

Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed



April 29, 2004

TO ALL CONCERNED:

At the March 10, 2004 meeting, the draft minutes of the December 11, 2003 Commission meeting were approved as written. Please attach this notice to your copy of the December 11, 2003 minutes.



- DRAFT -

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

**MINUTES OF THE
SUSQUEHANNA RIVER BASIN COMMISSION**

March 10, 2004
#2004-01

The meeting was held at the Hilton Harrisburg & Towers, One North Second Street, Harrisburg, Pennsylvania. Chairwoman Cathy Curran Myers called the meeting to order at 1:00 p.m.

ROLL CALL

Commissioners Present

Ms. Cathy Curran Myers, Secretary for Water Management, Pennsylvania Department of Environmental Protection (PADEP)

Mr. Matthew G. Pajeroski, Chief, Water Rights Division, Md. Dept. of the Environment (MDE)

Col. Robert J. Davis, Jr., District Engineer, U.S. Army Corps of Engineers, Baltimore District (USACE)

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

**Alternate Commissioners
and Advisors Present**

Mr. William A. Gast, Chief, Division of Water Use Planning, PADEP

Ms. Stacey E. Brown, USACE

Mr. Scott J. Foti, NYDEC, Region 8

Staff Present

Mr. Paul O. Swartz, Executive Director

Mr. Thomas W. Beauduy, Deputy Director

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

Mr. Glen R. DeWillie, Chief
Water Resources Management Division

Mr. Michael G. Brownell, Water Resources
Scientist

Mr. Duane A. Friends, Chief Admin. Officer

Mr. Richard A. Cairo, Counsel/Secretary

Ms. Deborah J. Dickey, Executive Administrator

Ms. Susan S. Obleski, Director of
Communications

INTRODUCTION/WELCOME

Chairwoman Myers introduced the members of the Commission and the Executive Director.

PRESENTATIONS

1. Lancaster Water Budget Project

The Commission heard a presentation from Mr. Bob Edwards of the Commission staff on the progress of the Lancaster County Water Budget Project. This project covers a watershed in northcentral Lancaster County, Pennsylvania where water demands threaten to exceed water supplies. A modified version of a model developed in the Delaware basin is being used to compare water use in the area to water availability. A process is also in place to receive input from local interests through an advisory committee.

One very important study objective is to provide information and guidance to municipal officials and water managers in this rapidly growing area. More information on the project is available on SRBC's web site, www.srbc.net.

The Executive Director added that groundwater management would be a recurring theme for Commission meetings in 2004. Staff is in the process of revising the 1993 Groundwater Management Plan for the basin. Staff is recommending that the revised plan be released for public comment in June 2004.

2. Hydrologic Conditions

SRBC Water Management Chief Glen DeWillie presented information on the hydrologic conditions of the basin. Precipitation in February 2004 had been somewhat below normal and this, along with cold weather and frozen ground conditions, has caused some fall-off in streamflow and groundwater levels. Nevertheless, as a result of a very wet 2003, reservoirs in the basin are generally full and spilling, and the soil moisture index (Palmer Index) remains high. The Commission will continue to closely monitor all drought indicators over the spring and summer months.

ACTION ITEMS

1. Minutes of the December 11, 2003 Meeting

On a motion by Commissioner Lynch, seconded by Commissioner Pajerowski, the minutes of the regular business meeting of December 11, 2003, were unanimously adopted as written.

2. Registration Memorandum of Understanding with Pa. Dept. of Environmental Protection

The General Counsel presented a resolution (Exhibit A) providing for approval of the form of a Memorandum of Understanding (MOU) between the Commission and the PADEP regarding the registration of water withdrawals under Pennsylvania's Act 220 (Water Resources Planning Act). Commission regulations in effect in Pennsylvania have a similar registration requirement. To avoid duplication of effort, the MOU provides that user registration under Act 220 would constitute registration in satisfaction of Commission registration requirements. Both Commission regulations and Act 220 encourage such agreements.

The resolution authorizes the Executive Director to execute an MOU substantially in the form presented in the resolution whenever PADEP completes all the prerequisite steps necessary under Act 220, including consultation with the Statewide Committee established under the act.

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

3. 2004 Annual Water Resources Program

The General Counsel presented a resolution (Exhibit B) providing for the adoption of the 2004 Annual Water Resources Program in accordance with the requirements of Section 14.2 of the Susquehanna River Basin Compact. The Water Resources Program contains a list of the programs and projects that the Commission, other authorized governmental and private agencies, organizations, and persons propose to undertake during the ensuing six-year period.

In addition, it also contains a list of federal legislative initiatives consisting of the federal legislative priorities established by the Commission in connection with its work with the Susquehanna River Congressional Task Force and other federal policy makers. Some state legislative initiatives and, to a limited extent, some programs and projects of the member jurisdictions are also included.

Through the efforts of SRBC Communications Director Susan Obleski, the cover and inside pages of the 2004 version of the program have been redesigned and the text reformatted into a more compact form. The Executive Director commented that he hoped less verbiage would mean more frequent use of and reference to the document.

Counsel added that, in asking the Commission to adopt the 2004 program, it was with the understanding that it can be amended and supplemented by the Commission at any time. Member jurisdictions are encouraged to request the addition of their priority water resource related projects and programs.

On a motion by Commissioner Lynch, seconded by Commissioner Pajerowski, the Commission unanimously approved the resolution adopting the 2004 Annual Water Resources Program.

4. Revisions to SRBC Organization Manual

The General Counsel presented a resolution (Exhibit C) providing for the adoption of two amendments to the SRBC Organization Manual, the internal rules of operation for the Commission.

The first amendment authorizes the Executive Director to promulgate a policy governing teleworking (i.e. working from home) by Commission employees. Such a policy would allow the Director to fashion a more flexible work schedule to meet the special needs of both employees and the Commission, and to reduce the pollution and traffic congestion associated with a daily commute.

The second amendment modifies the current purchasing threshold of \$5,000 at which the Executive Director must seek purchasing approval, updating it to reflect a more reasonable contemporary standard.

On a motion by Commissioner Pajerowski, seconded by Commissioner Davis, the Commission unanimously adopted the resolution providing for the two amendments of the Organization Manual.

5. Revised FY-2005 Budget

The Chief Administrative Officer submitted a revised version of the FY-2005 budget to the Commission for its approval. This budget, totaling \$3,825,000, covers the period July 1, 2004 to June 30, 2005. The original FY-2005 budget had been adopted in June 2003. The revised budget reflects adjustments made in several budgetary categories, such as member jurisdiction contributions and the number of full-time staff persons (one full-time position added). Because of certain offsetting factors, these adjustments do not result in any increase in the total amount of the budget approved last June.

Some important elements of the budget for FY-2005 include the Commission's support for the formation and operation of watershed groups, public information and outreach, support and coordination for the Flood Forecast and Warning System, the agricultural consumptive use study, project review and coordination, the GIS system, and the new data management system.

On a motion by Commissioner Lynch, seconded by Commissioner Pajerowski, the Commission unanimously approved the revised FY-2005 budget.

6. In-Lieu-of Tax Contribution

The Chief Administrative Officer presented a request for approval to make an in-lieu-of tax contribution of \$4,200 to the City of Harrisburg, Pennsylvania to defray a portion of the cost of the fire and police protection services provided by the City.

On a motion by Commissioner Davis, seconded by Commissioner Lynch, the Commission unanimously approved the in-lieu-of tax contribution proposed by staff.

7. Grant Approvals

SRBC Watershed Assessment and Protection Chief David Heicher presented a grant agreement providing watershed organizations with customized, hard copy maps displaying general location, geology, soils, hydrologic features and impaired streams. SRBC will supply watershed organizations with a CD containing spatial data, electronic maps and a GIS spatial data-browsing tool. Under the terms of the grant, PADEP will provide \$35,000 and SRBC will add \$5,000. The grant scored 8 out of 10 on the Commission's grant evaluation scale.

On a motion by Commissioner Pajeroski, seconded by Commissioner Lynch, the Commission unanimously ratified the grant agreement.

8. Project Review¹

a. Project Applications

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

SRBC Water Management Division Chief Glen DeWillie first provided some background information on the Commission's review authority and the 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. Unless otherwise noted, projects described have chosen payment as their compliance method.

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

Finally, Mr. DeWillie mentioned that approximately 250 projects coming before the Commission have arrived through the Commission's Compliance Incentive Program (CIP) that offered amnesty to projects that did not make timely application for approval. The Commission is completing action on the remainder of those projects.

The dockets recommended for action included the following 13 projects as described by Mr. DeWillie:²

¹ At this point, Commissioner Cathy Curran Myers joined the Commission representing Pennsylvania.

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

- Procter & Gamble Pharmaceuticals (Exhibit D1)
- En-Joie Golf Club (Exhibit D2)
- Fairchild Semiconductor (Exhibit D3)
- Pennsy Supply, Inc., Small Mountain Quarry (Exhibit D4)
- Koppers, Inc. (Exhibit D5)
- Albemarle Corporation (Exhibit D6)
- BC Natural Chicken, LLC (Exhibit D7)
- Martin Limestone, Inc. Kurtz Quarry (Exhibit D8)
- Martin Limestone, Inc. Burkholder Quarry (Exhibit D9)
- Martin Limestone, Inc. Weaverland Quarry (Exhibit D10)
- Pennsy Supply, Inc. Mt. Holly Springs Quarry (Exhibit D11)
- Armstrong World Industries, Inc. Marietta Ceiling Plant (Exhibit D12)
- Shrewsbury Borough Authority (Exhibit D13)

One project of particular concern is a proposed groundwater withdrawal by the Shrewsbury Borough Authority that will have an impact on the headwaters of Deer Creek, an interstate stream flowing into Harford County, Maryland from York County, Pennsylvania that is classified as a naturally reproducing trout/cold water fishery (CWF). The Commission ordered the Authority to maintain a passby flow of 45 gallons per minute in Deer Creek directly below the point of impact of the two approved wells.

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

b. Enforcement Actions Against Windsor Heights Golf Course and Eagle Rock Golf Course

Chairwoman Myers announced that there were two enforcement matters before the Commission today. The first involved Eagle Rock Resort Co., a golf course and ski resort project located in Black Creek and Hazel Townships, Luzerne County and East Union Township, Schuylkill County, Pa. The second matter involved Balco Development, Inc., d.b.a. Windsor Heights Golf Course, located in Hemlock Township, Columbia County, Pa.³

Water Management Chief Glen DeWillie summarized the procedural history on Eagle Rock Resort Co. and detailed the list of violations uncovered by staff. The Commission first received applications for consumptive use and groundwater withdrawal in August 2000. Site inspections in July 2002 revealed different site conditions and project features than originally disclosed by the applicant. Therefore, a modified consumptive use application was submitted to the Commission in August 2002 and Mr. Ken Givens, the golf course superintendent, was identified as the contact person for the application. On-site attorney Lori Darraugh participated in the public notice process for this application.

The Commission approved the consumptive use and groundwater withdrawal application on October 10, 2002. Shortly thereafter, a series of docket condition violations began to accrue.

³These minutes provide only a summary of the Commission's discussion and action on these two enforcement actions. A court reporter was present and a verbatim transcript will be retained as part of the record of this meeting.

Eagle Rock violated condition (f) of the docket approval, requiring submission of a design and construction schedule for a passby flow device, for 381 days; condition (g), requiring development of a water supply plan, for 339 days; and condition (e), requiring installation of a passby device, for 321 days. Eighty-four days of these violations came after receipt of a certified delinquency notice from the Commission on October 20, 2003.

In addition, golf course irrigation over the summer 2003 season exceeded Commission approved consumptive use quantities 10 times. Snowmaking operations in late 2003 and early 2004 exceeded approved consumptive use quantities 17 times, with at least 4 of those exceedences occurring after a compliance meeting with SRBC personnel on January 9, 2004.

Deputy Director Tom Beauduy noted that staff had conducted unsuccessful settlement negotiations with Eagle Rock Resort Co. Therefore the staff's penalty recommendation of \$177,510, calculated using the Commission's penalty matrix, remained in effect. That penalty recommendation was calculated on factors that included willfulness, negligence and lack of cooperation. Environmental harm and economic gain were not used as factors in the calculation.

Commissioner Pajerowski asked whether there were any outstanding violations by Eagle Rock. Mr. Beauduy indicated that Eagle Rock is now in compliance with all requirements of its docket approval. The Company has submitted a timetable for meeting all future docket requirements and the staff acknowledges for the efforts now being made to avoid future problems.

Eagle Rock Resort Co. attorney R. Timothy Weston distributed a written response to the staff's presentation and introduced Attorney John Carroll, representing the Eagle Rock Community Association (ERCA). Mr. Carroll noted that ERCA was joining in the response submitted by Mr. Weston based on its contractual and financial ties to Eagle Rock Resort Co. Mr. Weston continued with an oral summary of the response document. He indicated that, while his client did not deny that the violations listed by staff occurred, the client did dispute the level of the penalty recommended by staff. The highlights of his argument against the staff recommended penalty include:

- Employees of Eagle Rock Resort Co. with whom the Commission dealt did not properly inform responsible company officers of the requirements of the SRBC docket approval. The Company has now dismissed these employees for these and other infractions.⁴
- If Company officers had known about these ongoing violations, action would have been taken sooner to bring about compliance with docket conditions.
- Company employees did not act willfully. After receiving the delinquency letter of October 20, 2003, the Dallas office of the Company was informed and good faith efforts

⁴ Mr. Beauduy noted later that the Commission had received communications from two of these former employees who denied Eagle Rock's assertion that they did not communicate with company officers concerning the conditions contained in the Commission's docket approval of October 10, 2002. Those communications were not considered in the formulation of the staff's recommendations regarding a penalty.

were then made to secure competent engineering assistance, though these efforts were unsuccessful on the first two attempts.

- There is no evidence that any of these violations caused any serious environmental harm.
- The Company did not benefit economically from these violations.
- The Company is now, as staff acknowledged, taking steps to meet all Commission requirements and to avoid any further violations.
- The Commission had never levied a penalty on any project sponsor of the magnitude recommended by staff in this case.
- The timing of golf course watering, commencing in the evening and continuing overnight until morning, raises a question of whether the Company had actually exceeded the daily irrigation limits on the 10 calendar days cited by staff.

Mr. Carroll noted that ERCA was a non-profit membership corporation whose sole income was the dues paid by property owners. ERCA was responsible for maintenance of the golf course, though not the owner of the same. Eagle Rock Resort Co. operated the course for the benefit of ERCA, making ERCA a real party in interest to this matter. ERCA therefore was in agreement with the arguments presented by Eagle Rock Resort Co. on the magnitude of the penalty to be assessed by the Commission. At the most, a penalty should be considered only for the 72 days when an approved water use occurred. Instead of being used for a penalty, the assets of ERCA should be preserved for use on their ongoing public water supply system project.

Mr. Dick Balderston, who identified himself as a member of ERCA, noted that the owners of the resort company essentially controlled ERCA. He claimed that the ERCA property owner assessments primarily benefit the resort company and he disagreed that ERCA was acting in the best interest of ERCA members.

Chairwoman Myers then called upon staff to present information on Balco Development, Inc., d.b.a. Windsor Heights Golf Course.

Mr. DeWillie presented a summary of the pertinent facts. The project sponsor had irrigated a golf course over a period of four golf seasons without an SRBC docket approval of such water use. Balco then submitted an incomplete application for consumptive use of water and failed to produce a complete application in a timely manner, despite numerous contacts by staff over a three-year period.

The project sponsor was therefore ordered to appear on June 12, 2003 and show cause to the Commission why a penalty should not be assessed. The Commission assessed a \$35,000 penalty, taking into consideration a change in the management of Balco in 2002. An amount of \$25,000 of that penalty was held in abeyance pending timely completion of a consumptive use application and provision of all information requested by staff. The Commission warned that if the sponsor failed to complete the application process and the application was denied, any

withdrawal or consumptive use in excess of Commission thresholds would be punishable by a penalty of not less than \$1,000 per day. Upon review, it was further discovered that the project sponsor also needed to apply for a groundwater withdrawal.

Twelve contacts from staff occurred between the June 25, 2003 letter officially notifying Balco of the June 12 penalty decision and the end of 2003, all regarding information that was still missing. Then, when the 2003 consumptive use data was submitted on January 5, 2004, staff analysis discovered that there had been 69 days where consumptive use had exceeded the SRBC threshold of 20,000 gpd (consecutive 30-day average), with peaks as high as 238,929 gallons in a single day. On January 16, 2004, the Commission issued a notice to appear and show cause why a penalty in the amount of \$69,000 should not be assessed.

There are a number of important factors for the Commission to consider in assessing a penalty. First, the project sponsor has paid the \$25,000 held in abeyance after the June 2003 action, acknowledging its failure to submit a completed consumptive use application on time. Because its application was deemed denied, the sponsor has now submitted a new consumptive use and groundwater withdrawal application and paid the \$3,000 application fee. The project sponsor has also hired a consultant who it says will carefully monitor water use to prevent future exceedences.

To this point, no environmental harm has been observed. The project sponsor claims that a misunderstanding of the regulations resulted in the exceedences and that it used considerably less water in 2003 than in 2002. Records confirm this, showing 31 percent less water use at Windsor Heights Golf Course in 2003.

The project sponsor further claims that a severe economic hardship will result if a large penalty amount is assessed and if water is denied to the course in sufficient quantities to maintain its viability this summer.

Staff did not enforce the letter of the Commission's June 12, 2003 penalty action, but instead continued to work with the project sponsor throughout the summer and fall to gain compliance. Therefore, there had been no formal denial of the application as stipulated in the Commission's June action. The denial of the application came in January 2004.

Mr. Beauduy explained that, taking into consideration the factors enumerated above, the staff was recommending a settlement to the Commission in the amount of \$10,000, this amount to be in addition to the \$35,000 in penalties already paid by Balco. Under the terms of the settlement, payment of the additional \$10,000 would be due by April 1. Further violations would subject the project sponsor to stipulated penalties of \$1,000 per violation and the Commission would reserve the right to levy additional penalties if any of the heretofore-mentioned violations have resulted in environmental harm.

Mr. Greg Pascale, attorney for Balco Development, Inc., confirmed his agreement with the term of settlement described by Mr. Beauduy, adding a request that any additional penalty assessments be made only after notice and opportunity to be heard. He submitted a copy of an

agreement with a hydrogeologist to monitor water use at the golf course and reiterated the problems that Balco had encountered in trying to obtain the services of a competent consultant.

The Commission went into recess to consider its disposition of the Eagle Rock Resort Co. and Balco Development, Inc. enforcement actions. Upon reconvening, the Commission rendered the following decisions via motion.⁵

With respect to Balco Development, Inc., Commissioner Davis moved the following as read into the record by Mr. Beauduy:

That, pursuant to Section 15.17 of the Susquehanna River Basin Compact, Commission Regulation §805.27 and the Commission's Policy on Settlement of Civil Penalties, the settlement offer of \$10,000 proposed by Balco Development, Inc. for its noncompliance with Commission regulations related to its operation of the Windsor Heights Golf Course be approved, subject to the following conditions:

1. The settlement payment in the amount of \$10,000 shall be paid to the Commission on or before April 1, 2004.
2. The Commission reserves the right to assess further penalties in the event it is determined that Balco Development, Inc.'s non-compliant water use during the period July through September, 2003 caused environmental harm.
3. Any withdrawal or consumptive use of water by Balco Development, Inc. in excess of the regulatory threshold amounts set forth in Commission Regulations §§803.42–803.44, absent Commission approval, or the failure to make payment as prescribed above, and upon finding of such violation by the Commission after notice and opportunity to be heard, shall void this settlement and shall result in stipulated civil penalties in the amount of \$1,000 per day for the 69 days of non-compliant water use during the period July–September 2003, and shall further subject it to additional penalties of \$1,000 per violation for each continuing day of violation.

This motion was seconded by Commissioner Lynch and unanimously adopted by the Commission.

With respect to Eagle Rock Resort Co., Commissioner Davis moved the following as read into the record by Mr. Beauduy:

That, pursuant to Section 15.17 of the Susquehanna River Basin Compact and the Commission Regulation §805.20 et seq.:

1. A penalty in the amount of \$34,000 be assessed against Eagle Rock Resort Co. for 17 days of groundwater withdrawal exceedences and 17 days of failure to maintain the interim passby requirement (total 34 days of violation), to be due and payable within 30 days of the date of this meeting.

⁵ At this point, Mr. William Gast resumed representation of Pennsylvania on the Commission.

2. The Commission deferred action on all other violations pending a further review of the record.

This motion was seconded by Commissioner Pajerowski and unanimously adopted by the Commission.

PUBLIC COMMENTS

Ms. Sharon Sheppard of Hanover, Pennsylvania addressed the Commission on her concerns about the pending Hanover Borough application for water withdrawal. She noted inadequacies in the Borough's plans to meet water supply demands in this rapidly growing headwaters area, where many of the water supply sources are already oversubscribed. She called for the adoption of a joint development plan in accordance with watershed planning principles.

The plan should address the ability of the land to infiltrate water and support sustained use. She pledged to stand side-by-side with the Commission in its review of the Hanover application and hoped that the Commission would give that application very close scrutiny. She also requested that the Commission consider holding another information meeting to explain the situation to area residents and answer their questions.

The Executive Director replied that, indeed, the Commission has made known to the Borough of Hanover its very serious concerns about the availability of water in the area. He assured her that the Commission will closely review Hanover's application. The Commission has occasionally held informal public information meetings to answer the questions of citizens and hear their comments and concerns about a project. Such a meeting may be appropriate in this case.

Mr. Paige Wingert, President of the Greater Hanover Alliance, reinforced Ms. Sheppard's call for a joint development plan that, much like SRBC's study in northern Lancaster County, will assess the area's water producing capabilities and take into account projected growth in and around Hanover. He noted that West Manheim Township, outside the Borough, is the fastest growing of York County's 67 townships. The Alliance has submitted a Growing Greener Grant application to PADEP seeking funding support for a comprehensive study.

ADJOURNMENT

There being no further business before the Commission, Chairman Gast adjourned the meeting at approximately 5:30 p.m.

NEXT MEETING

The next regular meeting of the Commission is tentatively scheduled for June 9, 2004 in Cortland, N.Y.

Date Adopted


Richard A. Cairo
General Counsel/Secretary to the Commission

RESOLUTION NO. 2004-01

A RESOLUTION of the Susquehanna River Basin Commission (the "Commission") approving the form of a Memorandum of Understanding (MOU) between the Commission and the Pennsylvania Department of Environmental Protection (PA DEP) regarding the registration of water withdrawals in the Susquehanna River Basin and authorizing its execution.

WHEREAS, the Susquehanna River Basin Compact, P.L. 91-575, §3.2, declares that "It is the policy (purpose) of the signatory parties to preserve and utilize the functions, powers and duties of the existing offices and agencies of government ... and the Commission is directed to utilize those offices and agencies for the purposes of this compact;" and

WHEREAS, §3.7(2) of the Susquehanna Compact, supra, further declares that the Commission may employ any other agency or instrumentality of a signatory party for any purpose; and

WHEREAS, SRBC Regulation 18 CFR §804.1 requires the registration of withdrawals from ground or surface waters exceeding a consecutive 30-day average of 10,000 gallons per day (gpd); and

WHEREAS, SRBC Regulation 18 CFR §804.3 provides that "the Commission may complete appropriate administrative agreements or informal arrangements to carry out this registration requirement through the offices of signatory agencies;" and

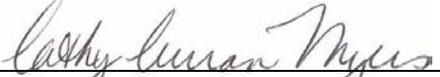
WHEREAS, §3118 of Pennsylvania's Water Resources Planning Act, No. 220 of 2002, 27 Pa.C.S. §3101 et seq., (Act 220) also requires registration of water withdrawals from surface or ground water exceeding a consecutive 30-day average of 10,000 gpd; and

WHEREAS, §3104 of the said Act 220 states that, in consultation with the Statewide Committee, the PA DEP shall, to the extent practicable, enter into administrative agreements with appropriate Compact Basin Commissions and federal, state, interstate, municipal and other agencies for, inter alia, the purpose of avoiding unnecessary duplication of staff functions and facilitating coordinated review of projects and actions within the jurisdiction of such agencies.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Commission hereby approves an MOU between the Commission and the PA DEP regarding the registration of water withdrawals substantially in the form attached to and made a part of this Resolution.
2. The Executive Director is hereby authorized to execute the said MOU whenever the PA DEP completes all the requisite administrative steps under Act 220 including consultation with the Statewide Committee.
3. This Resolution shall be effective immediately.

Date: March 10, 2004


Cathy Curran Myers, Chair

MEMORANDUM OF UNDERSTANDING BETWEEN
THE SUSQUEHANNA RIVER BASIN COMMISSION AND THE PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION REGARDING REGISTRATION OF WATER WITHDRAWALS
IN THE SUSQUEHANNA BASIN

THIS MEMORANDUM OF UNDERSTANDING (MOU) between the Susquehanna River Basin Commission (“SRBC”), a federal-interstate compact agency, and the Pennsylvania Department of Environmental Protection (“PA DEP”) regarding registration of water withdrawals in the Susquehanna River Basin, WHEREAS

1. The Susquehanna River Basin Compact, P.L. 91-575, §3.2, declares that “It is the policy (purpose) of the signatory parties to preserve and utilize the functions, powers and duties of the existing offices and agencies of government ... and the Commission is directed to utilize those offices and agencies for the purposes of this compact;” and

2. §3.7(2) of the Susquehanna Compact, supra, further declares that the Commission may employ any other agency or instrumentality of a signatory party for any purpose; and

3. SRBC Regulation 18 CFR §804.1 requires the registration of withdrawals from ground or surface waters exceeding a consecutive 30-day average of 10,000 gallons per day (gpd); and

4. SRBC Regulation 18 CFR §804.3 provides that “the Commission may complete appropriate administrative agreements or informal arrangements to carry out this registration requirement through the offices of signatory agencies;” and

5. §3118 of Pennsylvania’s Water Resources Planning Act, No. 220 of 2002, 27 Pa.C.S. §3101 et seq., (Act 220) also requires registration of water withdrawals from surface and ground water exceeding a consecutive 30-day average of 10,000 gpd; and

6. §3104 of the said Act 220 states that, in consultation with the Statewide Committee, the PA DEP shall, to the extent practicable, enter into administrative agreements with appropriate Compact Basin Commissions and federal, state, interstate, municipal and other agencies for, inter alia, the purpose of avoiding unnecessary duplication of staff functions and facilitating coordinated review of projects and actions within the jurisdiction of such agencies.

NOW THEREFORE, the parties to this memorandum set forth the following as the terms and conditions of their understanding:

1. Registration of any water withdrawal under the said Act 220 shall be accepted by the SRBC as registration satisfying its own water withdrawal registration requirements under the above cited regulations.

2. PA DEP and SRBC will inform water withdrawal registrants that registration with PA DEP will satisfy all SRBC registration requirements.

3. The PA DEP shall exchange with, or make readily available to the SRBC, registration information, and vice versa, so that the registration process can be properly coordinated and duplication of effort avoided.

General Terms:

1. Termination. This MOU shall be terminable by either party upon 30 days written notice.
2. Deviations from this MOU. This MOU establishes the framework within which the SRBC and PA DEP will exercise their administrative discretion. The agencies reserve the discretion to deviate from the procedures outlined herein if any agency determines that individual circumstances warrant and first notifies the other agency.
3. Rights and Obligations Not Created. This MOU is not intended to and does not create any contractual or other rights or obligations with respect to the signatory agencies or any other parties.

The parties hereby acknowledge the foregoing as the terms and conditions of their understanding.

Pa. Department of Environmental Protection

Susquehanna River Basin Commission

Secretary

Date

Executive Director

Date

RESOLUTION NO. 2004-02

A RESOLUTION of the Susquehanna River Basin Commission adopting an Annual Water Resources Program for 2004.

WHEREAS, Section 14.2 of the Susquehanna River Basin Compact, P.L. 91-575, provides: "The Commission shall annually adopt a water resources program, based upon the comprehensive plan, consisting of the projects and facilities which the Commission proposes to be undertaken by the Commission and by other authorized governmental and private agencies, organizations, and persons during the ensuing six years or such other reasonably foreseeable period as the Commission may determine;" and

WHEREAS, the staff has updated and reformatted a statement of the projects and programs proposed to be undertaken by the Commission during such six-year period; and

WHEREAS, the member jurisdictions have prepared or are preparing a listing of their own projects to be undertaken in the basin during this same period; and

WHEREAS, the Commission is also including in the Water Resources Program a list of legislative initiatives that it would respectfully request the U.S. Congress and the legislatures of the member states to consider for enactment.

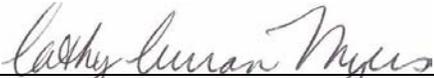
NOW THEREFORE BE IT RESOLVED THAT:

1. The accompanying document titled, "2004 Annual Water Resources Program, Susquehanna River Basin Commission," including the said list of legislative initiatives, is hereby adopted by the Commission in accordance with Section 14.3 of the Compact.

2. The Water Resources Program of the Commission shall be updated, from time-to-time as the need appears, to include any additional projects or programs of the Commission or its member jurisdictions.

3. This Resolution shall be effective immediately.

Date: March 10, 2004



Cathy Curran Myers, Chair

RESOLUTION NO. 2004-03

A RESOLUTION of the Susquehanna River Basin Commission adopting certain revisions to the Susquehanna River Basin Commission's Organization Manual.

WHEREAS, pursuant to Section 15.1(b) of the Susquehanna River Basin Compact, the Commission maintains an Organization Manual governing the internal operations of the Commission; and

WHEREAS, from time-to-time, it is necessary and desirable to revise the provisions of that Manual to reflect changes in the law and improve employment/organizational-related policies; and

WHEREAS, the Executive Director and the Chief Administrative Officer have proposed certain revisions to the Organization Manual: 1) allowing the Executive Director to promulgate a policy governing teleworking by employees of the Commission; and 2) revising the purchasing procedures of the Commission, both of which the Commission finds appropriate and desirable; and

WHEREAS, the first revision will allow the Executive Director to fashion a more flexible work schedule to meet the special needs of both employees and the Commission, and to reduce the pollution and traffic congestion associated with a daily commute; and

WHEREAS, the second revision is a result of the observation by members of the Commission that the current procedure requiring Commission approval for any purchase exceeding \$5,000.00 sets a purchasing threshold that is too low, and should be updated to reflect a more reasonable contemporary standard.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Commission hereby adopts the revisions to the Organization Manual proposed by the Executive Director and the Chief Administrative Officer dated March 10, 2004, a copy of which are attached hereto and made a part of this resolution.

2. This Resolution shall be effective immediately.

Date: March 10, 2004


Cathy Curran Myers, Chair

REVISIONS TO SRBC ORGANIZATION MANUAL
March 10, 2004

Chapter 5-14 – Work Period

Add a subsection d as follows:

d. Teleworking

The Executive Director is authorized to establish a policy governing teleworking (i.e. working at home) by Commission employees.

Chapter 7-3 Purchase of Materials, Supplies or Equipment

Delete the current subsections b and c and replace it with the following new subsections b, c and d:

b. Purchases Exceeding \$100.00 but not Exceeding \$10,000.00

1. A request for required materials, supplies, equipment or services shall be submitted to the chief administrative officer on a "Purchase Requisition," Form #13.
2. The chief administrative officer will then determine whether the required item is available on an existing state or federal contract. If so, a purchase order will be prepared according to the terms of the contract, providing the chief administrative officer determines that terms and conditions of the state or federal contract are favorable to the commission.
3. If the item is not on an existing contract, the chief administrative officer will purchase the materials at the most reasonable price available. This can be determined by telephone quotations.

c. Purchases Exceeding \$10,000 but not Exceeding \$25,000

1. A request for the required materials, supplies, equipment or services shall be submitted to the chief administrative officer.
2. The request will be submitted to the executive director for his/her approval.
3. If required by Section 15.9 of the compact, the chief administrative officer shall prepare invitations for bids for distribution. The invitation for bids, or a summary

thereof, shall be published at least 30 days before bids are to be received and in at least two newspapers of general circulation in the basin.

4. Upon receipt of the responding bids, the executive director may award a contract to the lowest responsible bidder. If, in the discretion of the executive director, the lowest responsible bidder or bid is not acceptable, the executive director can reject any or all bids and re-advertise.
 5. If, after rejecting bids, the executive director determines that, in his opinion, the items may be purchased at a lower price in the open market, the executive director may give each responsible bidder an opportunity to negotiate a price. If not satisfied with the outcome of such negotiation, the executive director may proceed to purchase the items in the open market at a negotiated price that is lower than the lowest rejected bid submitted by a responsible bidder, and without further observance of the provisions requiring bids or notice.
- d. Purchases Exceeding \$25,000
1. A request for the required materials, supplies, equipment or services shall be submitted to the chief administrative officer.
 2. The request will be submitted to the executive director for his/her approval and subsequent submission to the commission for its approval.
 3. Upon commission approval to proceed, and if required by Section 15.9 of the compact, the chief administrative officer shall prepare invitations for bids for distribution. The invitation for bids, or a summary thereof, shall be published at least 30 days before bids are to be received and in at least two newspapers of general circulation in the basin.
 4. Upon receipt of the responding bids, the executive director may award a contract to the lowest responsible bidder. If, in the discretion of the executive director, the lowest responsible bidder or bid is not acceptable, the executive director can reject any or all bids and re-advertise.
 5. If, after rejecting bids, the executive director determines that, in his opinion, the items may be purchased at a lower price in the open market, the executive director may give each responsible bidder an opportunity to negotiate a price. If not satisfied with the outcome of such negotiation, the executive director may proceed to purchase the items in the open market at a negotiated price that is lower than the lowest rejected bid submitted by a responsible bidder, and without further observance of the provisions requiring bids or notice.

Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed



Policy No. 2004-01
March 10, 2004

TELEWORKING POLICY

Purpose and Definition

An employee who meets the eligibility requirements and receives supervisor approval to participate in teleworking is allowed to work at home or another designated location acceptable to the supervisor. In addition to helping to meet the employee's personal needs, this policy is intended to benefit SRBC by helping to attract and retain the high-quality employee, increase job satisfaction, and accommodate medical and maternity/paternity considerations. It also is a means of reducing the demand on parking spaces and reducing traffic congestion, energy consumption, and air pollution.

Application Process

Prior to participating in a teleworking arrangement, the employee is required to read this teleworking policy, fill out a teleworking agreement form, and submit it to the employee's supervisor for consideration. The supervisor will review the proposal with the employee prior to the supervisor's approval, which must also be approved by the appropriate Division Chief. Teleworking agreement forms are available from the Chief Administrative Officer. The Chief Administrative Officer will retain the original, signed form, with copies provided to the teleworking employee and the employee's supervisor.

Conditions

1. All individuals teleworking do so at the supervisor's discretion.
2. Long-term teleworking arrangements will be reviewed at the time of the employee's 6-month performance reviews.
3. Work products will be assigned and reviewed by the supervisor as a part of SRBC's existing performance evaluation process.
4. Teleworking is voluntary and may be terminated by the employee or the supervisor at any time.

5. To be eligible to telework, an employee must have been in SRBC service for at least a year, have at least an overall performance rating of “meets” on the employee’s most recent 6-month interim evaluation, and must not be on probationary status or subject to disciplinary action.
6. Supervisory consent and the nature of the employee’s job will determine the employee’s eligibility for teleworking. Participation is also governed by whether an employee’s work can be performed at a remote location and whether it can be performed without face-to-face contact with the public or other SRBC employees. Teleworking cannot be performed with equipment or other resources that are available only at the SRBC office.
7. The duties, obligations, responsibilities, and conditions of a teleworker’s employment with SRBC remain the same as if the employee were not teleworking. The employee’s salary, retirement, and benefits remain unchanged.
8. A teleworker’s work hours, overtime compensation, and vacation schedule will conform to all existing SRBC requirements. The SRBC’s existing rules governing on-duty hours apply to the teleworker.
9. The employee must document all time on the Commission’s time accounting system.
10. All the policies and internal rules of SRBC continue to apply to any employee while the employee is teleworking.
11. A teleworker must have a designated work area with appropriate tools and supplies to do the work, including a telephone. This workspace must be maintained in a safe condition, free from hazards. The SRBC will not be responsible for hardware or software problems encountered by the user at a remote location.
12. The use of equipment, software, data supplies, and other SRBC property, if provided by SRBC for use at the remote location, is limited to authorized persons and is to be used for purposes relating to SRBC business only. The employee is responsible for the security of all SRBC data and information and must take appropriate safeguards to secure confidential data and information.
13. Items that SRBC will provide to the teleworker include SRBC telephone credit cards and common office supplies such as paper, file folders, pens, pencils, floppy discs, and compact discs.
14. Items that SRBC will not provide to the teleworker include computer hardware, most software (see exception below), computer support, printer ink cartridges, furniture, lighting, and telephone and computer line payments.
15. Items that SRBC may provide to the teleworker include cell phones and some project-specific software.

16. If SRBC equipment is provided to the employee, the employee is responsible for assuring that the equipment is properly used. The SRBC will provide for repairs to SRBC equipment only. There must be virus-checking software on any computer used for teleworking.
17. If the employee uses the employee's own equipment, the employee is responsible for maintenance and repair of the equipment at no cost to the SRBC.
18. Since the employee's remote workspace is considered an extension of the SRBC's workspace, worker's compensation for job-related accidents continues to exist during the employee's teleworking hours at the remote workspace.
19. In the event the teleworking employee is involved in an accident while teleworking at the designated work site, the employee or someone on the employee's behalf must provide oral or written notification to the employee's supervisor within the close of the next business day following the accident.
20. When long-distance, work-related phone calls are necessary, the employee should make calls to the SRBC office using SRBC's 800 number. If long distance calls must be made to destinations other than the SRBC office, the employee should use the SRBC's phone credit card.
21. Teleworking is not an alternative for childcare or the care of others. Where applicable, the employee must make appropriate arrangements for such care during teleworking hours.
22. The supervisor may require the employee to be present in the office at any time during normal work hours and may modify, as necessary, the employee's teleworking schedule.
23. The employee shall hold the SRBC harmless for any damage to third persons or property occurring while the employee is teleworking at the approved location, or in connection with such teleworking. The employee shall be required to maintain casualty and liability insurance coverage for the teleworking site and shall produce proof of said insurance coverage at the request of the Chief Administrative Officer of the SRBC or the supervisor.
24. The SRBC has the right to use an employee's office workspace while the employee is teleworking. Personal items should be removed from offices during extended teleworking arrangements.
25. The employee shall be responsible for ensuring that the employee's voice mail and e-mail systems have been provided with appropriate out-of-office messages for the duration of the time that the employee is teleworking.

Clarifying Issues

In determining whether to approve a telework request, a supervisor shall consider the following guidance:

- If business application requirements (hardware/software, equipment, etc.) are not available off site, normal workload requirements may prohibit an employee from participating as a teleworker.
- Whether teleworking would create an additional burden or expense on SRBC.
- Some examples of jobs or tasks generally suited to telework are:
 - * Thinking and writing
 - * Research and policy development
 - * Record keeping
 - * Analysis (investigating, program analysis, financial analysis, graphics, spreadsheets)
 - * Report writing
 - * Telephone-intensive tasks
 - * Computer-oriented tasks (programming, data entry, word processing, web page design, data processing)
- Some examples of jobs or tasks not generally suited to telework are:
 - * Those requiring daily, face-to-face contact with supervisor, colleagues, and the public where e-mail, phone, fax, and other electronic means are not appropriate
 - * Those requiring access to materials only accessible in the main office
 - * Those that are being acquired by the employee by direct contact with others
- Example of an employee generally suited to telework is one who has:
 - * High Dependability and the ability to handle responsibility
 - * Proven record of high personal motivation
 - * Ability to prioritize work effectively and manage time well

SRBC TELEWORKING AGREEMENT

This teleworking agreement, effective _____ is between the SRBC and _____ (hereinafter referred to as “the employee”). By signing this agreement, the employee, intending to be legally bound, agrees to all conditions of the SRBC Teleworking Policy (which is attached hereto and made a part of this agreement) in addition to the following:

The days and hours for teleworking:

- Monday:
- Tuesday:
- Wednesday:
- Thursday:
- Friday:

Start date:
End date:

The teleworking worksite is located at:

Phone: _____
FAX: _____
E-mail: _____

The employee also has filled out the teleworking site safety checklist, and hereby certifies that the worksite is safe and free from hazards. Inspections of the site may be performed by SRBC at its discretion.

Employee signature and date _____

Supervisor signature and date _____

Division Chief signature and date (if applicable) _____

SAFETY CHECKLIST

1. Are temperature, noise, ventilation, and lighting levels adequate for maintaining your normal level of job performance? Yes___ No___

2. Is all electrical equipment free of recognized hazards that would cause physical harm (frayed wires, bare conductors, loose wires or fixtures, exposed wiring on the ceiling or walls)? Yes___ No___

3. Will the building's electrical system permit the grounding of electrical equipment (a three-prong receptacle)? Yes___ No___

4. Are aisles, doorways, and corners free of obstructions to permit visibility and movement? Yes___ No___

5. Are file cabinets and storage closets arranged so drawers and doors do not enter into walkways? Yes___ No___

6. Are phone lines, electrical cords, and surge protectors secured under a desk or alongside a baseboard? Yes___ No___

7. Are suitable furniture resources available? (Suitable furniture includes safe, properly functioning desks, chairs, and ergonomically sound features associated with proper posture and limb alignment for all work activities.) Yes___ No___

8. Is the computer's anti-virus software installed and up-to-date? Yes___ No___



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20040301

Approval Date: March 10, 2004

PROCTER & GAMBLE PHARMACEUTICALS

Groundwater Withdrawal (30-Day Average) of 0.350 mgd from Well 34
for the Research, Development, and Manufacture of Pharmaceuticals,
Town of Norwich, Chenango County, New York

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.43, relating to groundwater withdrawals. The Commission received the application on June 25, 2001.

Description

Purpose. The purpose of the application is to request approval for the withdrawal of groundwater for the research, development and manufacture of pharmaceuticals.

Location. The project is located in the Upper Susquehanna Subbasin, HUC 02050102, Chenango River Watershed, in the Town of Norwich, Chenango County, New York.

Project Features. The project sponsor originally requested approval for the withdrawal (30-day average) of 0.265 million gallons per day (mgd) of water from Well 34. However a review of existing water withdrawal records for Well 34 revealed a maximum 30-day average withdrawal of 0.322 mgd occurred in 2001.

The facility began operations in the 1950s, and the project sponsor has drilled four production wells in a well field located adjacent to the Chenango River. One well has been abandoned. Two (2) of the active wells (Wells 44 and 49) were drilled and placed in operation prior to 1978, the effective date of the Commission Regulation §803.43, relating to groundwater withdrawals. The fourth well, Well 34, became operational in 1991. All active wells are metered.

In addition to its groundwater sources, the project's fire protection system is supplied by a surface water withdrawal from the Chenango River. This withdrawal is less than 0.100 mgd (30-day average) and predates Commission Regulation §803.44.

Water is used for steam generation, production and potable purposes. Consumptive water use occurs from product absorption, and evaporative losses from the cooling towers and the wastewater treatment system. According to data provided by the project sponsor, consumptive water use has not increased by 0.020 mgd on a 30-day average since 1971.

The project is located adjacent to the Chenango River approximately one mile north of the Town of Norwich. All three wells are located in a sand and gravel (glacial outwash) aquifer that partially fills a bedrock valley. The following table summarizes available data on the wells.

Well No.	Total Depth (ft)	Screen Depth (ft bgs)	Pump Capacity (gpm)	Current Average Withdrawal (mgd)	Pre-1978
44*	134	134 to 114	250	0.030	0.250**
49*	Unknown	Unknown	280	0.015	0.250**
34	292	292 to 262	300	0.265	N/A

* Pre-1978 wells

**Based on a recorded 0.750 mgd withdrawal from three pre-1978 wells, or approximately 0.250 mgd per well.

Pumping Test. The project sponsor submitted data from a pumping test that was conducted December 11, 1991, for Well 34. Test pumping was conducted at a rate of 1,022 gallons per minute (gpm). At the end of the test, total drawdown was 10.4 feet. The water level in the production well recovered to 100 percent of the pretest water level within 10 minutes after cessation of pumping. Total drawdown in an observation well located approximately 60 feet to the west of the pumping well was 6.5 feet. The Chenango River, located approximately 2,000 feet to the west of the pumping well, was not monitored during the testing.

Findings

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

The project sponsor conducted a pumping test of Well 34 in 1991 and submitted these data in support of the groundwater withdrawal application. Commission staff recommends that the results of the pumping test be accepted.

Well 34 is currently equipped with a pump capable of withdrawing 300 gpm. Commission staff recommends that the maximum instantaneous pumping rate for Well 34 not exceed 300 gpm.

The project has been in operation since the 1950s, and groundwater withdrawals from Wells 44 and 49 predate Commission Regulation §803.43. Commission staff agree with the project sponsor's calculated pre-1978 groundwater withdrawal of 0.500 mgd (30-day average) and, for purposes of this docket, this quantity of withdrawal from Wells 44 and 49 is considered "grandfathered."

Should the facility's 30-day average groundwater withdrawal from Wells 44 and 49 increase by 0.100 mgd and exceed 0.600 mgd, the project sponsor should immediately notify the Commission and submit an application for approval of the increased withdrawal.

The project has been in operation since the 1950s, and consumptive water use at the facility predates Commission Regulation §803.42. Commission staff concurs with the project sponsor's calculated pre-1971 consumptive water use of 0.027 mgd for the research, development, and manufacture of pharmaceuticals and, for purposes of this docket, this quantity of water is considered "grandfathered" and is exempt from water compensation requirements.

Should the facility's 30-day average consumptive water use increase by 0.020 mgd and exceed 0.047 mgd, the project sponsor should immediately notify the Commission and submit an application for approval of the consumptive water use. For the purpose of this docket, the amount of consumptive water use is the quantity of water withdrawn from the three active wells located on the project site, plus any additional future water sources, minus the discharge to the wastewater treatment ponds (not including storm water).

Evaporation from the four existing wastewater basins predates Commission Regulation §803.42 and, therefore, is grandfathered. If future expansion results in an increase in evaporative loss from the wastewater treatment facility, that increase should be included in the project's consumptive water use calculation.

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

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

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

Compliance Incentive Program

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

Decision

The foregoing findings are hereby incorporated into and made a part of this decision. The project's groundwater withdrawal of 0.350 mgd (30-day average) from Well 34 is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

a. The project sponsor shall comply with all Commission regulations, including groundwater withdrawal reporting requirements, as per Commission Regulation §803.43.

b. The project sponsor shall keep weekly records of the metered withdrawal and weekly water levels from Well 34. The required reporting data shall be submitted to the Commission annually, and as otherwise required. Monitoring reports are due within sixty (60) days after the close of the preceding year. The project sponsor shall maintain the existing meter, accurate to within five (5) percent, on Well 34. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

c. The maximum instantaneous rate of production from Well 34 shall not exceed 300 gpm.

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

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

f. If the Commission determines that the operation of the project's groundwater withdrawal from Well 34 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.

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

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

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

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

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

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

l. This approval is effective until March 10, 2029. The project sponsor shall submit a renewal application by September 10, 2028, and obtain Commission approval prior to continuing operation beyond March 10, 2029.

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

By the Commission:

Dated: March 10, 2004


Cathy Curran Myers, Chair
Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20040302

Approval Date: March 10, 2004

EN-JOIE GOLF CLUB

Consumptive Water Use of Up to 0.192 mgd, for Golf Course Irrigation,
Village of Endicott, Broome County, New York

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the original application on February 7, 2001, and a modified application on October 27, 2003.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water for irrigation of greens, tees, and fairways at an existing 18-hole golf course.

Location. The project is located in the Upper Susquehanna Subbasin, HUC 02050103, Susquehanna River Watershed, Village of Endicott, Broome County, New York.

Project Features. The project sponsor has requested approval for a maximum daily consumptive use of water of up to 0.192 million gallons per day (mgd). The project sponsor calculates the project's maximum average 30-day consumptive water use to be 0.111 mgd, and current peak-day consumptive water use to be 0.167 mgd.

The project was constructed as an 18-hole golf course in the 1920s, and has been in continuous operation since that time. The course was equipped with an irrigation system that watered the greens, tees, and fairways prior to 1971. The current irrigation system was installed in 2000. To date, water use for irrigation has not been metered.

The primary source of water is the Village of Endicott municipal water supply system. Water from the village system is supplied directly to the irrigation system. Beginning in the mid-1980s, the project sponsor also withdrew water from an on-site well with a 500-gpm capacity (35-horsepower motor). According to the project sponsor, the use of the well was discontinued in 2003 due to equipment failure.

Findings

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

All water used for golf course irrigation is considered to be used consumptively. The irrigation system is not equipped with a meter that measures the quantity of water used for irrigation. Commission staff recommends the project sponsor install appropriate metering to measure the quantity of water used by the irrigation system.

The project sponsor has requested approval for a consumptive water use of up to 0.167 mgd. Based on water use estimates supplied by the project sponsor, Commission staff is recommending approval of up to 0.192 mgd, which is approximately 15 percent greater than the current estimated peak-day use of 0.167 mgd. This will allow for an anticipated increase in water usage over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.192 mgd, the project sponsor must apply for a modification to this docket at that time.

Based on the information supplied by the project sponsor, Commission staff estimates the pre-1971 30-day average consumptive water use for this project to be 0.060 mgd. For purposes of this docket, 0.060 mgd is considered "grandfathered" and is exempt from water compensation requirements.

The project's consumptive use of water in excess of the grandfathered quantity is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water. The payment will be based on the daily quantity of water used for irrigation, minus the pre-1971 consumptive use of 0.060 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero.

If the project sponsor reinstates its withdrawal of water from the existing well, Commission staff recommends that the Commission be notified and the well be equipped with a meter. Should the project's future 30-day average water withdrawal from the well exceed or be expected to exceed 0.100 mgd, the project sponsor must apply for a modification to this docket at that time.

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

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

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

Compliance Incentive Program

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

Decision

The foregoing findings are hereby incorporated into and made a part of this decision. The project's consumptive water use of up to 0.192 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

b. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain a meter, accurate to within five (5) percent, on the irrigation system to measure the quantity of water pumped from the pond to the irrigation system.

c. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity supplied to the irrigation system. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

d. Prior to any reinstatement of its groundwater withdrawal, the project sponsor shall notify the Commission and install and maintain metering on the on-site well, accurate to within five (5) percent, to measure its ground-water 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. The project sponsor may propose alternative monitoring to the Commission for staff review and approval. If the groundwater withdrawal exceeds the threshold contained in Commission Regulation §803.43, the project sponsor shall submit the appropriate application for review and approval by the Commission. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

e. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of

water consumptively used shall be the quantity supplied to the irrigation system. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.060 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

g. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used in excess of the grandfathered quantity of 0.060 mgd during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (d) above.

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

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

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

warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

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

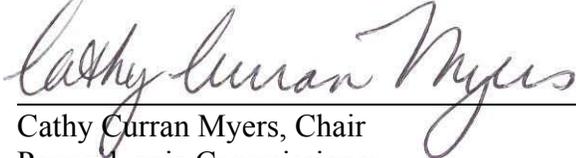
l. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

m. This approval is effective until March 10, 2029. The project sponsor shall submit a renewal application by September 10, 2028, and obtain Commission approval prior to continuing operation beyond March 10, 2029.

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

By the Commission:

Dated: March 10, 2004



Cathy Curran Myers, Chair
Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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

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

Docket No. 20040303

Approval Date: March 10, 2004

FAIRCHILD SEMICONDUCTOR

Consumptive Water Use of Up to 0.420 mgd,
for Manufacture of Semiconductor Products,
Wright Township, Luzerne County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The project sponsor initiated the application process on June 29, 2001.

Description

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

Location. The project is located in the Middle Susquehanna Subbasin, HUC 02050107, Susquehanna River Watershed, Wright Township, Luzerne County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.420 million gallons per day (mgd). Based on metered water use data for the years 2001 through 2003, the project sponsor estimates the project's maximum average 30-day consumptive water use to be 0.125 mgd, and current peak-day consumptive water use to be 0.382 mgd.

Operations began at the facility in the 1950s by the RCA Corporation (RCA). General Electric (GE) acquired the property from RCA in 1986, and Harris Semiconductor purchased the facility in 1989. Harris Semiconductor operated the facility until 1998. Intersil Corporation acquired the facility in 1998, and operated it until 2001. Fairchild Semiconductor has owned and operated the facility since 2001.

The Pennsylvania-American Water Company–Spring Brook Division (PAWC) water supply system provides water to the facility. The water is metered at three separate locations as

it enters the facility, and is used for processing, noncontact process cooling, boiler makeup, building cooling, building heating and humidification, and sanitary purposes.

The process wastewater generated at the facility is treated at an on-site pretreatment plant. The treated process wastewater is measured by a parshall flume and discharged through an outfall to the Mountain Top Area Joint Sanitary Authority (MTAJSA) sanitary sewer system. Sludge produced during the pretreatment process is transported off site for disposal.

Sanitary wastewater from the facility is discharged through a separate outfall to the MTAJSA sanitary sewer system. The sanitary wastewater is measured by a parshall flume.

Findings

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

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

The project sponsor obtains water from a public water supplier. The water is metered at three locations prior to being used at the facility, and each meter currently is read monthly by PAWC. Process wastewater effluent from the pretreatment plant currently is measured and monitored on a daily basis by MTAJSA. Sanitary wastewater discharged from the facility is discharged through a separate outfall to the MTAJSA sanitary sewer system, and currently is monitored on a quarterly basis by MTAJSA. The project sponsor proposes that the facility's consumptive water use be calculated as the total metered water supplied to the facility from the public water supplier, minus the sum of the measured process wastewater and sanitary wastewater discharged to the MTAJSA sanitary sewer system. Commission staff concurs with this proposed accounting procedure, and recommends that the project sponsor record both the metered inflow to the facility and measured outflow from the facility on a daily basis to determine the project's daily consumptive water use. All measurements should be recorded at approximately the same time each day.

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

Commission staff and the project sponsor have agreed to a pre-1971 consumptive water use of 0.032 mgd for the project and, for purposes of this docket, this quantity of water is considered "grandfathered" and is exempt from water compensation requirements.

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

The project sponsor has requested a consumptive water use approval of up to 0.420 mgd. Based on an analysis of metered water use records supplied by the project sponsor, Commission staff is recommending approval of the requested amount, which represents an increase of approximately 10 percent above the current estimated peak-day use of 0.382 mgd. This will allow for an anticipated increase in water usage over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.420 mgd, the project sponsor must apply for a modification to this docket at that time.

In the application received by the Commission on June 29, 2001, the project sponsor requested a groundwater withdrawal of 0.250 mgd (30-day average) from Well 1. Subsequently, the project sponsor withdrew the groundwater application, and notified the Commission that it would no longer be withdrawing groundwater from Well 1. Well 1 was taken off-line on November 5, 2002. Commission staff recommends that Well 1 be abandoned, employing a methodology acceptable to the Commission, and that documentation to that effect be provided to the Commission. Additionally, Commission staff recommends that the project sponsor apply for Commission approval prior to resuming any use of the well.

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

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

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

Compliance Incentive Program

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

Decision

The foregoing findings are hereby incorporated into and made a part of this decision. The project's consumptive water use of up to 0.420 mgd is approved, pursuant to Article 3, Section 3.10 of the Compact, subject to the following conditions:

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

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity evaporated by the facility's cooling towers and from various manufacturing processes, used for boiler makeup, and contained in the process wastewater sludge hauled off site. The project sponsor shall maintain meters and measurement devices to monitor water entering the facility and the wastewater leaving the facility (from the pretreatment plant and the sanitary wastewater), accurate to within five (5) percent. The Commission reserves the right to inspect all measurement equipment and audit all measurement records. The project sponsor may propose alternatives to the accounting procedure, which shall be reviewed and approved by Commission staff.

c. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the quantity evaporated by the facility's cooling towers and from various manufacturing processes, used for boiler makeup, and contained in the process wastewater sludge hauled off site. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.032 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

d. Within sixty (60) days from the date of this approval, the project sponsor shall abandon Well 1, employing a methodology acceptable to the Commission, and provide documentation to the Commission to that effect. The project sponsor shall apply for Commission approval prior to resuming use of the well.

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

f. Commission approval shall not be construed to exempt the project sponsor from obtaining all necessary permits and/or approvals required for the project from other federal, state, or local government agencies having jurisdiction over the project. The Commission reserves the

right to modify, suspend, or revoke this action if the project sponsor fails to obtain or maintain such approvals.

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

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

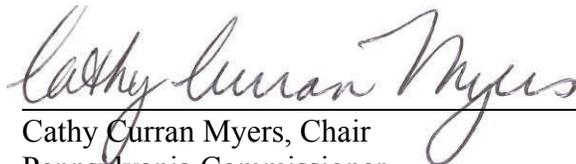
i. The Commission reserves the right to reopen any project docket or issue such additional orders, as may be necessary, to mitigate or avoid adverse impacts or otherwise to protect public health, safety, welfare, or the environment.

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

k. This approval is effective until March 10, 2029. The project sponsor shall submit a renewal application by September 10, 2028, and obtain Commission approval prior to continuing operation beyond March 10, 2029.

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

By the Commission:



 Cathy Curran Myers, Chair
 Pennsylvania Commissioner

Dated: March 10, 2004



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20040304

Approval Date: March 10, 2004

PENNSY SUPPLY INC. SMALL MOUNTAIN QUARRY

Consumptive Water Use of Up to 0.108 mgd,
for Quarrying of Limestone and Processing of Aggregate,
Dorrance Township, Luzerne County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on June 29, 2001.

Description

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

Location. The project is located in the Middle Susquehanna Subbasin, HUC 02050107, Wapwallopen Creek Watershed, Dorrance Township, Luzerne County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.108 million gallons per day (mgd). Based on daily water use data for the years 2001 through 2003 submitted by the project sponsor, Commission staff estimates the project's maximum average 30-day consumptive water use to be 0.059 mgd and current peak-day consumptive water use to be 0.098 mgd.

The project sponsor excavates limestone from the Devonian-age Sherman Creek member of the Catskill Formation for the production of aggregate. Quarry operations began on the site in 1982. Pennsy Supply, Inc. purchased the property in 2000, and has been operating the quarry since that time.

Water for the quarry's operation is withdrawn from three wells: crushing plant well 1 (Well 1); crushing plant well 2 (Well 2); and asphalt plant well (Well 3). In addition, there are two additional wells currently not utilized for process operations: the garage shop well (Well 4);

and the concrete plant well (Well 5). The project sponsor reports that the wells are utilized at less than 100,000 gallons per day (gpd) on a 30-day average and, thus, the withdrawal is less than the threshold specified in Commission Regulation §803.43, relating to groundwater withdrawals.

Water from Well 1 is pumped to five storage tanks with a total combined storage capacity of 70,000 gallons. Water from these tanks is used for aggregate processing and dust control at the crushing plant. Well 1 was installed after 1978, and has a pumping capacity of 100 gallons per minute (gpm). The well is not metered.

Water withdrawn from Well 2 is used for dust control at the crushing plant and for sanitary purposes in the quarry office. Well 2 is not metered.

Water from Well 3 is pumped to two storage tanks with a total combined storage capacity of 20,000 gallons. Water from these storage tanks is used for dust control on haul roads within the quarry. Well 3 has a pumping capacity of 45 gpm. The well is not metered.

Well 4 is used for sanitary purposes in the shop. Well 4 has a pumping capacity of 5 gpm. The well is not metered.

Well 5 was installed to provide water for the concrete plant. Operations at the concrete plant ceased in 2001 and, therefore, Well 5 currently is not utilized.

Runoff from crushing operations is collected in a sediment pond for clarification, and then is discharged into Balliet Run, a tributary to Wapwallopen Creek. The sediment pond was installed in 1992, and has a total surface area of 0.04 acres. Discharge from the pond is not metered.

A quarry sump was installed in 1992 and enlarged in 1995. Quarry operations have not intercepted the water table, and minimal dewatering is required in the quarry pit. Water that collects in the quarry sump is discharged to an unnamed tributary to Wapwallopen Creek. The project sponsor anticipates that quarry operations will intercept groundwater in the future and that dewatering activities will increase at that time. The quarry sump has a surface area of 0.81 acres.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (Pa. DEP), Bureau of District Mining Operations, during review of the project. Pa. DEP approved the project's withdrawal of groundwater for dewatering at the quarry sump during its review of the quarry operation, and the Commission considered this review as adequate to meet the requirement of Commission Regulation §803.43. Pa. DEP staff has reviewed this docket for consistency with its Noncoal Surface Mining Permit No. 40870301.

Findings

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

All water used for aggregate production and retained in the aggregate, used in screening operations, used for equipment washing, trucked off site, used for dust control, and evaporated from the sediment pond and the quarry sump 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.

The total quantity of water supplied to the crushing plant from Well 1, minus the quantity of water discharged from the crushing plant, is the quantity of water retained in the aggregate. Commission staff recommends that the project sponsor install meters to measure the amount of water entering and leaving the crushing plant.

The project sponsor withdraws water from Well 2 to provide dust control at the crushing plant and for sanitary purposes. Well 2 is not metered. Commission staff recommends that the project sponsor install metering to measure the amount of water that is used for dust control at the crushing plant.

The project sponsor withdraws water from Well 3 to control dust on haul roads on the property. Commission staff recommends that the project sponsor install metering to measure the quantity of water withdrawn from the well for dust control.

Water evaporated from the sediment pond and quarry sump will be calculated by the project sponsor employing a methodology acceptable to the Commission.

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

The project sponsor has requested a consumptive water use approval of up to 0.108 mgd. Based on an analysis of water use records supplied by the project sponsor, Commission staff is recommending approval of the requested amount, which represents an increase of approximately 10 percent above the current estimated peak-day use of 0.098 mgd. This will allow for an anticipated increase in water usage over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.108 mgd, the project sponsor must apply for a modification to this docket at that time.

The project's groundwater withdrawal from the five on-site wells has been in operation since the 1980s. The wells are not metered. Commission staff recommends that metering be placed on Wells 1, 2, and 3 to measure groundwater withdrawal. Concrete plant operations were shut down in 2001, and Well 5 is no longer in use.

Commission staff finds that the wells currently are utilized at less than 100,000 gpd on a 30-day average and, thus, the withdrawal is not subject to review and approval under Commission Regulation §803.43. If the combined groundwater withdrawal exceeds or is expected to exceed thresholds contained in Commission Regulation §803.43, the project sponsor must submit a groundwater withdrawal application to the Commission.

Under the terms of the Memorandum of Understanding between the Commission and the Pa. DEP, the project has been reviewed and approved for the groundwater withdrawal at the sump for the quarry dewatering. Commission staff recommends that the project sponsor install and maintain metering, accurate to within 5 percent, on the groundwater withdrawal for the quarry sump, and report the data to the Commission annually. The project sponsor could propose an alternative to metering for Commission staff's review and approval.

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

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

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

Compliance Incentive Program

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

Decision

The foregoing findings are hereby incorporated into and made a part of this decision. The project's consumptive water use of up to 0.108 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

b. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain metering, accurate to within five (5) percent, to measure the daily quantity of water entering and leaving the crushing plant. The project sponsor may propose an alternative accounting procedure to the Commission for staff review and approval.

c. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The

daily quantity of water consumptively used shall be the quantity of water used for aggregate production and retained in the aggregate, used in screening operations, used for equipment washing, trucked off site, used for dust control, and evaporated from the quarry sump and two sediment ponds. Commission staff shall review and approve the method of calculation of evaporative loss from the ponds. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

d. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain meters, accurate to within five (5) percent, on the groundwater withdrawal from Wells 1, 2, and 3 and the quarry sump. The project sponsor shall keep daily records of the project's groundwater withdrawal. The project sponsor shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The project sponsor may propose alternative monitoring to the Commission for staff review and approval. If the project's groundwater withdrawal from Wells 1, 2, and 3 exceeds the threshold specified in Commission Regulation §803.43, the project sponsor shall submit the appropriate application for review and approval by the Commission.

e. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project. The daily quantity of water consumptively used shall be the quantity of water used for aggregate production and retained in the aggregate, used in screening operations, used for equipment washing, trucked off site, used for dust control, and evaporated from the new quarry sump. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project. 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.

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

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

h. If the Commission determines that the operation of the project's groundwater withdrawal from its wells adversely affects any existing ground-water or surface-water

withdrawal, the project sponsor shall be required to provide, at its expense, an alternate water supply or other mitigating measure.

i. 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.

j. 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.

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

l. 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.

m. 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.

n. This approval is effective until March 10, 2029. The project sponsor shall submit a renewal application by September 10, 2028, and obtain Commission approval prior to continuing operation beyond March 10, 2029.

o. 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: March 10, 2004



Cathy Curran Myers, Chair
Pennsylvania Commissioner



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Docket No. 19880204-2

Interim Approval: February 11, 1988

Approval Date: January 18, 1990

Modification Date: March 10, 2004

KOPPERS, INC.

Consumptive Water Use of Up to 0.300 mgd for the
Manufacture of Treated Railroad Ties and Electrical Cogeneration,
Clinton Township, Lycoming County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, §803.42, relating to the consumptive use of water, and §803.43, relating to groundwater withdrawals. Following an interim approval in February 1988, the Commission approval for groundwater withdrawal and consumptive water use was issued on January 18, 1990, as Docket No. 19880204. The current modification request was received by the Commission on November 13, 2003.

Description

Purpose. The purpose of the application is to request approval for an increase in the consumptive use of water associated with the manufacture of treated railroad ties and electrical cogeneration at Koppers, Inc. (Koppers). Commission approval for consumptive water use was issued on January 18, 1990, as Docket No. 19880204 (docket). This docket modification approves the requested increase and also modifies the method of compensation for consumptive water use.

Location. The project is located in the West Branch Susquehanna Subbasin, HUC 02050206, West Branch Susquehanna River Watershed, Clinton Township, Lycoming County, Pennsylvania.

Project Features. The project sponsor has requested approval for an increase in the consumptive use of water from 0.231 million gallons per day (mgd) to a maximum of 0.300 mgd for the pressure treatment (creosoting) of precut railroad ties and for electrical power cogeneration. Used railroad ties, recycled from railroads across North America, fuel the furnace that heats the boiler generating steam for the cogeneration facility. This modification will not

require an increase in the approved groundwater withdrawal of 0.370 mgd (30-day average) in Docket No. 19880204.

Water is supplied to the project from two wells, Well 1 and Well 2, also known as the Wieland and Cresswell Wells, respectively. The water supplied by each well is individually metered as it enters the cogeneration facility, and is used primarily for cooling tower makeup, boiler makeup, and sanitary purposes. Physically, the plant consists of two separate facilities; the railroad tie treating facility and the electrical cogeneration facility. The wood treatment facility began operations in October 1970, and the electrical cogeneration facility began operations in 1988 (at the time of the interim approval). An evaporative cooling tower was added to the wood treatment facility after 1971. However, consumptive water use at the wood treatment facility was not a part of the prior docket approval.

The existing 12-megawatt GE electric generator, installed with the electrical cogeneration facility, provides power to the Koppers plant and to the PJM Electric Grid. While the electric generator was initially rated at 12-megawatts capacity, it has not been used to generate over 9-megawatts of electricity since 1995. As a result, the maximum daily consumptive water use for the cogeneration facility since 1995 has been 0.258 mgd.

All of the wastewater generated from the wood treatment facility is discharged to the sanitary sewer system through two unmetered outfall lines (one for sanitary wastewater and one for process wastewater) and treated in the Montgomery Municipal Sewer Authority's wastewater treatment facility. Wastewater from the wood treatment process is pretreated at an on-site wastewater treatment plant. The wastewater flow from the wood treatment facility is measured based on the pumping rate from a sump multiplied by the number of hours operated. Wastewater (primarily blowdown) generated from the electrical cogeneration facility is skimmed in another sump to remove oil and discharged to a stormwater retention pond that flows to the Adams Creek extension. This flow also is measured based on the pumping rate from the sump multiplied by the number of hours operated.

Findings

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

There are two categories of consumptive water use at Koppers; evaporation from cooling towers and boiler makeup water for steam production. Most of the plant's consumptive water use occurs at the electrical cogeneration facility. Consumptive water use at the cogeneration facility currently is calculated by subtracting daily measured outflow to the detention pond from daily metered inflow to the facility from Wells 1 and 2.

Commission staff has determined that there was no consumptive water use at the wood treatment facility prior to 1971. However, according to the project sponsor, sometime after 1971, a small cooling tower was installed at the wood treatment facility that was not a part of the prior docket approval. Commission staff has determined that this is the only consumptive water use at the wood treatment facility. Peak monthly consumptive water use by the facility's cooling

tower is calculated to be 8,000 gallons per day (gpd) by the project's water treatment consultant, based on chemical usage for treating the circulating cooling water. Water withdrawn from Wells 1 and 2 that supplies the cooling tower is not metered. However, this water is estimated to be supplied at a constant rate of 8,000 gpd. Based on these estimates, consumptive water use at the Kopper's wood treatment facility is only 3 percent of metered consumptive water use at the cogeneration facility.

Because the wood treatment facility's consumptive water use is minimal compared to that at the rest of the project, the project sponsor has proposed to determine the project's total daily consumptive water use by subtracting daily measured outflow from daily metered inflow at the electric cogeneration facility and adding a constant 8,000 gpd for the consumptive water use at the wood treatment facility. Commission staff concurs with the project sponsor's proposed modification to the prior docket's accounting procedure, as described above, to determine the project's daily consumptive water use.

Further, Commission staff recommends that the Commission reserve the right to modify the accounting procedure, as necessary, to accurately account for consumptive water use. Commission staff will direct the project sponsor by written notice of any required change in the accounting procedure. Any alternative monitoring/accounting procedure will be reviewed and approved by Commission staff.

Prior to 1995 when the cogeneration facility's electrical generator was used up to its initial rated capacity of 12-megawatts, there were numerous violations of the daily consumptive water use approval. Since 1995 when the generator was rerated to 9 megawatts, the project sponsor has exceeded its approved consumptive water use on 11 days. In 2003, there were three exceedences.

Commission staff recently notified the project sponsor of violations of the project's consumptive water use approval. When the project sponsor became aware of the exceedences of daily consumptive water use, the project sponsor promptly submitted a modification request. While the project's consumptive water use has been in noncompliance with Commission regulations, there have been no adverse impacts associated with the consumptive use, and the project sponsor has cooperated with Commission staff during its review. The project sponsor has paid the consumptive water use fees for the water used in excess of the prior approval amount. Commission staff does not recommend the assessment of penalties associated with this noncompliance.

The project sponsor is requesting a consumptive water use approval of up to 0.300 mgd, which is 13 percent above the existing peak daily consumptive water use of 0.266 mgd at the project. Commission staff recommends approval of the project sponsor's request. Should the project's future consumptive water use exceed 0.300 mgd, the project sponsor must apply for a modification to this docket at that time.

On February 11, 1988, the Commission granted interim approval to Koppers for the withdrawal of groundwater and consumptive water use for the cogeneration facility. At the time, Koppers was allowed to pay consumptive water use fees as the method of compensation in-lieu-

of providing actual compensation water. However, the docket issued in January 1990 approved the use of water pumped from the Lycoming Silica Sand Company quarry pit during low flow periods, as directed by Commission staff, as an acceptable method of compensation for the project's consumptive water use. This pumping during low flow periods was to be equivalent to 110 percent of the project's average daily consumptive water use. Since that time, Koppers has continued to make quarterly payments in-lieu of providing actual compensation water, and the infrastructure necessary to pump water from the Lycoming Silica Sand Company quarry pit for release during low flow periods has never been installed. Consequently, the project sponsor has proposed to continue to make quarterly payments to the Commission in-lieu-of providing actual compensation water. Commission staff concurs, and recommends that the docket be modified accordingly.

The Commission previously approved a groundwater withdrawal of up to 0.370 mgd (30-day average) from Wells 1 and 2 for electrical cogeneration at the Koppers plant (Docket No. 19880204). Withdrawals from Wells 1 and 2 are within the amount of the approval.

Commission staff recommends that all conditions in Commission Docket No. 19880204 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 804.20(b).

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

Based on Commission Regulation §803.30(a), the prior docket approval is effective until January 18, 2020. 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

The foregoing findings are hereby incorporated into and made a part of this decision. Commission Docket No. 19880204, as approved January 18, 1990, is hereby modified, and the project's consumptive water use of up to 0.300 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42, and groundwater reporting requirements, as per Commission Regulation §803.43.

b. Pumping quarry water from Lycoming Silica Sand Company for release during low flow periods, as directed by Commission staff, is hereby rescinded as a method of compensation for the project's consumptive water use and replaced by new condition (f).

c. The project sponsor shall continue to keep daily records of the project's consumptive water use, and shall provide the results to the Commission quarterly, and as otherwise requested. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The project sponsor shall compute the project's daily consumptive water use using the modified accounting procedure whereby the measured daily discharge of blowdown from the cogeneration facility is subtracted from the daily metered inflow to the cogeneration facility from Wieland Well 1 and Cresswell Well 2 and 8,000 gpd of consumptive water use for the wood treatment facility is added to the cogeneration facility's consumptive water use. The project sponsor shall continue to maintain the existing meters and measuring devices, accurate to within five (5) percent, to calculate the cogeneration facility's consumptive water use. The project sponsor may propose an alternate monitoring/accounting system. Any alternative monitoring/accounting procedure shall be reviewed and approved by Commission staff.

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

e. The project sponsor shall continue to maintain a meter on the Wieland Well 1 and Cresswell Well 2 withdrawals supplying the electric cogeneration facility. The meters shall be accurate to within five (5) percent to measure groundwater withdrawals. Daily records of the project's Wieland Well 1 and Cresswell Well 2 withdrawals shall be monitored and recorded. Also, weekly water levels shall be monitored and recorded in the Wieland Well 1 and Cresswell Well 2. All required monitoring data shall be provided to the Commission quarterly. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter.

f. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall continue to make quarterly payments to the Commission in the amount of \$0.14 per 1,000 gallons of water consumptively used by the project. The daily quantity of water consumptively used shall be the measured daily discharge of blowdown from the cogeneration facility subtracted from the metered daily inflow to the cogeneration facility from Wieland Well 1 and Cresswell Well 2 plus 8,000 gpd, the use at the wood treatment facility. Payments shall be made quarterly, and shall be calculated by applying this rate to the amount of water used consumptively 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 all consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

g. If the Commission determines that the operation of the project's groundwater withdrawals from the Wieland Well 1 and Cresswell Well 2 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.

h. All other conditions in Commission Docket No. 19880204 not inconsistent herewith shall remain effective.

i. 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.

j. 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.

k. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90) day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. 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.

l. 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 the public health, safety, welfare, or the environment.

m. 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.

n. Based on Commission Regulation 803.30(a), this approval is effective until January 18, 2020. The duration of this docket modification is in accordance with the term of the prior docket approval. The project sponsor shall submit a renewal application by July 18, 2019, and obtain Commission approval prior to continuing operation beyond January 18, 2020.

o. 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: March 10, 2004


Cathy Curran Myers, Chair
Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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

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

Docket No. 20010203-1

Approval Date: February 8, 2001

Modification Date: March 10, 2004

ALBEMARLE CORPORATION (formerly ChemFirst Fine Chemicals, Inc.)

Consumptive Water Use of up to 0.0774 mgd,
for Chemical Production,
Borough of Tyrone, Blair County, Pennsylvania

Review Authority

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

Description

Purpose. The Commission originally approved the project on February 8, 2001, as Docket No. 20010203 (docket). In the docket, Albemarle Corporation (formerly ChemFirst Fine Chemicals, Inc.) was approved for the consumptive use of water of up to 0.0774 mgd for the production of chemicals, subject to conditions enumerated in the docket. This docket modification rescinds certain provisions, and establishes new procedures for computing the project's consumptive water use.

Findings

The project's consumptive water use specified in the docket is calculated as the metered inflow minus the metered outflow from the facility. Water is supplied to the facility by the Tyrone Borough Water Department (Water Department). The Water Department monitors four water meters on a monthly basis and provides the project sponsor with the facility's total monthly inflow, which is prorated to a daily basis, for the spreadsheet accounting procedure used to calculate daily consumptive water use.

Water discharged from the facility's Macro Porus Polymer (MPP) Extraction pretreatment system to the Tyrone Municipal Sewer Authority (Authority) is measured and monitored daily by the project sponsor. However, stormwater collected from the facility's

0.65 acres of impervious product, wastewater, and scrubber storage pads enters the facility's wastewater stream, causing negative daily consumptive water use during significant precipitation events.

Primarily, water is consumed at the facility by bulk hauling wastewater from chemical production out of the basin for treatment. Aqueous waste trucked out of the basin is measured daily as it is pumped from any of ten on-site waste storage tanks into tanker trucks. Tanker truck loads of wastewater also are tracked on aqueous waste manifests as a backup accounting procedure. The project sponsor has proposed to calculate consumptive water use through the bulk hauling of wastewater by summing the water pumped daily to the tanker trucks from each of the ten on-site wastewater storage tanks. The volumetric contents of the waste tanks are measured before and after tanker loading using a differential pressure cell meter.

Additionally, consumptive water use at the facility occurs through evaporation at three on-site cooling towers and from small amounts of live steam generated at the facility's three boilers that is used for plant maintenance. The three cooling towers are used for low heat load noncontact cooling of product. High-demand heat loads are cooled by several on-site chillers that utilize glycol coolant systems (thus having no water use). The project sponsor has estimated the daily evaporation from the three cooling towers currently to be 3,146 gallons per day (gpd), based on a formula using average annual cooling loads and average temperature differentials of cooling water. Commission staff finds the calculation methodology acceptable for determining average daily evaporation from the facility's three cooling towers.

Total pounds of steam generated by the facility's three boilers are calculated based on annual natural gas consumption used to fire the boilers. Steam losses, an additional consumptive water use at the facility, are estimated by the project sponsor based on 1 percent of total steam generated. The daily pounds of steam lost are converted to the daily water equivalent. The project sponsor has calculated the average daily consumptive water use resulting from steam losses to be 299 gpd. Commission staff finds that this calculation methodology is acceptable for determining the water equivalent of the average daily steam losses at the facility.

The project sponsor proposes to sum the calculated average daily evaporation from the three cooling towers (currently 3,146 gpd) with the average daily steam loss from the three boilers (currently 299 gpd), and add this amount (currently 3,445 gpd) to the amount of daily water hauled out of the basin from the facility to obtain the facility's total daily consumptive water use. Commission staff concurs with this recommended procedure for determining the facility's daily consumptive water use. The facility's largest consumptive water use (aqueous waste hauled out of basin) will be metered daily. Calculated smaller quantities of daily evaporation from the cooling towers and steam losses from the boilers will be added to the daily metered wastewater to obtain total daily consumptive water use. The proposed accounting procedure will eliminate negative daily consumptive water uses that have resulted from the inflow minus outflow accounting procedure approved in the current docket.

Commission staff recommends that the accounting procedure specified in the original docket be modified according to these findings.

If there are future modifications to the facility's manufacturing processes that result in additional unmeasured sources of consumptive water use at the facility, the Commission reserves the right to modify the accounting procedure. Commission staff will direct the project sponsor by written notice of any required change in the accounting procedure. Any alternative monitoring/accounting procedure will be reviewed and approved by Commission staff.

Decision

The foregoing findings are hereby incorporated into and made a part of this decision. Commission Docket No. 20010203, as approved February 8, 2001, is hereby modified as follows:

- a. Condition (b) is hereby rescinded and replaced by the following condition (b).
- b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the amount of aqueous waste pumped daily to the tanker trucks for bulk hauling off site plus the evaporative losses from the facility's cooling towers and steam losses from the facility's boilers calculated according to formulas using average annual cooling loads, temperature differentials, and natural gas consumption. The project sponsor shall maintain the existing meters, accurate to within five (5) percent, to calculate the consumptive water use. The project sponsor may propose alternatives to the accounting procedure, which shall be reviewed and approved by Commission staff.
- c. The Commission reserves the right to inspect or investigate the project facility, and the project sponsor shall allow authorized employees or agents of the Commission, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is being constructed, operated, or maintained. Such employees or agents shall be authorized to conduct tests or sampling, to take photographs, to perform measurements, surveys, and other tests, to inspect the methods of construction, operation, or maintenance, to inspect all measurement equipment, to audit, examine, and copy books, papers, and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is constructed, operated, or maintained in accordance with the terms and conditions of this approval or any other rule, regulation, or order of the Commission.
- d. Condition (g) is hereby rescinded and replaced by the following condition (e).
- e. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances

warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

f. All other conditions in Commission Docket No. 20010203 not inconsistent herewith shall remain effective.

g. Based on Commission Regulation §803.30(a), this approval is effective until February 8, 2026. The duration of this docket modification is in accordance with the term of the prior docket approval. The project sponsor shall submit a renewal application by August 8, 2025, and obtain Commission approval prior to continuing operation beyond February 8, 2026.

h. 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: March 10, 2004


Cathy Curran Myers, Chair
Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20040305

Approval Date: March 10, 2004

BC NATURAL CHICKENS (formerly Pennfield Farms)

Groundwater Withdrawal (30-Day Average) of 0.137 mgd from Wells 3, 4, 5, and 6,
a Total Well Field Withdrawal (30-Day Average) of 0.400 mgd,
and Consumptive Water Use of Up to 0.045 mgd,
for the Processing of Poultry
Bethel Township, Lebanon County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval; §803.42, relating to consumptive water use, and §803.43, relating to groundwater withdrawals. The Commission received the applications for groundwater withdrawal and consumptive use on May 25, 2001, and amended applications for groundwater withdrawal and consumptive water use on July 16, 2003.

Description

Purpose. The purpose of the application is to request approval for the withdrawal of groundwater and the consumptive use of water for the processing of poultry.

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050305, Little Swatara Creek Watershed, Bethel Township, Lebanon County, Pennsylvania.

Project Features. The project sponsor has requested approval for the withdrawal (30-day average) of 0.137 million gallons per day (mgd) of water from Wells 3, 4, 5, and 6, and a total well field withdrawal (30-day average) of 0.400 mgd, and the consumptive use of up to 0.045 mgd of water. The project sponsor has drilled six production wells in a well field located east of Deep Run, and the total peak daily withdrawal from the well field is approximately 0.480 mgd. In addition to its groundwater withdrawal, BC Natural Chickens also purchases an average of approximately 0.479 mgd of water from the Fredericksburg Water Authority.

Water is used for the following: ice production, chilling processes, steam generation, process water (scalding, wash down, etc.), product absorption, evaporative losses from cooling

towers and the wastewater treatment system, and potable water. According to the project sponsor, consumptive water use currently is approximately 0.045 mgd (30-day average).

The facility began operations in 1949, and has been in continuous operation since that time. Withdrawals from Wells 1 and 2 were initiated prior to 1978, the effective date of the Commission's groundwater withdrawal regulation.

All six production wells are open-rock boreholes, drilled into the Hamburg Sequence of the Martinsburg Formation, which is comprised of shale, siltstone, graywacke and limestone in the project area. Based on the driller's logs for Wells 3, 4, 5, and 6, limestone is the dominant lithology, with some shale. Bedrock is complexly folded and faulted, with bedding strike generally to the east-northeast/west-southwest. Wells 1 and 2 are staggered across bedding strike, while Wells 3, 4, 5, and 6 are aligned along bedding strike. The following table summarizes available data on the wells.

Well No.	Total Depth (ft)	Casing Depth (ft)	Pump Capacity (gpm)	Current Average Withdrawal (mgd)	Pre-1978
1*	130	39	300	0.158**	0.250***
2*	200	28	200	0.105**	
3	300	45	37	0.027	N/A
4	300	68	39	0.028	N/A
5	500	21	49	0.035	N/A
6	300	48	65	0.047	N/A

* Pre-1978 withdrawals.

** Estimated, based on pump capacities and combined metered flow rate from Wells 1 and 2.

*** Combined withdrawal from Wells 1 and 2, as reported by the project sponsor.

Pumping Tests. The six wells at the facility were drilled between 1948 and 1992. The project sponsor, in support of the application for groundwater withdrawal, submitted records of 8-hour, variable-rate pumping tests for Wells 3, 4, 5, and 6. Because these wells have been in service for approximately 10 years, and because there are no reported incidents of impacts to adjacent water users, the project sponsor requested a waiver from the Commission's pumping test requirements. In-lieu-of the required pumping tests, the project sponsor completed some water-level monitoring during pumping episodes of the well field to estimate aquifer properties and the lateral extent of significant drawdown. The project sponsor also installed three piezometers along Deep Run, and monitored these for approximately one month while pumping the production wells to determine if there was any potential to induce infiltration from Deep Run.

Findings

The project is subject to Commission approval and reporting requirements, as per Commission Regulations §803.42 and §803.43.

The project sponsor has requested approval of a consumptive water use of up to 0.045 mgd and 30-day average groundwater withdrawals of 0.137 mgd from Wells 3, 4, 5, and 6, and 0.400 mgd from the well field. Based on an analysis of water use records supplied by the project sponsor, Commission staff is recommending approval of up to the requested amounts. Should the project's future consumptive water use exceed or be expected to exceed 0.045 mgd, or the groundwater withdrawal exceed or be expected to exceed the approved quantities, the project sponsor must apply for a modification to this docket at that time.

Commission staff recommends that the maximum instantaneous rates of production from each of the wells should not exceed 37 gpm at Well 3, 39 gpm at Well 4, 49 gpm at Well 5, and 65 gpm at Well 6.

All water used for ice production, evaporated during chilling processes, in cooling towers, and through steam generation, as well as product absorption and any process water (scalding, wash down, etc) not returned through the wastewater treatment system, is considered to be used consumptively. Because the wastewater treatment ponds predate Commission Regulation §803.42, evaporation from the treatment ponds is not included in the consumptive water use calculations. Water used consumptively will be determined by the project sponsor by comparing daily inflow monitoring (groundwater withdrawals and purchased water) to daily outflow monitoring (treatment plant discharge).

Commission staff has determined a pre-1971 consumptive water use of 0.0139 mgd for the project and, for purposes of this docket, this quantity of water is considered "grandfathered" and is exempt from water compensation requirements.

The project's consumptive use of water in excess of the grandfathered quantity is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water. The payment will be based on the daily quantity of water inflow (groundwater withdrawals plus purchased water) minus outflow, minus the pre-1971 consumptive use of 0.0139 mgd. If the daily grandfathered quantity exceeds the project's calculated daily consumptive water use, that day's consumptive water use is considered to be zero.

The project's requested groundwater withdrawal from Wells 3, 4, 5, and 6 is subject to Commission Regulation §803.43. The use of Wells 1 and 2 predates the effective date of the regulation, and available information indicates the historic combined groundwater withdrawal was 0.250 mgd (30-day average).

The project sponsor requested a waiver from the Commission's pumping test requirements, based on the historic use of its well field. Commission staff reviewed the limited pumping test and water-level monitoring data collected by the project sponsor to estimate the impact from the withdrawals at the well field. Based on these estimates, significant drawdown was not projected to extend beyond 1,000 ft from Wells 3, 4, 5, and 6, the lower yielding wells in the well field. Although these projections were based on limited pumping periods and are approximations due to theoretical limitations of the methods used, cones of depression in this

setting are typically elongated along bedding strike. It is likely that the greatest drawdown would extend along bedding strike to the east-northeast and west-southwest and not across strike to the north in the direction of other industrial water users in the Fredericksburg area. The monitoring also indicated no detectable induced infiltration from Deep Run. Therefore, Commission staff recommends that the 48-hour pumping test requirement be waived.

Currently, Wells 1 and 2 are not metered individually, but are metered as a combined flow. Wells 3, 4, 5, and 6 are metered individually. The project sponsor has agreed to report all water withdrawn from the well field, by source, on a weekly basis, and also measure and record weekly water levels in the wells. Commission staff recommends acceptance of the existing metering of the wells in the well field.

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

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

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

Compliance Incentive Program

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

Decision

The foregoing findings are hereby incorporated into and made a part of this decision. The project's groundwater withdrawal of 0.137 mgd (30-day average from Wells 3, 4, 5, and 6, and a total limit of 0.400 mgd (30-day average) from its well field and the consumptive use of water of up to 0.045 mgd are approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42, and groundwater withdrawal reporting requirements, as per Commission Regulation §803.43.

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The project sponsor shall compute the project's daily consumptive water use by summing withdrawals from the well field and purchased water (inflow) and then subtracting discharge at the treatment plant (outflow). The project sponsor may propose alternative accounting procedures to the Commission for staff review and approval. The project sponsor shall maintain the existing meters, accurate to within five (5) percent, to calculate the consumptive water use.

c. The project sponsor shall keep daily records of the metered withdrawals from the wells in the well field and weekly water levels from each of the wells. Withdrawals from Wells 3, 4, 5, and 6 shall be metered and reported individually, and the combined withdrawal from Wells 1 and 2 shall be reported. The required reporting data shall be submitted to the Commission quarterly, and as otherwise required. Monitoring reports are due within thirty (30) days after the close of the preceding quarter. The project sponsor shall maintain the existing meters, accurate to within five (5) percent, on Wells 1 and 2 (combined), 3, 4, 5, and 6. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

d. The maximum instantaneous rates of production from each of the wells shall not exceed 37 gpm at Well 3, 39 gpm at Well 4, 49 gpm at Well 5, and 65 gpm at Well 6.

e. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the sum of the quantity withdrawn from the well field and purchased water minus water discharged at the treatment plant. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.0139 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

g. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water used consumptively by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used, above the daily grandfathered quantity of 13,900 gpd, during the period from January 1, 2001, until the effective date of this

approval. This payment shall be calculated separately and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (e) above.

h. The constant-rate pumping test requirement specified in Commission Regulation §803.43 (b) is hereby waived.

i. If the Commission determines that the operation of the project's groundwater withdrawal from Wells 3, 4, 5 or 6 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.

j. 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.

k. 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.

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

m. 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.

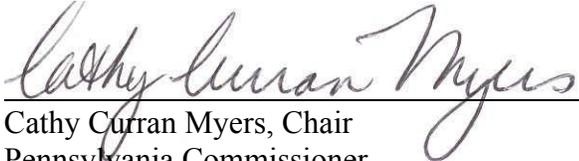
n. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

o. This approval is effective until March 10, 2029. The project sponsor shall submit a renewal application by September 10, 2028, and obtain Commission approval prior to continuing operation beyond March 10, 2029.

p. 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: March 10, 2004



Cathy Curran Myers, Chair
Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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Docket No. 20040306

Approval Date: March 10, 2004

MARTIN LIMESTONE, INC. KURTZ QUARRY

Consumptive Water Use of Up to 0.202 mgd
for Quarrying of Limestone, Processing of Aggregate, and Production of Concrete,
East Cocalico Township, Lancaster County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The project sponsor initiated the application on June 29, 2001.

Description

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

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

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.202 million gallons per day (mgd). Based on daily water use data for the years 2001 and 2002 submitted by the project sponsor, Commission staff has determined the project's maximum average 30-day consumptive water use to be 0.092 mgd, and the maximum daily consumptive water use to be 0.157 mgd.

The project sponsor excavates limestone from Ordovician-age Epler and New Oxford Formations in an open pit for the production of aggregate and concrete. Quarry operations began in the 1930s; asphalt and Redi-Mix concrete plants were added in 1973. Martin Limestone, Inc. purchased the facility from A.G. Kurtz & Sons in 1996. Martin Limestone, Inc. is a subsidiary of New Enterprise Stone and Lime Company, Inc.

Water for the quarry's operation is withdrawn from two quarry sumps (total 0.23 acre), the wash pond (0.17 acre), the final sediment pond (0.48 acre), and two small temporary ponds (0.52 acre). There are no wells or surface water withdrawals. A Redi-Mix concrete plant on the property receives operational and sanitary water from East Cocalico Municipal Water Authority. Municipal water is metered and monitored daily.

Water from all quarry operations accumulates in the main quarry sump, the lowest point in the quarry. From there, water is pumped to the wash pond to be utilized for crushing, screening at the production plant, and other operations at the wash plant. Overflow from the wash pond flows to the final sediment pond. Overflow from the final sediment pond discharges into Stony Run, a tributary of Cocalico Creek.

Water from the final sediment pond is pumped to fill water trucks used for dust control within the quarry and to wash out Redi-Mix concrete trucks. The withdrawal is metered. The project sponsor also maintains a log documenting the daily number of truckloads of water withdrawn for dust control.

A second quarry sump provides water for a portable wash plant. The withdrawal is not metered. Two ponds have been constructed to retain sediment and overflow from the ponds returns to the sump.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (Pa. DEP), Bureau of District Mining Operations, during review of the project. Pa. DEP approved the project's withdrawal of groundwater for dewatering at the quarry sump during its review of the quarry operation, and the Commission considered this review as adequate to meet the requirement of Commission Regulation §803.43. Pa. DEP staff has reviewed this docket for consistency with its Noncoal Surface Mining Permit No. 8275SM5 and NPDES Permit No. PA0595381.

Findings

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

All water retained in the aggregate, used for the manufacture of concrete, used for equipment washing (including Redi-Mix concrete trucks), trucked off site, used for dust control, and evaporated from the wash pond, two quarry sumps, and four sediment 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.

The total quantity pumped from the wash pond to the production plant is metered; water pumped to the wash plant from the wash pond and final sediment pond is not metered. Water supplied to the portable wash plant from the second sump is not metered. Water is consumptively lost through evaporation and retention in the aggregate at these locations. Commission staff recommends that the project sponsor install additional meters, as necessary, to

measure the daily quantity of water entering and leaving the production plant, the wash plant, and the portable wash plant.

The total quantity of municipal water used in the manufacture of concrete, including water incorporated into product and trucked off site, is metered and monitored daily.

Water is withdrawn from the sediment pond to control dust on the property, to wash Redi-Mix concrete trucks, and fill water tanks. This withdrawal is metered and monitored daily.

Water evaporated from the wash pond, two quarry sumps, and four sediment ponds, a total surface area of 1.48 acres, will be calculated by the project sponsor employing a methodology acceptable to the Commission.

The project sponsor has requested a consumptive water use approval of up to 0.202 mgd, and has indicated its intention to expand wash plant operations. Based on an analysis of water use records supplied by the project sponsor, and the anticipated increase due to wash plant operations, Commission staff is recommending approval of the requested amount, which represents an increase of approximately 29 percent above the current estimated peak-day use of 0.157 mgd. This will allow for an anticipated increase in water usage over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.202 mgd, the project sponsor must apply for a modification to this docket at that time.

Commission staff and the project sponsor have agreed to a pre-1971 consumptive water use of 13,000 gpd for the project and, for purposes of this docket, this quantity of water is considered "grandfathered," and is exempt from water compensation requirements.

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

Under the terms of the Memorandum of Understanding between the Commission and the Pennsylvania Department of Environmental Protection (Pa. DEP), the project has been reviewed and approved for the groundwater withdrawal at the quarry sumps for the quarry dewatering. Commission staff recommends that the project sponsor install and maintain metering, accurate to within 5 percent, on the groundwater withdrawal for the quarry sump, and report the data to the Commission quarterly. The project sponsor could propose an alternative to metering for Commission staff's review and approval.

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

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

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

Compliance Incentive Program

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

Decision

The foregoing findings are hereby incorporated into and made a part of this decision. The project's consumptive water use of up to 0.202 mgd is approved pursuant to Article 3, Section 3.10 of the Compact and subject to the following conditions:

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

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity retained in the aggregate, used for the manufacture of concrete, used for equipment washing (including Redi-Mix concrete trucks), trucked off site, used for dust control, and evaporated from the wash ponds, two quarry sumps, and three sediment ponds. Commission staff shall review and approve the method of calculation of evaporative loss from the ponds. The project sponsor may propose alternative accounting procedures to the Commission for staff review and approval.

c. Within sixty (60) days from the date of this approval, the project sponsor shall install and maintain metering on the water entering and leaving the wash plant system, the production plant, and the portable wash plant, accurate to within five (5) percent. Commission staff shall review and approve the metering systems. The project sponsor may propose alternative methods for calculating consumptive water use of these systems.

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

e. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the quantity retained in the aggregate, used for the manufacture of concrete, used for equipment washing (including Redi-Mix concrete trucks), trucked off site, used for dust control, and evaporated from the wash ponds, two quarry sumps, and three sediment ponds. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.013 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

g. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used in excess of the grandfathered quantity of 0.013 mgd during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (e) above.

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

i. 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.

j. 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.

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

l. 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.

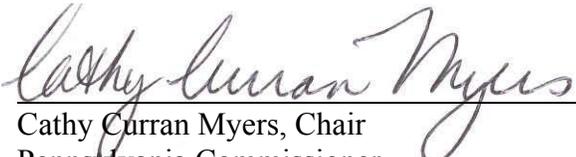
m. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

n. This approval is effective until March 10, 2029. The project sponsor shall submit a renewal application by September 10, 2028, and obtain Commission approval prior to continuing operation beyond March 10, 2029.

o. 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: March 10, 2004


 Cathy Curran Myers, Chair
 Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20040307

Approval Date: March 10, 2004

MARTIN LIMESTONE, INC. BURKHOLDER QUARRY

Consumptive Water Use of Up to 0.150 mgd
for Quarrying of Limestone and Processing of Aggregate,
Earl Township, Lancaster County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The project sponsor initiated the application on June 29, 2001.

Description

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

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

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.150 million gallons per day (mgd). Based on daily water use data for the years 2001 and 2002 submitted by the project sponsor, Commission staff has determined the project's maximum average 30-day consumptive water use to be 0.063 mgd, and maximum daily consumptive water use to be 0.105 mgd.

The project sponsor excavates limestone from the Ordovician-age Epler Formation in an open pit for the production of aggregate. Quarry operations began at the current location in 1923, and were purchased by Martin Limestone, Inc. in 1982. Martin Limestone, Inc. is a subsidiary of New Enterprise Stone and Lime Company, Inc.

Water for the quarry's operation is withdrawn from two wells (Wells 1 and 2) and two sumps (east and west sumps). The wells are currently utilized at less than 100,000 gallons per

day (gpd) on a 30-day average and, thus, the withdrawal is less than the threshold specified in Commission Regulation §803.43, relating to groundwater withdrawals.

Well 1 has been in operation since the late 1990s and supplies water for dust control to a portable aggregate crushing and screening plant. Well 1 has a 1.5-horsepower pump that has a pumping capacity of 8 gallons per minute (gpm). The well is metered and monitored daily.

Water is withdrawn from Well 2 for dust control at the crushing plant. Well 2 began operation in 1973. Well 2 also has a pumping capacity of 8 gpm. Well 2 is metered and monitored daily.

Water is withdrawn from the east sump (0.20 acre) to fill tanker trucks used for dust control. The withdrawal is not metered; however, the project sponsor maintains a log documenting the daily number of truckloads of water withdrawn.

Water is withdrawn from the west sump (0.17 acre) for the primary wash plant. Water use is not metered. Water from wash plant operations is discharged into the wash plant pond (0.61 acre), and eventually returns to the west sump.

Water from both the east and west sumps is discharged to the Conestoga River.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (Pa. DEP), Bureau of District Mining Operations, during review of the project. Pa. DEP approved the project's withdrawal of groundwater for dewatering at the quarry sump during its review of the quarry operation, and the Commission considered this review as adequate to meet the requirement of Commission Regulation §803.43. Pa. DEP staff has reviewed this docket for consistency with its Noncoal Surface Mining Permit No. 8275SM2 and NPDES Permit No. PA0045381.

Findings

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

All water retained in the aggregate, used for dust control, and evaporated from the east and west sumps and the wash plant pond is considered to be used consumptively. Commission staff recommends that the project's total daily consumptive water use be calculated by summing the daily consumptive water use from these categories of use, as described below.

The total quantity of water supplied to the portable crushing plant (total withdrawal from Well 1) and the crushing plant (total withdrawal from Well 2) is metered and monitored daily. The quantity of water supplied to the primary wash plant is not metered. Commission staff recommends that the project sponsor install appropriate metering to measure the total quantity of water entering and leaving the primary wash plant.

The total quantity of water used for dust control on haul roads is calculated on a daily basis from the log of truckloads of water by multiplying the number of truckloads by the capacity of the trucks.

Water evaporated from the east and west sumps and the wash plant pond will be calculated by the project sponsor employing a methodology acceptable to the Commission.

The project sponsor has requested a consumptive water use approval of up to 0.150 mgd. Based on an analysis of water use records supplied by the project sponsor and the project sponsor's indication of future increases in production, Commission staff is recommending approval of the requested amount, which represents an increase of approximately 49 percent above the current estimated calculated peak-day use of 0.105 mgd. The requested quantity will allow for the anticipated increase in water usage over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.150 mgd, the project sponsor must apply for a modification to this docket at that time.

Commission staff and the project sponsor have agreed to a pre-1971 consumptive water use of 14,000 gpd for the project. For purposes of this docket, this quantity of water is considered "grandfathered," and is exempt from water compensation requirements.

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

The project's withdrawal from the Well 2 has been in operation since 1973, and from Well 1 since the late 1990s. These wells are metered and monitored daily. Commission staff finds that the wells currently are utilized at less than 100,000 gpd on a 30-day average and, thus, the withdrawal is not subject to review and approval under Commission Regulation §803.43. If the combined groundwater withdrawal from the wells exceeds or is expected to exceed the threshold set in Commission Regulation §803.43, the project sponsor must submit a groundwater withdrawal application to the Commission.

Under the terms of the Memorandum of Understanding between the Commission and the Pa. DEP, the project has been reviewed and approved for the groundwater withdrawal at the east and west sediment sumps for the quarry dewatering. Commission staff recommends that the project sponsor install and maintain metering, accurate to within 5 percent, on the groundwater withdrawal for the quarry sumps, and report these data to the Commission quarterly. The project sponsor could propose an alternative to metering for Commission staff's review and approval.

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

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

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

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

Compliance Incentive Program

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

Decision

The foregoing findings are hereby incorporated into and made a part of this decision. The project's consumptive water use of up to 0.150 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity retained in the aggregate, evaporated from the east and west sediment ponds and the wash plant ponds, and used for dust control. The project sponsor shall maintain metering on Wells 1 and 2, accurate to within five (5) percent. Commission staff shall review and approve the method of calculation of evaporative loss from the ponds. The project sponsor may propose alternative accounting procedures to the Commission for staff review and approval.

c. Within sixty (60) days from the date of this approval, the project sponsor shall install and maintain metering on water entering and leaving the wash plant, accurate to within five (5) percent. Commission staff shall review and approve the metering systems. The project sponsor may propose alternative methods for calculating consumptive water use of this system.

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

project sponsor may propose alternative monitoring to the Commission for staff review and approval.

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

f. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the quantity retained in the aggregate, used for equipment washing, evaporated from the ponds, and used for dust control. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.014 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

h. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used in excess of the grandfathered quantity of 0.014 mgd during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (f) above.

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

j. 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.

k. 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.

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

m. 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.

n. 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.

o. This approval is effective until March 10, 2029. The project sponsor shall submit a renewal application by September 10, 2028, and obtain Commission approval prior to continuing operation beyond March 10, 2029.

p. 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: March 10, 2004


 Cathy Curran Myers, Chair
 Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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Docket No. 20040308

Approval Date: March 10, 2004

MARTIN LIMESTONE, INC. WEAVERLAND QUARRY

Consumptive Water Use of Up to 0.142 mgd
for Quarrying of Limestone and Processing of Aggregate,
East Earl Township, Lancaster County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The project sponsor initiated the application process on June 29, 2001.

Description

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

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

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.142 million gallons per day (mgd). Based on daily water use data for the years 2001 and 2002 submitted by the project sponsor, Commission staff has determined the project's maximum average 30-day consumptive water use to be 0.047 mgd, and maximum daily consumptive water use to be 0.088 mgd.

The project sponsor excavates limestone from the Ordovician-age Stonehenge Formation for the production of aggregate. Operations began at the current location in the 1920s and were purchased by the founder of Martin Limestone in 1933. Martin Limestone Inc. was purchased by New Enterprise Stone and Lime Company, Inc. in 1975, and is a subsidiary. Although the project has two quarry pits, the excavation of limestone is primarily in the new pit. The new pit provides limestone to two on-site processing plants (upper and lower plants) where it is crushed and sorted into aggregate of various sizes.

Water for the quarry's operation is withdrawn from four wells (Wells 1, 2, 3, and 4) and from two sumps (one in each of the quarry pits). The combined withdrawal from the wells is less than 100,000 gallons per day (gpd) on a 30-day average and, thus, the withdrawal is less than the threshold specified in Commission Regulation §803.43, relating to groundwater withdrawal. The total surface area of the two sumps is 0.81 acre. The old quarry pit is rarely mined. Both sumps are pumped to the Conestoga River.

Water is withdrawn from Well 1 for a dust control system at the lower processing plant. Well 1 has a 1-horsepower pump that has a pumping capacity of 8 gallons per minute (gpm). The well is metered and monitored daily.

Water is withdrawn from Wells 2 and 4 for self-contained cooling system loops for the crusher motor at the upper processing plant. Both wells were installed in the 1960s and utilize 1.5-horsepower pumps operating at 8 gpm. Wells 2 and 4 are not metered.

Water is withdrawn from Well 3 for dust control at the upper processing plant. Well 3 utilizes a 1.5-horsepower pump operating at 12 gpm. Well 3 is not metered.

The old quarry pit, located on the east side of Quarry Road, contains a sump with a surface area of 0.60 acre. Water from the old quarry sump is pumped to a portable screen that was installed in October 2002. Water supplied to the portable screen from the old quarry sump is not metered.

In the late 1970s and early 1980s, quarrying operations were shifted to the new quarry pit, located on the west side of Quarry Road. Water from the new sump (0.21 acre) is pumped to fill water trucks used for dust control. The total quantity of water supplied to water trucks for dust control is calculated on a daily basis from the log of truckloads of water.

Water from the old quarry and the new quarry is pumped to the Conestoga River. Two pumps, equipped with hour meters and operating intermittently at 1,750 gpm and 2,100 gpm, discharge water at an average rate of approximately 2.4 mgd from the old quarry. One pump, equipped with an hour meter and operating intermittently at 1,300 gpm, discharges water at an average rate of 0.305 mgd from the new quarry. The discharges from the two pumps are level-controlled, and the pumps run during off-peak hours.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (Pa. DEP), Bureau of District Mining Operations, during review of the project. Pa. DEP approved the project's withdrawal of groundwater for dewatering at the quarry sump during its review of the quarry operation, and the Commission considered this review as adequate to meet the requirement of Commission Regulation §803.43. Pa. DEP staff has reviewed this docket for consistency with its Noncoal Surface Mining Permit No. 6276SM2 and NPDES Permit No. PA0594512.

Findings

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

All water used for aggregate production and retained in the aggregate, used in screening operations, used for equipment washing, trucked off site, used for dust control, and evaporated from the new quarry sump 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.

Commission staff recommends that the quantity of water used for dust control on haul roads be calculated based on the capacity of the water trucks and the number of truckloads of water. The project sponsor maintains a log of the daily number of truckloads of water withdrawn.

The total quantity of water supplied to the lower processing plant is metered and monitored daily.

Water supplied from the old quarry sump to the portable wash plant is not metered. Commission staff recommends that meters be installed to measure this use.

Water evaporated from the new quarry sump will be calculated by the project sponsor employing a methodology acceptable to the Commission.

The project sponsor has requested a consumptive water use approval of up to 0.142 mgd. The project sponsor indicates that Weaverland Quarry has the potential for horizontal expansion within 3 years, and that a wash plant operation may be returned to the facility. Commission staff is recommending approval of the requested amount, which represents an increase of approximately 61 percent above the current peak-day use of 0.088 mgd. This will allow for an anticipated increase in water usage over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.142 mgd, the project sponsor must apply for a modification to this docket at that time.

Commission staff and the project sponsor have agreed to a pre-1971 consumptive water use of 11,044 gpd for the project and, for purposes of this docket, this quantity of water is considered "grandfathered," and is exempt from water compensation requirements. The old quarry sump was present in its current configuration prior to 1971. Therefore, evaporation from the old quarry sump is grandfathered.

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

Well 1 is metered and monitored daily. Well 3 currently does not have a meter. Commission staff recommends that a meter be installed to measure the amount of water

withdrawn from Well 3. Commission staff finds that the wells currently are utilized at less than 100,000 gpd on a 30-day average and, thus, the withdrawal is not subject to review and approval under Commission Regulation §803.43. If the combined groundwater withdrawal from the Wells 1 and 3 exceeds or is expected to exceed 100,000 gpd on a 30-day average (3,000,000 gallons in any consecutive 30-day period), the project sponsor must submit a groundwater withdrawal application to the Commission.

Further, under the terms of the Memorandum of Understanding between the Commission and the Pa. DEP, the project has been reviewed and approved for the groundwater withdrawal at the quarry sumps for the quarry dewatering. Commission staff recommends that the project sponsor install and maintain metering, accurate to within 5 percent, on the groundwater withdrawal for the quarry sumps, and report the data to the Commission quarterly. The project sponsor could propose an alternative to metering for Commission staff's review and approval.

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

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

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

Compliance Incentive Program

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

Decision

The foregoing findings are hereby incorporated into and made a part of this decision. The project's consumptive water use of up to 0.142 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

- a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42.
- b. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain a meter, accurate to within five (5) percent, on Well 3 of the upper processing

plant to measure the quantity of water used for dust control. The project sponsor may propose alternative accounting procedures to the Commission for staff review and approval.

c. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity of water used for aggregate production and retained in the aggregate, used in screening operations, used for equipment washing, trucked off site, used for dust control, and evaporated from the new quarry sump. Commission staff shall review and approve the method of calculation of evaporative loss from the ponds. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

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

e. If an increase in the project's groundwater withdrawal from Wells 1, 2, 3, and 4 exceeds the threshold specified in Commission Regulation §803.43, the project sponsor shall submit the appropriate application for review and approval by the Commission.

f. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the quantity of water used for aggregate production and retained in the aggregate, used in screening operations, used for equipment washing, trucked off site, used for dust control, and evaporated from the new quarry sump. 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 11,044 gpd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

h. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all

water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used in excess of the grandfathered quantity of 11,044 gpd during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (f) above.

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

j. 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.

k. 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.

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

m. 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.

n. 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

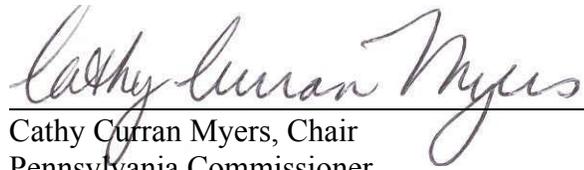
of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

o. This approval is effective until March 10, 2029. The project sponsor shall submit a renewal application by September 10, 2028, and obtain Commission approval prior to continuing operation beyond March 10, 2029.

p. 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: March 10, 2004



Cathy Curran Myers, Chair
Pennsylvania Commissioner



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Docket No. 20040309

Approval Date: March 10, 2004

PENNSY SUPPLY, INC. MT. HOLLY SPRINGS QUARRY

Consumptive Water Use of Up to 0.102 mgd,
for Quarrying of Sandstone and Quartzite, and Processing of Aggregate,
Dickinson Township, Cumberland County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on June 29, 2001.

Description

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

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050305, Yellow Breeches Watershed, Dickinson Township, Cumberland County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.102 million gallons per day (mgd). Based on daily water use data for the years 2001 through 2003 submitted by the project sponsor, Commission staff estimates the project's maximum average 30-day consumptive water use to be 0.060 mgd, and current peak-day consumptive water use to be 0.093 mgd.

The project sponsor excavates sandstone and quartzite from the Cambrian-age Antietam Formation for the production of aggregate. The quarry has been in operation since the 1950s and has been operated by Pennsy Supply, Inc. since 1985.

Water for the quarry's processing operation is withdrawn from a well (Well 1). Groundwater is pumped from Well 1 to six 10,000-gallon underground storage tanks. Well 1 has

been in operation since 1986, and has a pumping capacity of 100 gallons per minute (gpm). Well 1 is operated, as needed, to maintain water in the storage tanks. Well 1 is not metered.

Water is withdrawn from the storage tanks and used at the quarry's two aggregate processing plants for crushing and washing operations. Water also is withdrawn from the storage tanks to fill 2000-gallon capacity water trucks that control dust on quarry haul roads. The withdrawal is not metered; however, the project sponsor maintains a log documenting the daily number of truckloads of water used for dust control.

Runoff from processing operations is collected in a total of nine sediment ponds. A system of four sediment ponds is utilized at the east processing plant, and five sediment ponds are utilized at the west processing plant. The ponds, constructed in 1988 and 1989, have a total surface area of 1.85 acres. Water from a sediment pond at the west processing plant is reused for aggregate processing. Overflow from the sediment ponds at both the east and the west processing plants is discharged to an unnamed tributary to Yellow Breeches Creek at NPDES Discharge Point 001. The discharges from the sediment ponds are not metered.

A second well is located at the scale house and provides water for sanitary purposes. Well 2 has been in operation since 1986, and is not metered.

The project sponsor reports that the combined withdrawal from Wells 1 and 2 is less than 100,000 gallons per day (gpd) on a 30-day average and, thus, the withdrawal is less than the threshold specified in the Commission Regulation §803.43, relating to groundwater withdrawals.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (Pa. DEP), Bureau of Mining and Reclamation, during review of the project. Pa. DEP has not approved a withdrawal of groundwater for dewatering. Pa. DEP staff has reviewed this docket for consistency with its Non-Coal Surface Mining Permit No. 7574SM5.

Findings

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

All water used for aggregate production and retained in the aggregate, used in screening operations, used for equipment washing, trucked off site, used for dust control, and evaporated from the nine sediment 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.

The total quantity of water supplied to the east and west processing plants from the six underground storage tanks, minus the total quantity of water discharged from the processing plants, is the quantity of water consumptively used through evaporation during processing and retention in the aggregate. Commission staff recommends that metering be installed to measure the daily quantity of water entering and leaving the east and west processing plants.

The project sponsor withdraws water from the storage tanks to control dust on haul roads on the property. Commission staff recommends that the project sponsor install a meter to measure the quantity of water used for dust control.

Water evaporated from the sediment ponds will be calculated by the project sponsor employing a methodology acceptable to the Commission.

The project sponsor has requested a consumptive water use approval of up to 0.102 mgd. Based on an analysis of water use records supplied by the project sponsor, Commission staff is recommending approval of the requested amount, which represents an increase of approximately 10 percent above the current estimated peak-day use of 0.093 mgd. This will allow for an anticipated increase in water usage over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.102 mgd, the project sponsor must apply for a modification to this docket at that time.

Commission staff and the project sponsor have agreed to a pre-1971 consumptive water use of 19,000 gpd for the project and, for purposes of this docket, this quantity of water is considered "grandfathered" and is exempt from water compensation requirements.

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

Commission staff finds that the wells currently are utilized at less than 100,000 gpd on a 30-day average and, thus, the withdrawal is not subject to review and approval under Commission Regulation §803.43. Commission staff recommends that the project sponsor install and maintain metering, accurate to within five (5) percent, on the groundwater withdrawal from Wells 1 and 2, and report these data to the Commission quarterly. The project sponsor could propose an alternative to metering for the Commission staff's review and approval. If the groundwater withdrawal from the wells exceeds or is expected to exceed the thresholds set in Commission Regulation §803.43, the project sponsor must submit a groundwater withdrawal application to the Commission.

Pa. DEP has not reviewed and approved the project for a groundwater withdrawal related to quarry dewatering. Prior to the initiation of any quarry dewatering, Pa. DEP has required the project to apply for an amendment to its Mine Drainage Permit. At that time, Commission staff will determine whether any modifications to this approval are required.

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

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

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

Compliance Incentive Program

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

Decision

The foregoing findings are hereby incorporated into and made a part of this decision. The project's consumptive water use of up to 0.102 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

b. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain metering, accurate to within five (5) percent, to measure the daily quantity of water entering and leaving the east and west processing plants. The project sponsor may propose alternative accounting procedures to the Commission for staff review and approval.

c. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity of water used for aggregate production and retained in the aggregate, used in screening operations, used for equipment washing, trucked off site, used for dust control, and evaporated from the nine sediment ponds. Commission staff shall review and approve the method of calculation of evaporative loss from the ponds. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

d. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain meters, accurate to within five (5) percent, on the groundwater withdrawal from Wells 1 and 2. The project sponsor may propose alternative accounting procedures to the Commission for staff review and approval. The project sponsor shall keep daily records of the project's groundwater withdrawal. The project sponsor shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The project sponsor may propose alternative monitoring to the Commission for staff review and approval. If the project's groundwater

withdrawal from Wells 1 and 2 exceeds the threshold specified in Commission Regulation §803.43, the project sponsor shall submit the appropriate application for review and approval by the Commission.

e. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the quantity of water used for aggregate production and retained in the aggregate, used in screening operations, used for equipment washing, trucked off site, used for dust control, and evaporated from the new quarry sump. 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 19,000 gpd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

g. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used in excess of the grandfathered quantity of 19,000 gpd during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (f) above.

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

i. 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.

j. 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.

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

l. 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.

m. 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.

n. This approval is effective until March 10, 2029. The project sponsor shall submit a renewal application by September 10, 2028, and obtain Commission approval prior to continuing operation beyond March 10, 2029.

o. 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: March 10, 2004


Cathy Curran Myers, Chair
Pennsylvania Commissioner



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Docket No. 20040310

Approval Date: March 10, 2004

ARMSTRONG WORLD INDUSTRIES, INC. MARIETTA CEILING PLANT

Groundwater Withdrawal (30-Day Averages) of 0.252 mgd from Well 1 and 0.322 mgd from Well 2, a Total System Withdrawal Limit (30-Day Average) of 0.510 mgd, and a Consumptive Water Use of up to 1.00 mgd, for the Manufacture of Ceiling Tiles, East Donegal Township, Lancaster County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, §803.42, relating to the consumptive use of water, and §803.43, relating to groundwater withdrawals. The Commission received the application on June 22, 2001, which was subsequently revised and received by the Commission on January 26, 2004.

Description

Purpose. The purpose of the application is to request approval for the groundwater withdrawal and consumptive water use associated with the manufacture of ceiling tiles.

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050306, Susquehanna River Watershed, East Donegal Township, Lancaster County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 1.00 million gallons per day (mgd), and withdrawals (30-day averages) of 0.252 mgd from Well 1 (East Well), 0.322 mgd from Well 2 (West Well), and a total system withdrawal limit (30-day average) of 0.510 mgd. Based on metered water use data for the years 2002 and 2003 submitted by the project sponsor, Commission staff calculates the project's maximum average 30-day consumptive water use to be 0.302 mgd, current peak-day consumptive water use to be 0.952 mgd, and maximum total groundwater withdrawal (30-day average) to be 0.461 mgd. Operations began at the facility in April 1970.

Groundwater withdrawn from Wells 1 and 2 is the primary source of water for the facility. Water is used in the ceiling tile manufacturing process and for plant cleaning. The groundwater withdrawal from each well is metered and monitored on a daily basis by the project sponsor.

Wells 1 and 2 were drilled in 1968, and withdrawals began in 1970. Well 1 penetrates dolomite of the Cambrian-age Ledger Formation and Well 2 penetrates quartzite of the Cambrian-age Antietam Formation. The following table summarizes information for the wells:

Well No.	Depth (ft.)	Casing Length (ft.)	Casing Diameter (inches)	Turbine Pump Capacity (gpm)	Requested Withdrawal (mgd)
1	155	110	10	1500	0.252
2	154	110	10	500	0.322

Water withdrawn from the two wells is pumped to a 150,000-gallon elevated storage tank. From there, water is conveyed by gravity to a 50,000-gallon ground-level tank and is pumped on demand to distribution lines in the facility.

The Marietta Gravity Water Company (MGWC) water supply system also provides water to the facility. Water supplied to the facility by MGWC is used for processing, noncontact process cooling, boiler makeup, and sanitary purposes. The water supplied by MGWC is metered and monitored daily by the project sponsor.

The process wastewater generated at the facility is treated at an on-site wastewater treatment plant. The facility recycles a majority of the treated wastewater for use in the manufacturing process. Treated effluent from the wastewater treatment plant is metered and discharged to the Susquehanna River (Pa. Department of Environmental Protection Permit No. PA0008761). Sludge produced during the wastewater treatment process is transported off site for disposal.

Sanitary wastewater from the facility is discharged through one outfall to the Marietta Borough sanitary sewer system. The sanitary wastewater is not metered.

Findings

The project is subject to Commission approval and reporting requirements, as per Commission Regulations §803.42 and §803.43.

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

The project sponsor obtains water from two wells and from a public water supplier. The water from each source is metered prior to being used at the facility, and each meter is read daily. The project sponsor measures and records on a daily basis the quantity of process wastewater discharged from the wastewater treatment plant to the Susquehanna River. Sanitary wastewater discharged from the facility is not metered.

The project sponsor proposes that the facility's consumptive water use be calculated as the total metered water supplied to the facility from the wells and the public water supplier, minus the metered wastewater discharged from the wastewater treatment plant and estimated sanitary wastewater discharged to the Marietta Borough sanitary sewer system. Commission staff estimates a sanitary sewer discharge of 6,300 gallons per day based on a work force of 420 employees and continuous facility operations (24 hours per day, seven days per week). However, the project sponsor could propose alternative monitoring to the Commission for staff review and approval. Commission staff concurs with this proposed accounting procedure, and recommends that all measurements be recorded at approximately the same time each day.

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

The project sponsor has requested a consumptive water use approval of up to 1.00 mgd. Based on an analysis of metered water use records supplied by the project sponsor, Commission staff is recommending approval of the requested amount, which represents an increase of approximately 5 percent above the current estimated peak-day use of 0.952 mgd. This will allow for an anticipated increase in water usage over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 1.00 mgd, the project sponsor must apply for a modification to this docket at that time.

Commission staff and the project sponsor have agreed to a pre-1971 consumptive water use of 0.138 mgd for the project and, for purposes of this docket, this quantity of water is considered "grandfathered," and is exempt from water compensation requirements.

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

The project's groundwater withdrawal has been in operation since 1970. The project sponsor estimates the project's 30-day average groundwater withdrawal was 0.104 mgd prior to 1978, and calculates its current maximum average 30-day withdrawal to be 0.461 mgd. Based on water use data submitted by the project sponsor, Commission staff finds that the withdrawal has increased more than 0.100 mgd since July 13, 1978, the effective date of Commission

Regulation §803.43, relating to groundwater withdrawals. Therefore, Commission staff finds that this withdrawal is subject to the regulation.

Testing of Wells 1 and 2, required by Commission Regulation §803.43, was not conducted prior to the time when the project's groundwater withdrawal exceeded the threshold specified in the regulation. The project sponsor has withdrawn groundwater from the two wells for over 30 years with no known adverse impacts to other users or natural resources and has requested a waiver of the pumping test requirement. The project sponsor has submitted an analysis of the local hydrogeology and groundwater availability to the Commission in support of the request. Commission staff reviewed the information submitted by the project sponsor and, although the analysis did not fully satisfy the Commission's requirements, Commission staff recommends that the requirement for a pumping test be waived and a monitoring program be established.

Further, Commission staff recommends that the project sponsor evaluate the area of influence and area of contribution for each of the project's wells and monitor the water level in the bedrock aquifer. The monitoring well should be located between the two production wells, on the north side of the project site. Initial monitoring should be continuous for a period of 30 days and, thereafter, monitoring should be weekly. Commission staff recommends the project sponsor submit a report summarizing and providing an evaluation of the data within 30 days after the conclusion of the 30 days of continuous monitoring, and annually thereafter. The reports should provide the data in the form of a hydrograph, and any changes in trend should be identified, explained, and shown graphically with expanded time and water level scales. The reports should be signed and sealed by a professional geologist experienced in hydrogeology and groundwater development.

The project sponsor has requested groundwater withdrawals (30-day averages) of 0.252 mgd from Well 1, 0.322 mgd from Well 2, and a total system withdrawal limit (30-day average) of 0.510 mgd. Commission staff is recommending approval of the requested amounts. Should the project's groundwater withdrawal exceed or be expected to exceed the approved amounts, the project sponsor must apply for a modification to this docket at that time.

Commission staff recommends approval of maximum instantaneous pumping rates of 1,500 gpm and 500 gpm for Wells 1 and 2, respectively. These pumping rates represent the current pump capacities installed in the wells.

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

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

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

Compliance Incentive Program

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

Decision

The foregoing findings are hereby incorporated into and made a part of this decision. The project's groundwater withdrawal (30-day averages) of 0.252 mgd from Well 1 and 0.322 mgd from Well 2, a total system withdrawal limit (30-day average) of 0.510 mgd, and the consumptive water use of up to 1.00 mgd are approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42, and groundwater withdrawal reporting requirements, as per Commission Regulation §803.43.

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity supplied to the facility from the wells and the public water supplier minus the metered discharge from the wastewater treatment plant and estimated sanitary wastewater discharge (6,300 gallons). The project sponsor shall maintain metering on the wells, public water supply and wastewater treatment plant discharge, accurate to within five (5) percent. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

c. The project sponsor shall keep daily records of the metered withdrawal and weekly water levels from Wells 1 and 2. The required reporting data shall be submitted to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The project sponsor shall maintain the existing meters, accurate to within five (5) percent, on Wells 1 and 2. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

d. The maximum instantaneous rates of production from Wells 1 and 2 shall not exceed 1,500 gpm and 500 gpm, respectively.

e. Within sixty (60) days of the date of this approval, the project sponsor shall evaluate the areas of influence and contribution for Wells 1 and 2, and plan to monitor groundwater levels in the bedrock aquifer between the two production wells. A monitoring plan, including any additional data, calculations, or interpretations pertinent to the monitoring plan or to the issue of water availability, shall be submitted to the Commission within sixty (60) days of docket approval. This plan shall include a schedule for implementation of the plan; and the plan shall be executed upon Commission approval. The monitoring results shall be documented in an interpretive report due thirty (30) days after the continuous 30-day monitoring period, and thereafter, thirty (30) days after the close of the preceding year, or otherwise as directed by Commission staff.

f. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the quantity supplied to the facility from the wells and the public water supplier minus the metered discharge from the wastewater treatment plant and estimated sanitary wastewater discharge (6,300 gallons). Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.138 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

h. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used in excess of the grandfathered quantity of 0.138 mgd during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (f) above.

i. The constant-rate pumping test requirement specified in Commission Regulation §803.43 (b) is hereby waived.

j. If the Commission determines that the operation of the project's groundwater withdrawal from Wells 1 or 2 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.

k. 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.

l. 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.

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

n. 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.

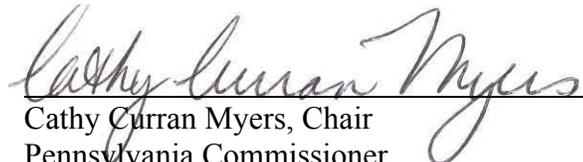
o. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

p. This approval is effective until March 10, 2029. The project sponsor shall submit a renewal application by September 10, 2028, and obtain Commission approval prior to continuing operation beyond March 10, 2029.

q. 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: March 10, 2004



Cathy Curran Myers, Chair
Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20040311

Approval Date: March 10, 2004

SHREWSBURY BOROUGH AUTHORITY

Groundwater Withdrawal (30-Day Average) of 0.072 mgd from Wells PW-1 and PW-2
for Public Water Supply,
Borough of Shrewsbury, York County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.43, relating to groundwater withdrawals. The Commission received the application on May 28, 2002.

Description

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

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050306, Deer Creek Watershed, Borough of Shrewsbury, York County, Pennsylvania.

Project Features. The project sponsor has requested approval for the withdrawals (30-day averages) of 0.0576 million gallons per day (mgd) from Well PW-1, 0.0360 mgd from Well PW-2, and a total withdrawal of 0.0936 mgd. The wells will be used as sources for the public water supply system that currently relies on three springs at the Pump House basin and seven wells located in subdivisions on Shrewsbury Borough's (the Borough's) periphery. The Commission previously approved the following sources of supply: Smith Well (Docket No. 19811203), Blouse Well (Docket No. 19820103), Meadow Well (Docket No. 19890501), Village Well (Docket No. 19900105) and Woodlyn Spring Well (Docket No. 19920501).

Wells PW-1 and PW-2 were drilled to replace the spring sources. The use of the three springs predates 1995, and is exempt under Commission Regulations §803.44, relating to surface water withdrawals.

Wells PW-1 and PW-2 are located on the floodplain of Deer Creek. Wetlands listed in the National Wetland Inventory occur along the corridor of this stream to within 800 feet of the wells. Other wetlands occur within 30 feet of the wells.

Both wells penetrate approximately 3 feet of unconsolidated alluvial/floodplain sediment, 40 feet of weathered schist, and 200 feet of competent schist containing a few thin weathered zones. The wells were constructed as 10-inch diameter “hybrid” screened/open rock wells. Both wells are screened from 20 to 50 feet below ground surface (bgs), and are open rock wells below the screened interval. The wells derive nearly all of their water from the screened zone.

The public water supply system has an existing average daily demand of 0.33 mgd, and an existing maximum daily demand of 0.524 mgd. The average and maximum daily demands are projected to be 0.556 and 0.640 mgd, respectively, by 2028.

Pumping Test. Two 48-hour constant-rate pumping tests were performed on each well (PW-1 and PW-2). The wells were first tested during November 2001. The testing was not preapproved by the Commission. During the testing, drawdown was monitored in the two production wells and a test well, and flow was monitored in Deer Creek and in three springs. Adjacent wetlands were not monitored. Well PW-1 was pumped at an average rate of 45 gallons per minute (gpm), and had 24 feet of drawdown at the end of the test. Well PW-2 was pumped at an average rate of 30 gpm, and had 32 feet of drawdown at the end of the test. Both wells captured the flow from the largest spring, which provides approximately 50 percent of the stream flow during periods of low baseflow.

Following testing, construction of a mall was begun immediately adjacent to the wells. The mall site was excavated into the weathered bedrock, leveled, and the mall buildings were constructed. Concerned that the recharge to the wells had been compromised, Commission staff, in coordination with the Pennsylvania Department of Environmental Protection (Pa. DEP), required that the wells be retested after emplacement of impervious cover was largely completed.

The wells were tested a second time during August 2003, an uncharacteristically wet period in the late summer. The pumping test plan was preapproved by the Commission. During the second test, drawdown was monitored in the two production wells and a test well, flow was monitored in Deer Creek and in three springs, and drawdown was monitored in two piezometers installed in the adjacent wetlands. Well PW-1 was pumped at an average rate of 45 gpm, and had 18 feet of drawdown at the end of the test. Well PW-2 was pumped at an average rate of 30 gpm, and had 23 feet of drawdown at the end of the test.

Coordination. The project sponsor has requested approval of a Public Water Supply Permit from the Pennsylvania Department of Environmental Protection (Pa. DEP). Commission staff has coordinated with the Pa. DEP’s Southcentral Region Office during review of the project, and Pa. DEP staff has reviewed this docket for consistency with its requirements. The project sponsor has agreed to either submit an application to modify Pa. DEP’s existing Water Allocation Permit WA 67-452A or permanently relinquish its rights to use the pump House Springs within one year of the date of issuance of Pa. DEP’s Operation Permit for Wells PW-1 and PW-2.

Findings

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

Results from the pumping tests indicate Wells PW-1 and PW-2 withdraw water from a shallow, unconfined aquifer. Although the wells are drilled several hundred feet deep, they receive essentially all of their water from the weathered bedrock between the ground surface and 50 feet bgs. The streams, springs, and wetlands in the project area depend upon the same shallow, unconfined aquifer.

The second test was performed during an uncharacteristically wet period in the late summer, resulting in high aquifer water levels and high stream flows. Piezometer measurements during the pumping tests demonstrated a minimal impact to the nearby wetlands. However, the potential impact of the wells on the wetlands could not be comprehensively evaluated during the second test due to the uncharacteristically high seasonal precipitation, which interfered with results.

Wells PW-1 and PW-2 are located in the headwaters of Deer Creek, which is classified as a Naturally Reproducing Trout, Cold Water Fishery, (CWF) (25 Pa. Code Chapter 93). Commission staff has calculated the 7-day, 10-year low flow (Q7-10 flow) for Deer Creek to be 0.083 cubic feet per second (cfs) (37.3 gpm) at the point of impact from the groundwater withdrawal. The impact from the project sponsor's groundwater withdrawal from Wells PW 1 and PW-2 is greater than 10 percent of the Q7-10 flow of Deer Creek (3.7 gpm) at the point of impact, thereby requiring a passby flow to protect aquatic resources and downstream users. Commission staff recommends that the project sponsor allow a passby flow of not less than 25 percent of average daily flow (ADF) for both wells. Operation of the wells is to be discontinued when the flow in Deer Creek is at or below 45 gpm.

Commission staff recommends that the project sponsor install a passby system that includes controls on the pump stations and flow monitoring on Deer Creek to meet the required passby flow. Commission staff recommends that the flow be monitored daily from a location immediately upstream of the confluence with an unnamed tributary flowing parallel to I-83, downstream of the Wells PW-1 and PW-2. The project sponsor should submit its design and a proposed construction schedule within 60 days following Commission action for review and approval by Commission staff prior to any construction. During operation of the wells, the project sponsor must maintain the passby system, keeping it fully functional and the streamflow measurement device free of debris. The Commission reserves the right to inspect the passby flow device at any time.

The Commission required the retesting of Wells PW-1 and PW-2 because of changes to the aquifer resulting from the extensive alterations to the upper portion of the flow system that could negatively impact the quality and quantity of water available to the aquifer. Commission staff evaluated the testing, and finds that it does not allow an evaluation of the sufficiency of the recharge to the wells. Commission staff also evaluated the groundwater availability analysis

prepared by the project sponsor's consultant using available recharge rate information and a basin area of 166 acres (0.26 square miles). Commission staff finds that the requested withdrawal of 0.0936 mgd from Wells PW-1 and PW-2 is equal to 53 percent of the average annual recharge rate for the groundwater basin in which the wells are located. The requested withdrawal is 125 percent of the 1-in-10 year average annual drought recharge rate (0.072 mgd, or 50 gpm).

Therefore, Commission staff recommends approval of a 30-day average withdrawal of 0.072 mgd from Wells PW-1 and PW-2. The project sponsor intends to develop a site-specific recharge rate in order to demonstrate that additional recharge is available to the wells without causing adverse impacts and that the calculated 1-in-10 year average annual drought recharge rate (0.072 mgd, or 50 gpm) is overly conservative. Therefore, the Commission staff recommends that the project sponsor prepare and submit a monitoring plan for staff's review and approval. In the interim time period, the project sponsor has indicated it will continue its withdrawals from Spring 3.

The maximum pumping rate should not exceed 45 gpm for Well PW-1 and 30 gpm for Well PW-2.

The project is subject to the Commission's water conservation requirements, as per Commission Regulation §804.20(a). The water system is 100 percent metered, and system losses are less than 20 percent, which is in compliance with this regulation.

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

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

Decision

The foregoing findings are hereby incorporated into and made a part of this decision. The project's total groundwater withdrawal of 0.072 mgd (30-day average) from Wells PW-1 and PW-2 is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

- a. The project sponsor shall comply with all Commission regulations, including groundwater withdrawal reporting requirements, as per Commission Regulation §803.43.
- b. The project sponsor shall keep weekly records of the metered withdrawal and weekly water levels from Wells PW-1 and PW-2. The required reporting data shall be submitted to the Commission annually, and as otherwise required. Monitoring reports are due within sixty (60) days after the close of the preceding year.

c. The maximum instantaneous rates of production from Wells PW-1 and PW-2 shall not exceed 45 gpm and 30 gpm, respectively.

d. Within sixty (60) days from the date of this approval, the project sponsor shall install and maintain metering on the two wells, accurate to within five (5) percent, to measure its groundwater withdrawal.

e. The project sponsor shall allow a flow to pass in Deer Creek directly below the point of impact of Wells PW-1 and PW-2 (measured immediately upstream of the confluence with an unnamed tributary flowing parallel to I-83, downstream of the Wells PW-1 and PW-2), of not less than 0.100 cfs (45 gpm). When the streamflow below the point of impact of Wells PW-1 and PW-2 is less than this amount, the withdrawal shall be reduced to maintain 0.100 cfs (45 gpm) in the stream channel below the intake. When the flow is equal to or less than 0.100 cfs (45 gpm), no water may be withdrawn.

f. The project sponsor shall submit its design for the passby system that includes controls on the pump stations and flow monitoring on Deer Creek, and a proposed construction schedule within ninety (90) days from the date of this approval for review and approval by Commission staff prior to any construction. Following approval, the project sponsor shall complete construction in accordance with the approved schedule, and shall certify to the Commission that construction has been completed in accordance with the approved design. During operation of the wells, the project sponsor shall maintain the passby system, keeping it fully functional and the streamflow measurement device free of debris. The Commission reserves the right to inspect the passby flow device at any time.

g. Prior to the Commission approving any increase above a withdrawal of 0.072 mgd (30-day average) from Wells PW-1 and PW-2, the project sponsor shall prepare and submit a monitoring plan for Commission staff's review and approval, and collect data that demonstrate substantially more water is available than the calculated 1 in 10 year average annual recharge rate and additional withdrawals are sustainable without causing adverse impacts.

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

i. If the Commission determines that the operation of the project's groundwater withdrawal from Wells PW-1 and PW-2 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.

j. 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.

k. 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.

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

m. 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.

n. 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.

o. This approval is effective until March 10, 2029. The project sponsor shall submit a renewal application by September 10, 2028, and obtain Commission approval prior to continuing operation beyond March 10, 2029.

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

By the Commission:

Dated: March 10, 2004


Cathy Curran Myers, Chair
Pennsylvania Commissioner