peak Day), for
Maintenance and Operation of a Horse Racing and Casino Gaming Facility,
East Hanover Township, Dauphin County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10, of the Susquehanna River Basin Compact (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.32, requiring the reopening and modification of an existing docket. The Commission received the application for modification on July 17, 2007.

Description

Purpose. The purpose of the application is to request authorization for the consumptive use of water associated with a new casino gaming facility at the racetrack. The Commission originally approved the consumptive use of water of up to 0.438 million gallons per day (mgd) of water associated with the commercial operation of a thoroughbred horse-racing track. The project sponsor has not requested an increase in consumptive water use previously approved in Commission Docket No. 20020819 (Docket), approved August 15, 2002.

This docket modification approves the new consumptive water uses, rescinds certain provisions, and revises the method for calculation of consumptive water use.

Location. The facility is located in the Lower Susquehanna Subbasin, HUC 02050305, Swatara Creek Watershed, East Hanover Township, Dauphin County, Pennsylvania.

Project Features. The project sponsor has requested authorization to consumptively use water for air conditioning using evaporative cooling towers for a new 345,000-square-foot integrated racing grandstand and casino gaming facility. In addition to a grandstand, the new facility houses computer gaming machines (slot machines), hospitality services, restaurants, wagering and gaming offices, and requires continuous cooling.

The project sponsor calculates the maximum day consumptive water use will be 0.438 mgd and the 30-day average consumptive water to increase from 0.109 mgd to 0.365 mgd. Therefore, the current approval for peak day consumptive use is adequate for projected future operations.

Water is supplied to the facility from two wells, Well 1 (East) and Well 2 (West), that pre-date 1978, the effective date of the groundwater withdrawal regulation. The withdrawal from the wells will provide water for all uses at the facility, including air conditioning, food service, sanitary and maintenance needs of the casino, grandstand, groom's quarters, horse barns, and racetrack. Groundwater withdrawals are separately metered at each well, pumped to a 250,000-gallon capacity treated water storage tank, and distributed throughout the facility.

The Docket describes the maximum average 30-day groundwater pumpage as 148,500 gallons per day (gpd) in 2001. The proposed withdrawal to support the increased average consumptive use will exceed the average historic use and requires approval under Commission Regulation §806.4(a)(2). The project sponsor is conducting the aquifer testing required in Commission Regulation §806.12 and will submit a report evaluating the results for review by Commission staff. The withdrawal applications will be considered in a future docket action.

Wastewater will continue to be treated at the facility's wastewater treatment plant and discharged to an unnamed tributary of Swatara Creek under National Pollutant Discharge Elimination System (NPDES) Permit No. PA0081264.

Findings

All water used for conditioning and maintenance of the dirt racetrack, irrigation of the turf racetrack and landscaping, dust control in the barn area, for care and watering of the resident and transient racehorses, and consumptive water use related to human use and consumption (restaurants, kitchens, groom's quarters, grandstand, and casino), as well as makeup water used in the operation of the casino's air conditioning cooling towers, is considered to be consumptively used.

The water is metered or monitored as described in the Docket, and reported to the Commission on a quarterly basis. Commission staff recommends that the project sponsor revise its methods for calculating daily consumptive use, based on the following:

1. The quantity of water used for racetrack maintenance and dust control in the barn areas could be reliably measured by metering the source used to irrigate the track and fill the tanker trucks. The metered volumes should be recorded daily.
2. The water used for human use and consumption, and care and watering of the resident racehorses at the horse barns, is consumptively used and should be metered.

3. The cooling tower influent and effluent (blowdown) water should be metered and the evaporative loss can be quantified using the difference between the two measured volumes.

The project sponsor should propose an accounting procedure for quantifying daily consumptive water use at the facility using metering rather than estimation for review and approval by Commission staff.

Should the proposed accounting procedure fail to accurately measure the project's consumptive water use, the Commission reserves the right to modify the metering, monitoring, and accounting procedures. Commission staff will provide the project sponsor with written notice of any required change in the metering, monitoring, and accounting procedures. Any alternative monitoring or accounting procedure requested by the project sponsor will be reviewed and approved by Commission staff.

The project is approved for a maximum day consumptive water use of up to 0.438 mgd for the care and watering of the resident racehorses, maintenance, irrigation, conditioning of the racetracks, dust control, and human consumption. The requested modification will not increase the peak day consumptive use at the project, although the 30-day average consumptive use is expected to increase related to the casino gaming facility. Commission staff is recommending approval of the requested modification and the amount of consumptive water use. Should the project's future consumptive water use be expected to exceed 0.438 mgd, the project sponsor must apply for a modification to this docket.

The project's consumptive use of water is subject to water mitigation requirements, as per Commission Regulation §806.22(b). To satisfy these requirements, the project sponsor proposes to continue to make quarterly payments to the Commission.

The project sponsor has paid the appropriate application fee (first installment payment) in accordance with Commission Regulation §806.13 and in accordance with Commission Resolution No. 2006-08. The project sponsor has provided all proofs of notification, as required by Commission Regulation §806.15.

Based on Commission Regulation §806.31(e), the prior Docket approval is effective until August 15, 2027. Commission staff recommends that the term of this docket modification be consistent with the prior approval.

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

1. The project's consumptive water use of up to 0.438 mgd (peak day) is approved pursuant to Article 3, Section 3.10, of the Compact.

2. The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision.

3. Conditions “a,” “d,” “g,” “h,” “j,” “k,” “l,” “m,” “n,” “o,” and “p” of the existing approval (Docket No. 20020819) are hereby rescinded.

4. The project sponsor shall comply with all Commission regulations, including consumptive water use monitoring and reporting requirements specified in Commission Regulation §806.22.

5. Within sixty (60) days from the date of this approval for this docket, the project sponsor shall install and maintain meters on the cooling tower water intake and discharge. The project sponsor shall maintain metering, accurate to within five (5) percent. The project sponsor shall notify the Commission, in writing, when the meters are installed.

6. The project sponsor shall maintain any meters or other measuring devices approved by the Commission, accurate to within five (5) percent, so as to provide a continuous, accurate record of withdrawals and uses, and certify to the Commission once every five (5) years, or as otherwise requested, the accuracy of all measuring devices and methods to within five (5) percent of actual flow.

7. Within sixty (60) days from the date of this approval, the project sponsor shall submit a metering plan to the Commission for review and approval by Commission staff that accounts for all water withdrawn from the groundwater sources, and the total consumptive water use at the facility, including the quantity of water used for conditioning and maintenance of the dirt racetrack, irrigation of the turf racetrack and landscaping, dust control in the barn area, for care and watering of the resident and transient racehorses, related to human use and consumption, and makeup water used for building cooling. The project sponsor shall propose a methodology to account for its consumptive water use based on metering rather than estimation. Following approval, the project sponsor shall execute the plan and complete installation of any additional meters beyond those required in Condition 6 in accordance with the approved schedule, and shall certify to the Commission that the monitoring plan has been implemented. The project sponsor shall maintain meters, accurate to within five (5) percent.

8. 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 shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter.

9. To satisfy the Commission’s current compensation requirements for consumptive water use set forth in Commission Regulation §806.22, 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 of water used for conditioning and maintenance of the dirt racetrack, irrigation of the turf racetrack and landscaping, dust control in the barn area, for care and watering of the resident and transient racehorses, related to human use and consumption, and makeup water used for

building cooling. 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.

10. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §806.25(b).

11. To satisfy the Commission's registration requirement, the project sponsor shall register with the Pennsylvania Department of Environmental Protection (PADEP) all groundwater sources described in this docket in accordance with the Pennsylvania Water Resources Planning Act (Pennsylvania Act 220).

12. 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.

13. 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.

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

15. 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 water resources. The Commission, upon its own motion, may at any time reopen any project approval and make additional corrective modifications that may be necessary.

16. 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.

17. This approval is effective until August 15, 2027. As specified in Commission Regulation §806.31(e), if the project sponsor submits a renewal application no later than February 15, 2027, the existing approval shall be deemed extended until such time as the Commission renders a decision on the application.

18. If the project is discontinued for such a period of time and under such circumstances 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 5, 2007

Herbert M. Sachs, Chair
Maryland Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

Exhibit A7

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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

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

Docket No. 20020615-1

Approval Date: June 12, 2002

Modification Date: December 5, 2007

KING DRIVE CORP.– THE GOLF CLUB AT FELICITA

Surface Water Withdrawal of up to 0.500 mgd, When Available, from Fishing Creek,
and a Consumptive Water Use of up to 0.500 mgd, for Golf Course Irrigation,
Middle Paxton Township, Dauphin County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10, of the Susquehanna River Basin Compact (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received the modification application on January 30, 2006 and supplemental information on August 1, 2007 and October 24, 2007.

Description

Purpose. The purpose of the application is to request approval for the modification of an existing storage pond (Pond 9) that is used as a source of water for irrigation of greens, tees, and fairways at an existing 19-hole golf course.

The original Commission approval for the withdrawal from Fishing Creek and consumptive water use was issued in the name of the project facility, The Golf Club at Felicita, on June 12, 2002, as Commission Docket No. 20020615 (Docket). This docket modification is issued to the existing property owner, King Drive Corp., and modifies certain project features, revises the method of calculation of consumptive water use, and rescinds certain provisions.

Findings

The project modification is subject to Commission approval standards and reporting requirements, as per Commission Regulations §806.21, §806.22, §806.23, and §806.30.

Water currently is supplied to the irrigation system from a withdrawal from Fishing Creek, as described in the Docket, and two storage ponds (Ponds 9 and 15). Ponds 9 and 15 are off-stream ponds that were originally constructed in 1960. The project sponsor recently installed

a water line to transfer water between Ponds 9 and 15 when it upgraded its irrigation system (a twin-row configuration with fully adjustable heads).

The project sponsor plans to expand Pond 9 (to be completed in early 2008) to provide a total 3.4 million gallons of storage for the new irrigation system.

All water evaporated from the expanded portion of Pond 9 (approximately 0.87 acres), as well as water used for golf course irrigation, is considered to be used consumptively. Water evaporated from the storage pond will be calculated by the project sponsor, employing a methodology acceptable to the Commission.

Upon completion of Pond 9 construction, the project sponsor should supply the Commission with drawings and calculations of the pond's surface area, bottom profile, and total storage.

To mitigate for its consumptive water use, the project sponsor will continue to make quarterly payments to the Commission. The payment will be based on the quantity of water used for irrigation, minus the pre-1971 consumptive use of 0.081 million gallons per day (mgd), plus the evaporative loss from the expanded surface area of Pond 9. If the daily grandfathered quantity exceeds the project's calculated consumptive water use, that day's consumptive water use is considered to be zero.

Water is diverted from Fishing Creek, on-site springs, and collected from surface water runoff to fill the storage ponds. Water can be circulated between Ponds 9 and 15, as needed, for irrigation water. Commission staff recommends that the project sponsor submit a metering plan for review and approval by Commission staff that accurately quantifies the daily consumptive water use at the facility. The plan should contain metering, accurate to within five percent. The project sponsor should report the daily consumptive water use data to the Commission quarterly. The project sponsor may install meters on the water transfer line used to balance pond levels or propose an alternate method.

Should the proposed accounting procedure fail to accurately measure the project's consumptive water use, the Commission reserves the right to modify the metering, monitoring, and accounting procedures. Commission staff will provide the project sponsor with written notice of any required change in the metering, monitoring, and accounting procedures. Any alternative monitoring or accounting procedure requested by the project sponsor must be reviewed and approved by Commission staff.

Water from Fishing Creek can be diverted to an off-stream pond via a trench. The stream withdrawal currently has a passby structure and engineering controls in place to regulate the amount of water that can be diverted from Fishing Creek. The Docket required that, beginning June 12, 2006, the project sponsor maintain a passby flow of not less than 20 percent of annual average daily flow (ADF), which equals 3.66 cubic feet per second (cfs) or 1,645 gallons per minute (gpm), and to cease all withdrawals when streamflow drops below 3.66 cfs. The project sponsor installed a passive passby system that was inspected by Commission staff and approved on June 12, 2006.

Pond 9 is constructed as an unlined, off-stream pond. The pond has a drain that is piped under the fairway and discharges into a wetland. The wetland complex has a consolidated flow that continues downslope to other ornamental ponds. Due to the geographic location and function of Pond 9 in the hydrologic setting, a constant discharge of 0.025 cfs (or 11 gpm) should be released from the pond at all times.

Commission staff recommends that the project sponsor incorporate a passby flow device to protect aquatic resources. The project sponsor should submit its design and a proposed construction schedule 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 project sponsor must maintain the passby system, keeping it fully functional and free of debris.

When construction is complete and the ponds are full, the project sponsor has sufficient storage on-site for approximately 32 days of irrigation, based on the maximum average 30-day consumptive use of water of 0.156 mgd and the 4.99 million gallons of water in storage. Commission staff agrees that this is sufficient storage for golf course operations.

The project sponsor has five on-site wells that are used for drinking water and sanitary purposes: two wells at the Tavern Steak House, two wells at the Clubhouse and Grille, and one well at the maintenance shop. These wells have not been reviewed for nor are approved as sources of irrigation water. If any new or existing well is proposed as a water source for the irrigation system, the project sponsor must submit an application to the Commission.

Commission staff recommends that all other conditions in Commission Docket No. 20020615 that are not inconsistent with this docket action should remain effective.

The project is subject to the Commission's water conservation requirements, as per Commission Regulation §806.25.

The project sponsor has paid the appropriate application fee, in accordance with Commission Regulation §806.13, and in accordance with Commission Resolution No. 2006-08. The project sponsor has provided all proofs of notification, as required by Commission Regulation §806.15.

Based on Commission Regulation §806.31(e), 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.

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

1. Commission Docket No. 20020615, as approved June 12, 2002, is hereby modified to change certain project features, pursuant to Article 3, Section 3.10, of the Compact.
2. The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision.
3. Conditions “b,” “c,” “g,” “j,” “k,” “l,” “m,” “n,” and “o” of the Docket are hereby rescinded.
4. 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 shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity pumped to the irrigation system and that evaporated from the expanded surface area of Pond 9 (new surface area minus the pre-existing 0.87 acres). Commission staff shall review and approve the method of calculation of evaporative loss from the pond.
5. Within sixty (60) days from the date of completion of expansion construction of Pond 9, the project sponsor shall submit to the Commission drawings and calculations of the pond’s surface area, bottom profile, and total storage. The project sponsor shall notify the Commission, in writing, when the pond construction is completed.
6. The project sponsor shall submit a metering plan to the Commission for review and approval by Commission staff at the completion of the final facility design and at least three (3) months prior to the start-up of the facility. This plan shall account for all water withdrawn from Fishing Creek, the expansion area of Pond 9, and the total consumptive water use at the site. The plan also shall include a schedule for any meter installation to be completed prior to operation. Following approval, the project sponsor shall execute the plan and complete any installation of meters in accordance with the approved schedule. The project sponsor shall notify the Commission, in writing, when the meters are installed and certify the accuracy of the measuring devices to within five (5) percent of actual flow. Prior to operation, the project sponsor shall notify the Commission that the monitoring plan has been implemented.
7. Prior to operation, the project sponsor shall install metering on the water withdrawal, 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 shall be submitted on-line and 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.
8. The project sponsor shall maintain any meters or other measuring devices approved by the Commission, accurate to within five (5) percent, so as to provide a continuous, accurate record of withdrawals and uses, and certify to the Commission once every five (5) years, or as

otherwise requested, the accuracy of all measuring devices and methods to within five (5) percent of actual flow.

9. The project sponsor shall allow a downstream release at all times of water from Pond 9 of 0.025 cfs or 11 gpm. The project sponsor shall install a flow measurement device that measures the outflow of the pond, keep daily records of the outflow during the irrigation season, and report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter.

10. The project sponsor shall submit its design and a proposed construction schedule for the flow measurement devices within sixty (60) days of 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. The Commission reserves the right to inspect the passby flow device and the flow measurement devices at any time.

11. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §806.22, 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 pumped through the irrigation system plus the evaporative loss from the expanded surface area of Pond 9 (new surface area minus the pre-existing 0.87 acres). 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 81,000 gallons per day. 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.

12. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §806.25(b).

13. The project sponsor shall submit an application for review and approval by the Commission prior to the use of any new or existing well as a water source for the irrigation system.

14. To satisfy the Commission's registration requirement, the project sponsor shall register with the Pennsylvania Department of Environmental Protection all surface water sources described in this docket in accordance with the Pennsylvania Water Resources Planning Act (Pennsylvania Act 220).

15. 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.

16. If the project sponsor fails to comply with the provisions of the Compact or any rule, regulation, or order of the Commission, or any term or condition of this docket, the project is subject to enforcement actions pursuant to Commission Regulation §808.

17. 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.

18. 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.

19. All other conditions in Commission Docket No. 20020615, as approved June 12, 2002, not inconsistent herewith shall remain effective.

20. This approval is effective until June 12, 2027. The term of this docket modification is in accordance with the term of the prior Docket approval. As specified in Commission Regulation §806.31(e), if the project sponsor submits a renewal application no later than December 12, 2026, the existing approval shall be deemed extended until such time as the Commission renders decision on the application.

21. 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 5, 2007

Herbert M. Sachs, Chair
Maryland Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

Exhibit A8

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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

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

Docket No. 20071202

Approval Date: December 5, 2007

YORK PLANT HOLDING LLC

Consumptive Water Use of up to 0.575 mgd (Peak Day),
for Power Plant Operation,
Springettsbury 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 (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received an application for consumptive use of water on September 20, 2007.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water for the production of electricity at a natural gas-fired electrical power generating facility.

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050306, Springettsbury Township, York County, Pennsylvania.

Project Features. On June 26, 2007, York Plant Holding LLC (YPH) acquired previously approved STI Capital Company, formerly Solar Turbines, Inc. (Commission Docket No. 19870401, approved April 9, 1987; and modifications approved November 19, 1992 and June 8, 2000). YPH is requesting approval for consumptive use of up to 0.575 million gallons per day (mgd) for the power generating facility. The project sponsor is not requesting an increase in consumptive use.

Specific location information concerning discrete water-related project features has been withheld for security reasons.

The YPH facility uses natural gas to generate 45 megawatts (MW) of electrical power and steam. The facility, originally used as a boiler plant for Caterpillar's Precision Barstock manufacturing plant, was replaced with a cogeneration plant in 1989. The cogeneration facility consisted of six combustion turbines and generators. Steam was used for operations at

Caterpillar, Inc. (Caterpillar) and to drive two steam turbine generator sets. In 1999, Caterpillar phased out production. From 2000 to 2004, the power plant provided minimal electricity and steam for heating the former Caterpillar building. By 2004, the Caterpillar building no longer used utilities provided by the power generating plant, and since that time, the plant has been sending power to the power distribution grid. The plant only operates during very cold (<25 degrees Fahrenheit) or hot (>85 degrees Fahrenheit) temperatures. In 2007, the facility operated approximately 100 days.

The plant currently has four combustion turbines. YPH intends to increase the plant's generating capacity within the next 15 years and increase production from 45 MW to 95 MW by adding two combustion turbines.

Water for the YPH generating facility is purchased from the York Water Company.

Findings

The project is subject to Commission approval, monitoring, and reporting requirements, as per Commission Regulations §806.4(a)(1)(iv), §806.22, and §806.30.

All water evaporated or otherwise lost from the cooling system or other power generation processes is considered to be consumptively used. Consumptive use is calculated by subtracting the facility's metered effluent from the metered inflow to the facility. Inflow and outflow to the facility are currently 100 percent metered.

Should the metering procedure fail to measure YPH's consumptive water use, the Commission reserves the right to modify the measuring, monitoring, and accounting procedures. Commission staff will provide the project sponsor with prior written notice of any required change in the measuring, monitoring, and accounting procedures. Any alternative measuring, monitoring, or accounting procedure requested by the project sponsor must be reviewed and approved by Commission staff.

The project sponsor should keep daily records of the consumptive use. The required monitoring data should be submitted to the Commission quarterly, as specified in Commission Regulation §806.30(b)(1).

The project's consumptive use of water is subject to mitigation requirements, as per Commission Regulation §806.22. The project sponsor proposes to make payments to the Commission to satisfy its water mitigation requirements.

The project sponsor reports a current maximum daily consumptive use of 466,400 gallons per day (gpd) and projects a maximum daily consumptive use of 575,000 gpd for the year 2022. Considering its business plan to increase generating capacity, Commission staff recommends approval of the requested consumptive water use of up to 0.575 mgd (peak day).

The project sponsor has paid the appropriate application fee, in accordance with Commission Regulation §806.16, and in accordance with Commission Resolution No. 2006-08.

The project sponsor has provided all proofs of notification, as required by Commission Regulation §806.15.

No adverse impacts to area surface water or groundwater withdrawals 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.

Decision

1. Consumptive water use of up to 0.575 mgd (peak day) is approved pursuant to Article 3, Section 3.10, of the Compact.

2. The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision.

3. The project sponsor shall comply with all Commission regulations, including monitoring and reporting requirements, as per Commission Regulation §806.30.

4. 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 shall be submitted on-line and 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 water evaporated or otherwise lost from the cooling system or other power generation process.

5. The project sponsor shall maintain any meters or other measuring devices approved by the Commission, accurate to within five (5) percent, so as to provide a continuous, accurate record of consumptive use, and certify to the Commission once every five (5) years, or as otherwise requested, the accuracy of all measuring devices and methods to within five (5) percent of actual flow.

6. The project sponsor shall comply with applicable Commission water conservation requirements as per Commission Regulation §806.25(b).

7. To satisfy the Commission's current mitigation requirements for consumptive water use set forth in Commission Regulation §806.22, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of the water consumptively used by the project. The daily quantity of water consumptively used shall be the quantity of water evaporated or otherwise lost from the cooling system or other power generation process. 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.

8. 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.

9. If the project sponsor fails to comply with the provisions of the Compact or any rule, regulation, or order of the Commission, or any term or condition of this docket, the project is subject to enforcement actions pursuant to Commission Regulation §808.

10. 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.

11. 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.

12. This approval is effective until December 5, 2022. As specified in Commission Regulation §806.31(e), if the project sponsor submits a renewal application no later than June 5, 2022, the existing approval shall be deemed extended until such time as the Commission renders decision on the application.

13. 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 5, 2007

Herbert M. Sachs, Chair
Maryland Commissioner

RESOLUTION NO. 2007-05

A RESOLUTION of the Susquehanna River Basin Commission extending the emergency certificate issued to the City of Lock Haven on September 28, 2007.

WHEREAS, because of drought conditions affecting north central Pennsylvania and the ongoing rehabilitation of a City-owned reservoir requiring a large drawdown, the City of Lock Haven, Pennsylvania, reported that it was unable to meet the water supply needs of its public distribution system from approved sources; and

WHEREAS, the City of Lock Haven, by application to the Commission dated September 23, 2007, requested that the Commission therefore issue an emergency certificate pursuant to 18 CFR Section 806.34 allowing the City to make temporary withdrawals from the West Branch Susquehanna River; and

WHEREAS, the Executive Director, after consultation with the Chair of the Commission who is also the member from the affected state, issued an emergency certificate pursuant to the said Section 806.34 on September 28, 2007 allowing the said withdrawals in an amount not exceeding 3.000 million gallons per day (mgd) pending review and determination by the Commission on December 5, 2007; and

WHEREAS, the City has notified the Commission that the above described emergency conditions continue to exist, necessitating an extension of the emergency certificate issued on September 28, 2007.

NOW THEREFORE BE IT RESOLVED THAT:

1. The emergency certificate issued by the Executive Director on September 28, 2007 is hereby extended to March 13, 2008.
2. All the conditions and limitations set forth of the said emergency certificate shall remain in full force and effect and the Executive Director is hereby authorized to impose any other conditions that he deems necessary or appropriate.
3. This Resolution shall be effective immediately.

Date: December 5, 2007

Herbert M. Sachs, Chairman

RESOLUTION NO. 2007-06

A RESOLUTION of the Susquehanna River Basin Commission extending the emergency certificate issued to the Houtzdale Municipal Authority on September 28, 2007.

WHEREAS, because of drought conditions affecting north central Pennsylvania which had lowered the stream level at its surface water intake and limited production from its Well TH-10, the Houtzdale Municipal Authority (the "Authority") of Houtzdale, Pennsylvania reported that it was unable to meet the water supply needs of its public distribution system from its approved sources; and

WHEREAS, the Authority, by application to the Commission dated September 24, 2007, requested that the Commission therefore issue an emergency certificate pursuant to 18 CFR Section 806.34 allowing the Authority to operate Well TH-4 concurrently with Well TH-10; and

WHEREAS, the Executive Director, after consultation with the Chair of the Commission who is also the member from the affected state, issued an emergency certificate pursuant to the said Section 806.34 on September 28, 2007 allowing the said concurrent operation of the two wells pending review and determination by the Commission on December 5, 2007; and

WHEREAS, the Authority has notified the Commission that the above described emergency conditions continue, necessitating an extension of the emergency certificate issued on September 28, 2007.

NOW THEREFORE BE IT RESOLVED THAT:

1. The emergency certificate issued to the Houtzdale Municipal Authority by the Executive Director on September 28, 2007 is hereby extended to March 13, 2008.
2. All the conditions and limitations set forth of the said emergency certificate shall remain in full force and effect and the Executive Director is hereby authorized to impose any other conditions that he deems necessary or appropriate.
3. This Resolution shall be effective immediately.

Date: December 5, 2007

Herbert M. Sachs, Chairman

RESOLUTION NO. 2007-07

A RESOLUTION of the Susquehanna River Basin Commission (the "Commission") revising the project fee schedule requiring the payment of fees for Commission review and compliance monitoring of certain water resource projects, and establishing certain administrative procedures related thereto.

WHEREAS, recognizing that review of water resource projects pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact (the "Compact") and the Commission's "Regulations and Procedures for Review of Projects" is a substantial and growing program activity representing a major public cost, the Commission revised its project fee schedule in March 2005 under Resolution No. 2005-03; and

WHEREAS, Resolve No. 3 of said Resolution No. 2005-03 states that, "Subject to public hearing upon due notice given and final Commission approval, the categorical fees set forth herein shall be increased at the rate of 10% per year for five consecutive years and a Consumer Price Index (CPI) adjustment shall be made annually, beginning on January 1, 2007;" and

WHEREAS, experience with the current fee schedule has indicated the need for certain minor amendments and clarifications of the text.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Commission hereby adopts a revised project fee schedule implementing the above referenced revisions, which is attached hereto and made a part of this Resolution.
2. Except as otherwise provided below, the provisions of this revised project fee schedule are established by and subject to this Resolution, which supersedes Resolution No. 2006-08.
3. Resolve No. 3 of Resolution No. 2005-03, as set forth above in this Resolution, is incorporated herein and made a part of this Resolution, and shall remain in full force and effect.
4. This Resolution shall be effective on January 1, 2008.

Date: December 5, 2007

Herbert M. Sachs, Chairman

Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed



PROJECT FEE SCHEDULE January 1, 2008 – December 31, 2008

**Adopted by Resolution No. 2007-07
December 5, 2007**

1. The Commission requires payment of a non-refundable project review fee, in accordance with Tables 1, 2 and 3 herein, for the following categories of projects which require review and approval by the Commission under the Susquehanna River Basin Compact (the “Compact”) and Commission Regulations Parts 801 and 806.
 - a. Consumptive uses.
 - b. Surface and groundwater withdrawals.
 - c. Diversions.
 - d. Hydroelectric projects.
 - e. Any other projects requiring the review and approval of the Commission under the Compact that do not involve a request for a quantity of water.
2. If any project involves more than one of the above categories, a separate fee is required for each category.
3. Agencies, authorities, or commissions of the member jurisdictions to the Compact are exempt from fees. However, political subdivisions of the member jurisdictions are subject to the fees.
4. Agricultural water use projects primarily involving the raising of food or forage crops, trees, flowers, shrubs, turf products and livestock, or aquaculture, are exempt from fees.
5. Municipal public water suppliers shall receive a 20% discount on all of the fees and special charges as set forth in the “Municipal Fee” category of the attached Tables 1, 2 and 3.
6. Groundwater withdrawal fees are based on a maximum 30-day average. All other fees are based on peak day.
7. The appropriate fee must be submitted to the Commission with the project application (see Paragraph 10 regarding an installment payment option). Failure to submit payment of the fee or submission of an insufficient fee with the application will result in its return

to the project sponsor or, at the discretion of the Commission, an additional billing of the proper fee to the project sponsor. Except as otherwise provided in Paragraph 9, refunds will be made for any excess portion of a fee submitted with the application. The Commission will not take action on a project application until the appropriate fee is paid.

8. Sponsors of projects involving more than one category of fees shall include an itemized list of those fees with their payment.
9. Fees are non-refundable and are not reduced, nor any amount credited to the project sponsor, where the Commission's docket approval authorizes an amount or quantity of water that is less than that requested by the project sponsor.
10. If any single application fee exceeds \$10,000, project sponsors have the option of making installment payments. This option provides for the payment of up to three consecutive equal annual installments with interest thereon at the rate of 10 percent per annum on the unpaid balance. The project sponsor should indicate that it intends to use this option when making application. The first annual installment is due at the time the application is submitted.
11. When the fee calculated in accordance with the tables below is deemed by the Executive Director to be insufficient due to exceptional costs associated with review, the Executive Director may impose a fee in the amount up to 100 percent of project review costs deemed by him or her to be exceptional.
12. Sponsors for modification of projects previously approved by the Commission shall be required to pay a fee in accordance with the schedule set forth in Table 2.
13. Sponsors of projects with expiring Commission approvals shall pay the same fees as sponsors of new projects.
14. The Commission may, for good cause shown, waive or reduce any of the fees set forth herein.

TABLE 1

PROJECT FEE SCHEDULE
January 1, 2008 to December 31, 2008

Project Category	Requested Quantities Or Capacities	Standard Fee	Municipal Fee
Consumptive Uses Paying Consumptive Use Fee to Commission	20,000 gallons per day (gpd) – 99,999 gpd	\$ 1,950	\$ 1,560
	100,000 gpd – 499,999 gpd	3,900	3,120
	500,000 gpd – 999,999 gpd	7,790	6,230
	1 mgd – 5 mgd	23,380	18,700
	Over 5 mgd	38,970	31,180
	Approval by Rule	½ normal fee ¹	½ normal fee ¹
Consumptive Uses Not Paying Consumptive Use Fee to Commission	20,000 gallons per day (gpd) – 99,999 gpd	\$ 4,660	\$ 3,730
	100,000gpd – 499,999 gpd	12,600	10,080
	500,000 gpd – 999,999 gpd	16,500	13,200
	1 mgd – 5 mgd	49,360	39,490
	Over 5 mgd	64,950	51,960
Withdrawals ²	Less than 100,000 gallons per day (gpd)	\$ 850	\$ 680
	100,000 – 249,999 gpd	1,950	1,560
	250,000 gpd – 499,999 gpd	3,900	3,120
	500,000 gpd – 999,999 gpd	5,850	4,680
	1 mgd – 5 mgd	7,790	6,230
	5,000,001 gpd – 10 mgd	23,380	18,700
	Over 10 mgd	23,380 + \$3,900 for each additional 1 mgd increment ³	18,700 + \$3,120 for each additional 1 mgd increment ³
Diversions	Up to 250,000 gpd	\$ 6,500	\$ 5,200
	Greater than 250,000 gpd	19,490 (Plus consumptive use fee if applicable)	15,590 (Plus consumptive use fee if applicable)
Hydroelectric Projects	Greater than 10 megawatts (anything less handled under “all other projects” below)	\$9,740	Not Applicable
All other projects requiring review and approval and not otherwise specified.	Not Applicable	\$3,250	\$2,600

¹ Based on the fee schedule listed in this table in the consumptive use category.

² A separate fee is required for each point of withdrawal or withdrawal location.

³ Except as provided in No. 11 on page 2, the maximum project fee for this category will be \$200,000.

TABLE 2**PROJECT MODIFICATION FEE SCHEDULE¹**

January 1, 2008 to December 31, 2008

Project Category	Requested Modified Quantities Or Capacities	Standard Fee	Municipal Fee
Consumptive Uses	0 gallons per day (gpd) – 99,999 gpd	\$ 1,300	\$ 1,040
	100,000 gpd – 499,999 gpd	3,900	3,120
	500,000 gpd – 999,999 gpd	7,790	6,230
	1 mgd – 5 mgd	23,380	18,700
	Over 5 mgd	38,970	31,180
	Approval by Rule	½ normal fee ²	½ normal fee ²
Withdrawals ³	0 gallons per day (gpd) – 249,999 gpd	\$ 1,300	\$ 1,040
	250,000 gpd – 499,999 gpd	2,600	2,080
	500,000 gpd – 999,999 gpd	3,900	3,120
	1 mgd – 5 mgd	5,850	4,680
	5,000,001 gpd – 10 mgd	23,380	18,700
	Over 10 mgd	23,380 + \$3,895 for each additional 1 mgd increment ⁴	18,700 + \$3,116 for each additional 1 mgd increment ⁴
Diversions	Up to 250,000 gpd	\$ 6,500	\$ 5,200
	Greater than 250,000 gpd	19,490 (Plus consump- tive use fee if applicable)	15,590 (Plus consump- tive use fee if applicable)
Hydroelectric Projects	Greater than 10 megawatts (anything less handled under “all other projects” below.)	\$9,740	Not Applicable
All other projects requiring review and approval and not otherwise specified.	Not Applicable	\$3,250	\$2,600

¹ The amount of the fee for a modification of an approved project involving a request for an additional quantity of water shall not be less than the difference between the amount of the fee that was paid on the total quantity of water requested in an initial application, and the fee for the total quantity of water (existing quantity + requested increase quantity) stipulated in Table 1.

² Based on the fee schedule listed in this table in the consumptive use category.

³ A separate fee is required for each point of withdrawal or withdrawal location.

⁴ Except as provided in No. 11 on page 2, the maximum project fee for this category will be \$200,000.

TABLE 3

SPECIAL CHARGES

January 1, 2008 to December 31, 2008

Project Category	Standard Fee	Municipal Fee
Constant Rate Aquifer Testing Plan Evaluation ¹	\$2,600	\$2,080
Transfer of Existing Approval	1,300	1,040
Emergency Certificate	3,250	2,600

¹ A separate fee is required for each withdrawal location.

RESOLUTION NO. 2007-08

A RESOLUTION of the Susquehanna River Basin Commission adopting and promulgating a final rule making action amending its project review regulations to clarify the definition of “agricultural water use,” provide a qualified exception to the consumptive use approval requirements for agricultural water use projects, and make a minor correction to an authority citation.

WHEREAS, the Commission is authorized under Sections 3.9 and 15.2 of the Susquehanna River Basin Compact, P.L. 91-575 (the “Compact”), to “adopt, amend, and repeal rules and regulations to implement the compact;” and

WHEREAS, in September 2007, the Commission proposed amendments to 18 CFR Parts 806 and 808 of its project review regulations that clarify the definition of “agricultural water use,” provide a qualified exception to the consumptive use approval requirements for agricultural water use, and make a minor correction to an authority citation (the “proposed rule making action”); and

WHEREAS, this proposed rule making action was published in the Federal Register on October 1, 2007, the New York Register on October 10, 2006, the Pennsylvania Bulletin on October 13, 2006 and the Maryland Register on October 12, 2006; and

WHEREAS, in accordance with 18 CFR §808.1, this proposed rule making action was the subject of a public hearing held in Williamsport, Pennsylvania on November 7, 2007; and

WHEREAS, the Commission accepted comments on the proposed rule making action through November 15, 2007; and

WHEREAS, no comments requesting changes to the proposed rule making action were received either at the public hearing or otherwise during the comment period; and

WHEREAS, it is the determination of the Commission that the activities to be regulated under its project review regulations, as hereby amended, have, both singularly and cumulatively, a major effect on the water resources of the basin and on water resources management; and

WHEREAS, the Commission maintains a Comprehensive Plan for the Management and Development of the Water Resources of the Susquehanna River Basin (the “Comprehensive Plan”); and

WHEREAS, it is the further determination of the Commission that its project review regulations, as hereby amended, are required for the effectuation of the Comprehensive Plan and the implementation of the Compact.

NOW THEREFORE BE IT RESOLVED THAT:

1. A final rule making action amending Title 18, Parts 806 and 808 of the Code of Federal Regulations, as set forth in a document dated December 5, 2007, is hereby adopted by the Commission.

2. The Executive Director is hereby directed to publish a final rule making notice in the Federal Register and comparable signatory state publications in accordance with this final rule making action.

3. This final rule making action shall be effective on March 15, 2008.

Date: December 5, 2007

Herbert M. Sachs, Chairman

RESOLUTION NO. 2007-09

A RESOLUTION of the Susquehanna River Basin Commission determining that the low flow augmentation projects sponsored by the Commission's member states provide sufficient mitigation for agricultural water use to meet the standards set forth in 18 CFR §806.22.

WHEREAS, in an action immediately preceding consideration of this Resolution, the Commission adopted a final rule making action amending its project review regulations to provide a qualified exception to the consumptive use approval requirements for agricultural water use projects; and

WHEREAS, such qualified exception is conditioned upon a determination by the Commission that low flow augmentation projects sponsored by the Commission's member states provide sufficient mitigation for agricultural water use to meet the standards set forth in §806.22 relating to consumptive uses of water; and

WHEREAS, the Commission's member states have taken definitive steps to financially support projects that will provide storage and release of water to sufficiently mitigate agricultural water use in the basin, including, but not limited to, the ongoing implementation of the Whitney Point Lake Section 1135 Modification Project in Broome County, New York, and the Lancashire No. 15 AMD Treatment Plant in Cambria County, Pennsylvania.

NOW THEREFORE BE IT RESOLVED THAT:

1. Pursuant to 18 CFR §806.4 (a)(1), as amended by the final rulemaking action referenced above, the Commission hereby determines that low flow augmentation projects sponsored by the Commission's member states provide sufficient mitigation to meet the standards for consumptive uses set forth in 18 CFR §806.22.

2. This Resolution shall be effective March 15, 2008.

Date: December 5, 2007

Herbert M. Sachs, Chairman

RESOLUTION NO. 2007-10

A RESOLUTION of the Susquehanna River Basin Commission adopting an Aquifer Testing Guidance.

WHEREAS, on June 12, 2002, the Susquehanna River Basin Commission (the “Commission”) adopted a “Pumping Test Guidance” that provided guidance to project sponsors for the development of pumping test plans for the constant rate pumping (aquifer) test then required under the former 18 CFR Section 803.43 (b); and

WHEREAS, the Commission adopted a revised set of project review regulations (18 CFR Parts 806, 807 & 808) on December 5, 2006 that includes a new Section 806.12, which not only requires the performance of a constant-rate aquifer test, but also requires the preparation of a constant-rate aquifer test plan for prior review and approval by Commission staff; and

WHEREAS, as a result of this new regulation, there is a need for more specific guidance to enable project sponsors to satisfy these new regulatory requirements.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Susquehanna River Basin Commission hereby adopts an Aquifer Testing Guidance as presented herewith by staff and dated December 5, 2007.
2. This Resolution shall be effective immediately.

Date: December 5, 2007

Herbert M. Sachs, Chairman