Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed

April 22, 2005

TO ALL CONCERNED:

At the March 29, 2005 meeting, the draft minutes of the December 15, 2004 Commission meeting were approved as written. Please attach this notice to your copy of the December 15, 2004 minutes.

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- DRAFT -

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

MINUTES OF THE SUSQUEHANNA RIVER BASIN COMMISSION

March 29, 2004
#2005-01

The meeting was held at the Hilton Scranton and Conference Center, 100 Adams Ave., Scranton, Pennsylvania. Chairman Kendl Philbrick called the meeting to order at 1:00 p.m.

ROLL CALL

Commissioners Present

Mr. Kendl P. Philbrick, Secretary, Md. Dept. of the Environment (MDE)
Col. Robert J. Davis, Jr., District Engineer, U.S. Army Corps of Engineers, Baltimore District
Mr. Kenneth P. Lynch, Director, Region 7, N.Y. Dept. of Environmental Conservation (NYDEC)
Ms. Cathleen Curran Myers, Dep. Secretary for Water Mgmt., Pa. Dept. of Environmental Protection (PADEP)

Alternate Commissioners and Advisors Present

Matthew G. Pajerowski, Chief, Water Policy & Security Division, MDE
Ms. Stacey E. Brown, Team Leader, U.S. Army Corps of Engineers, Baltimore District

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

Staff Present

Mr. Paul O. Swartz, Executive Director
Mr. Thomas W. Beauduy, Deputy Director
Mr. David W. Heicher, Chief, Watershed Assessment & Protection Division
Mr. Michael G. Brownell, Chief, Water Resources Management Division
Mr. Duane A. Friends, Chief Admin. Officer
Mr. Richard A. Cairo, Counsel/Secretary
Ms. Deborah J. Dickey, Executive Administrator
Ms. Susan S. Obleski, Director of Communications

INTRODUCTION/WELCOME

Chairman Kendl Philbrick introduced the members of the Commission and the Executive Director.

PRESENTATIONS

1. William Jeanes Award

The Commission presented the William W. Jeanes, Sr. Award for Environmental Excellence to PPL, Inc.'s Project Earth Program in recognition of the company's funding and participation in the SRBC's Streamside Cleanup Program and many other environmental projects. Accepting on behalf of PPL was Mr. James M. Seif, Vice President, Corporate Relations, former Secretary, Pa. Dept. of Environmental Protection, and Pennsylvania commissioner for SRBC. The Jeanes Award is given to individuals and groups that protect the basin's water quality. William Jeanes was a founding member of the Upper Chesapeake Watershed Association who had devoted much of his life to protection of the lower Susquehanna River and the Chesapeake Bay.

Chairman Philbrick noted that, since the institution of organized cleanup efforts in the basin, he had noticed a marked change in the attitude of Marylanders affected by debris in the lower Susquehanna River and Chesapeake Bay. They are now much more understanding of the situation, knowing that upstream cleanup efforts are being made.

Commissioner Myers pointed out how important PPL's contributions are to organizing streamside cleanups. Cleanups are not simply a matter of putting people out on a streambank to pick up debris. To conduct an effective cleanup, there is a need for training, outreach, trash disposal arrangements, safety equipment, etc. PPL's financial and manpower commitment helps to supply these resources and provides a sustainable backbone to the entire cleanup effort.

2. Panel Discussion

A panel session was held on the topic, "Utilization and Development of Water Resources." Panelists included Mr. Bernie McGurl, Executive Director of the Lackawanna River Corridor Association; Mr. Cameron Moore, President/CEO, Northeastern Pennsylvania Alliance; and Mr. Dave Buck, Owner, Endless Mountain Outfitters, Inc. Pennsylvania Alternate Member Cathy Myers moderated the panel, which discussed the importance of water resources to economic development in Pennsylvania's northeast region, including ecotourism, new business location, and urban redevelopment.

Commissioner Myers opened the discussion by noting the Rendell Administration's emphasis on outdoor recreation and tourism in Pennsylvania. Pennsylvania ranks third among the states in outdoor recreation activities. Such activities are economic multipliers in the economy of the state, generating two and one-half times more money than the amount of tolls collected on the Pennsylvania Turnpike. Many of these activities are water related, like the 17.2 million angler days per year.

Mr. Moore described the efforts of his 42-year-old economic development organization to use the readily available supplies of water to draw business and industry to the region. Water supply is becoming a global issue and futurists are predicting that more and more conflicts over water can be expected. The abundance of water could someday make Pennsylvania the envy of the world.

Mr. McGurl highlighted the opportunities for urban and business development presented by the river. His organization is developing a DCNR-sponsored river conservation plan that will include sketches and a three-dimensional model of the Lackawanna Corridor. The planning effort will focus on the Lackawanna River. Old industrial sites offer promising opportunities for redevelopment. There is even an idea for a metal recovery operation at the borehole sites in Old Forge, Pa.

Mr. Buck described how his outfitters' business relies on the extraordinary beauty and quality of the North Branch of the Susquehanna near Wyalusing, Pennsylvania to lure customers. He described some of the types of river trips he arranges, including historical trips, migrating bird observations, and "community days" trips. An effort is always made to get communities involved in the river. His main mission is to use the river to show, educate, and have fun.

The panelists were asked to list challenges they faced in reaching their organizational goals. Among those listed were acid mine drainage (AMD) and sediment pollution, Combined Sewage Overflows (CSOs), municipal fragmentation, and unplanned development.

3. Hydrologic Conditions Report

The Commission heard a hydrologic conditions report from Water Resources Management Chief Michael Brownell. While precipitation was actually below normal for the month of February, and into the first part of March, recent snow melt, heavy precipitation and saturated soil conditions may produce flooding in parts of the basin.

This year has been somewhat unusual. Much of the precipitation fell in the month of January, instead of the usual pattern of higher precipitation in February and March. Staff will continue to monitor all hydrologic indicators to uncover any developing trends.

ACTION ITEMS

1. Minutes of the December 15, 2004 Commission Meeting

On a motion by Commissioner Davis, seconded by Commissioner Lynch, the minutes of the regular business meeting of December 15, 2004 were unanimously adopted as written.

2. 2005 Water Resources Program

The General Counsel reported that, since presentation of the draft 2005 Water Resources Program at the December 15, 2004 meeting of the Commission, several federal agencies had submitted information for inclusion in the program.

For example, from information provided by EPA Region III, staff inserted an item on EPA's efforts to promote multi-stakeholder partnerships to combat multiple threats to source water. From information provided by EPA Region II, staff added an item on targeted watershed grants being used by the Upper Susquehanna Coalition in New York.

The Federal Emergency Management Agency (FEMA) wants to list its Flood Mapping Modernization initiative under which all of the flood plain mapping produced for the National Flood Insurance Program would be transformed into a form more useful to community planners, citizens, developers and insurance agents.

Counsel extended a special thank you to federal member General Bo Temple, Commissioner Davis and their staffs for the time and effort they put into encouraging other federal agencies to participate in the formulation of the 2005 Water Resources Program. The agencies were very responsive to these efforts.

Under Pennsylvania Plans and Programs, staff inserted an item on the Pennsylvania Rivers Conservation Program administered by the Pa. Dept. of Conservation and Natural Resources (DCNR). Under that program, watershed conservation plans from the Susquehanna River Basin, such as the one being prepared by the Lackawanna River Corridor Association, have been added to DCNR's Rivers Registry, making the groups who prepared the plans eligible for implementation and development grants.

Also being added under Pennsylvania Programs is the Lower Lycoming Creek Flood Damage Reduction Study, a $3.6 million feasibility study by the Corps of Engineers in cooperation with the County of Lycoming and affected townships along a flood-prone reach of the lower Lycoming Creek. The study will try to identify possible solutions to the flood problems in that area.

For Maryland, staff added an item on the recent recommendations of the Advisory Committee on the Management and Protection of Maryland's Water Resources.

Counsel further pointed out that adoption of the 2005 Water Resources Program at today's meeting does not preclude any appropriate additions to the program at any point in the coming year. Staff would again encourage our member jurisdiction agencies to use the Water Resources Program as another means of prioritizing their projects and programs.

Counsel presented a resolution (Exhibit A) providing for adoption of the amended draft of the 2005 Water Resources Program and requested its adoption by the Commission. On a motion by Commissioner Lynch, seconded by Commissioner Myers, the 2005 Water Resources Program was unanimously adopted. The 2005 Water Resources Program will be available on the Commission's website at www.srbc.net.

3. Funding–Susquehanna Flood Forecast and Warning System

The Deputy Director presented a resolution (Exhibit B) concerning the elimination of direct federal funding of the Susquehanna Flood Forecast and Warning System (FFWS). These funds, if restored, would be allocated to the National Weather Service (NWS) to maintain and operate the FFWS. Congress terminated direct funding of the system in FY-2004, leaving the National Weather Service to fund the program out of its own budget. He reiterated the following resolves of that resolution:

- That the Commission expresses its concern regarding elimination of direct funding of the system by Congress;
- That the Commission recommends that a separate identity be maintained for the system;
- That the Commission calls upon the National Weather Service to fully fund the system from its 2005 appropriation, and that staff should work with the Susquehanna River Basin Task Force (SRBTF) and members of the U.S. Senate to ensure that this level of funding is provided;
- That staff should also work with the SRBTF and members of the Senate to obtain a $2 million appropriation for the system for FY-2006, $1.5 million of which would cover operations and maintenance and $0.5 million of which would cover needed capital improvements.

Chairman Philbrick commended the Executive Director and the Deputy Director for the efforts that they have made in the legislative arena to restore funding to a system that saves $20 for every one dollar of expenditure. On a motion by Commissioner Myers, seconded by Commissioner Lynch, the resolution was unanimously adopted.

4. Project Review–Public Hearing

a. Project Applications

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

Mr. Brownell 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. Brownell listed the standard requirements for each project sponsor, including: 1) notice of application; 2) coordination with member jurisdictions; 3) aquifer tests for groundwater withdrawals; 4) metering, monitoring, and reporting of water use; 5) mitigation or

other special conditions where there is a potential for adverse impacts; 6) water conservation; and 7) docket reopening authority.

Finally, Mr. Brownell mentioned that applications for some of the projects coming before the Commission were submitted through the Commission's Compliance Incentive Program (CIP) that offered amnesty to projects that did not make timely application for approval. The Commission is still in the process of completing action on some of those projects.

The dockets recommended for action included the following 11 projects as described by Mr. Brownell[1]:

- United Water Pennsylvania-Dallas System (Exhibit C1)
- Pennsy Supply, Inc. dba Slusser Brothers-Pittston Quarry (Exhibit C2)
- Group Mountain Springs-Sugarloaf Mountain Spring (Exhibit C3)
- Aqua Pennsylvania Inc.-Eagle Rock Community Water System (Exhibit C4)
- Woolrich, Inc. (Exhibit C5)
- Graymont (PA) Inc.-Pleasant Gap (Exhibit C6)
- Glenn O. Hawbaker, Inc. (Exhibit C7)
- Jackson and Ethel Perry (Exhibit C8)
- Temple Springs (Exhibit C9)
- Stoney Mountain Springs (Exhibit C10)
- Masonic Village at Elizabethtown (Exhibit C11)

Mr. Brian Mensinger, a spokesperson for Graymont (PA) Inc. requested that SRBC closely coordinate with PADEP on the required water releases. The Executive Director pointed out that indeed the Commission has already closely coordinated its review with PADEP Mining and the Pennsylvania Fish and Boat Commission. Mr. Brownell added that, at present, the release requirements for PADEP are different because they are based on different information. After several years of monitoring, PADEP Mining will likely make its requirements consistent with the Commission's.

Commissioner Myers said that she would also inform Deputy Secretary J. Scott Roberts of the Pennsylvania Office of Mineral Resources Management of the need for further coordination. Chairman Philbrick added that staff is prepared to work closely with the applicant to resolve this discrepancy. Mr. Leroy Young of the Pennsylvania Fish and Boat Commission requested that his agency be consulted on any final decision regarding release requirements because of the impacts on the Pleasant Gap Fish Hatchery.

On a motion by Commissioner Davis, seconded by Commissioner Myers, the Commission approved the staff recommendations for all the dockets presented.

5. Project Fee Schedule

The Commission continued the public hearing, switching topics to a proposed project fee schedule. As explained by the General Counsel, the fee schedule had first been formally presented to the Commission in December 2004. At that time, the Commission set a 60-day

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

comment period running to the middle of February, and the staff made various outreach efforts including publishing notices of the comment period in newspapers around the basin, placing information in the Guardian Newsletter and on the SRBC website, and sending information to the SRBC e-mail list. Prior to today's hearing, the staff had also published the required 20-day notice in newspapers.

Only one comment was received on the fee schedule. That comment came from New York State Senator Dale Volker who, while pointing out that fee increases are never popular with the regulated community, acknowledged the Commission's reasons for revising the current fee schedule.

As recommended by staff, the first phase of the revised project fee schedule would take effect on July 1, 2005 and would include certain special charges for reviews involving such matters as out-of-basin diversions and pumping test reviews. Also taking effect on July 1 would be an expansion of categorical fees for projects consuming or withdrawing in excess of 1 million gallons per day (mgd). Currently, there is no fee category beyond 1 mgd. The next phase of the revisions, involving the first of five annual 10 percent increases in categorical fees and a Consumer Price Index (CPI) adjustment on all fees, would not take effect until January 2007, and then only after another public hearing.

No witnesses appeared for the hearing. Commissioner Myers commended staff for its work in crafting fair and equitable revisions to the project fee schedule that take into account the impacts on the regulated community, but also address the need to cover more of the review costs. She noted that, even after all of the revisions are phased in, the fee schedule will still only return about 50 percent of the cost of review to the Commission.

On a motion by Commissioner Myers, seconded by Commissioner Davis, the Commission adopted a resolution (Exhibit D) approving the proposed project fee schedule. The public hearing was adjourned.

6. Revised FY-2006 Budget

The Chief Administrative Officer requested that the Commission approve a revised version of the FY-2006 budget, which was first adopted by the Commission in June 2004. Certain revisions are needed to match anticipated revenues. Under this revised budget, member jurisdiction contributions are listed at $2.85 million, with grant funding providing another $1.4 million.

Some of the programs to be undertaken under this budget include federal-state coordination; public education and outreach; implementation of PA Act 220 water resources planning; work under the EPA 106 water quality grant including subbasin surveys in the Juniata, Lower Susquehanna and Chemung Subbasins; 305(b) water quality assessment; Total Maximum Daily Loads (TMDLs) in cooperation with Pennsylvania; and nutrient monitoring. Review of projects and compliance follow-up will also be major activities in the coming year.

On a motion by Commissioner Lynch, seconded by Commissioner Davis, the Commission unanimously approved the revisions to the FY-2006 budget.

7. 2004 Audit Report

The Chief Administrative Officer also presented the independent audit report on the Commission's financial records for FY-2004 and requested the Commission's approval. This audit satisfies the requirements of the Single Audit Act for SRBC grants. It lists in detail the expenditures made by the Commission in each of the major program areas. He then briefly reviewed those expenditures and the sources of revenue for the year.

On a motion by Commissioner Davis, seconded by Commissioner Lynch, the Commission unanimously approved the audit for FY-2004.

8. Grant Approval–Growing Greener–Water Conservation Technical Assistance & Training

Watershed Assessment and Protection Chief David Heicher requested that the Commission ratify the Growing Greener Water Conservation Technical Assistance & Training grant. With this grant, the SRBC and the Pennsylvania Rural Water Association (PRWA) will partner to train ten small water systems in Pennsylvania in leak detection, water accountability, and financial practices.

The three elements of the training program include: 1) a water audit to determine a system's unaccounted-for water; 2) a leak detection survey; and 3) a rate survey to determine if the rates are sufficient to sustain the system. There will also be 20 training programs offered to others, along with accompanying training materials. The total amount of the grant is $60,000 with 100 percent of that amount coming from PADEP. The grant scored 8 out of 10 on the SRBC standard grant evaluation scale. The grant is a phase one pilot project, and we have now submitted a grant application for phase two.

Colonel Robert Davis moved ratification of the grant application. This motion was seconded by Commissioner Lynch and unanimously approved by the Commission. Commissioner Myers added that this grant is a revival of what used to be a very vigorous water conservation effort under Pennsylvania's drinking water program that has dwindled over the years due to lack of funding. The PRWA is a good partner for SRBC on this project because of its working relationship with many of the small water systems.

The Executive Director added his thanks to Pennsylvania for this grant. In its 35th anniversary year, the Commission is now looking to do more in water conservation, an area that has not received sufficient attention in the past.

PUBLIC COMMENTS

Mayor Douglas Wilson of the City of Aberdeen, Maryland addressed the notice of violation (NOV) issued to the City for 49 days of exceedances under the City's approval to

withdraw water from Deer Creek to supply Aberdeen Proving Ground (APG). The City Manager and Director of Public Works have accepted full responsibility for these violations. The Mayor has now designated Mr. Donald Brand as the future contact person with SRBC staff. City Council members were very dismayed as well. The City has acknowledged the seriousness of these violations and wants to avoid any future repetition. The City is also anxious to work with SRBC to resolve this matter, through future conservation efforts or other means.

City Attorney Greg Rapisarda reiterated that the City does indeed consider these violations serious and understands that they require an aggressive response.

Chairman Philbrick thanked the Mayor and his staff for making the trip to Scranton to address these concerns. The SRBC staff is also ready to work with the City.

ADJOURNMENT

There being no further business before the Commission, Chairman Philbrick adjourned the meeting at approximately 3:15 p.m. He thanked the staff for being well prepared for the meeting and for the assistance provided to the commissioners.

NEXT MEETING

The next regular meeting of the Commission is tentatively scheduled for June 8, 2005 in Harrisburg, Pennsylvania in conjunction with the Riverfront Symposium on June 8-10, 2005 (see SRBC website at www.srbc.net for more details).

Date Adopted

Richard A. Cairo
General Counsel/Secretary to the Commission

Exhibit A

RESOLUTION NO. 2005-01

A RESOLUTION of the Susquehanna River Basin Commission adopting an Annual Water Resources Program for 2005.

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 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, "2005 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 29, 2005

Kendl P. Philbrick, Chairman

Exhibit B

RESOLUTION NO. 2005-02

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

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

WHEREAS, the flood prone nature of the basin was demonstrated once again in 2004 when Tropical Storm Ivan caused an estimated $200-$300 million in damages; and

WHEREAS, the Susquehanna Flood Forecast and Warning System (the "system"), during its 19 years of operation, has helped save lives and has reduced average annual flood damages by $32 million, giving it a benefit-to-cost ratio of 20-to-1; and

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

WHEREAS, the Susquehanna River Basin Commission (the "Commission") was instrumental in the initiation of the system in the 1980s and has previously expressed its formal support for adequate funding of the system in Commission Resolution 99-01 of January 14, 1999, as reaffirmed by the Commission on February 6, 2003; and

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

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

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

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

WHEREAS, for the second consecutive year, the federal government has failed to include a line item appropriation for the System, directing the National Weather Service (NWS) to fund the System out of the agency's budget; and

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

WHEREAS, this action by the federal government forces the system to compete with the nationwide demands placed on the NWS budget and has resulted in inadequate funding for the system, further compromising its already tenuous finances; and

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

NOW THEREFORE BE IT RESOLVED THAT:

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

2. The Commission further recommends that, to meet the serious flood problems that are unique to the Susquehanna River Basin, a separate identity be maintained by re-establishing a direct line item appropriation for the Susquehanna Flood Forecast and Warning System in FY-06 and subsequent fiscal years.

3. The Commission calls upon the NWS to fully fund the System from its FY-2005 appropriation and directs staff to work with the Susquehanna River Basin Task Force (SRBTF) and members of the U.S. Senate to ensure that this level of funding is provided.

4. Staff is further directed to work with the SRBTF and members of the U.S. Senate to obtain a $2 million line item appropriation for the system in FY-2006, which includes $1.5 million for operations and maintenance and $.5 million for needed capital improvements to the System.

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

Date: March 29, 2005

Kendl P. Philbrick, Chairman

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Docket No. 20050301
Approval Date: March 29, 2005

UNITED WATER PENNSYLVANIA INC.– DALLAS SYSTEM

Groundwater Withdrawal (30-Day Average) of 0.216 mgd from the Gephart Well
and a Total System Withdrawal Limit (30-Day Average) of 0.599 mgd,
for Public Water Supply,
Dallas 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, 84 Stat. 1509 et seq., and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.43, relating to groundwater withdrawals. The Commission received the application September 17, 2004.

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 Middle Susquehanna Subbasin, HUC 02050107, Susquehanna River Watershed, Dallas Township, Luzerne County, Pennsylvania.

Project Features. The project sponsor requested approval for the withdrawal (30-day average) of 0.432 million gallons per day (mgd) from the Gephart Well, and reduced its request to 0.216 mgd on December 13, 2004, in consideration of Commission staff concerns of potential adverse impacts. The well will be used as a source for the public water supply system that currently relies on five wells (the Schooley, Snyder, Bunn, Country Club, and Haddonfield Wells), which are located within Dallas Township and Dallas Borough. These wells are located within 1.5 miles of the Gephart Well, at varying distances and directions from this well. The Commission previously approved a 0.288-mgd withdrawal from the Dallas system's Schooley Well in Docket No. 19881103.

The Gephart Well is located in a north-northeast–south-southwest trending minor valley 1,400 feet north of PA Route 415 and 6,500 feet west of PA Route 309. This valley contains an unnamed tributary to Huntsville Reservoir, which lies to the south of the Gephart Well. An

instream pond is located just to the north of the Gephart Well. Wetlands occur near the Gephart Well in the valley bottom along the stream corridor.

The Gephart Well is an open-rock, 8-inch-diameter well, drilled to a total depth of 500 feet and constructed with 8-inch-diameter casing to a depth of 115 feet. The Gephart Well penetrates approximately 90 feet of glacial valley-fill sand and gravel and is completed in interbedded sandstone and shale of the Catskill Formation. Major yielding zones in the well occur at 130 feet, 135 feet, 160 feet, 180 feet, 212 feet, 332 feet, 402 feet, and 430 feet. Two of these yielding zones, at 135 feet and 402 feet, are stratigraphically controlled.

Current average daily water demand for the system is 0.454 mgd with a maximum daily demand of 0.558 mgd. By 2029, the average and peak daily demands are expected to grow to 0.599 and 0.832 mgd, respectively. The current system capacity of the United Water Dallas system is approximately equal to current average 0.454 mgd demand. Demand during peak days has been met through a transfer from an existing interconnection with the adjacent United Water Shavertown System. The Gephart Well was developed by United Water to meet the peak demand on the Dallas System and to allow expansion of their service area.

Pumping Test. A 48-hour constant-rate pumping test of the Gephart Well was conducted on December 28-30, 2003, with prior Commission approval. In addition to the pumping well, three observation wells, including two residential wells, were monitored. The residential wells are located on the lower valley slopes, approximately 750 feet southwest and 1,100 feet south-southeast of the Gephart Well. A test well located approximately 10 feet east of the Gephart Well also was monitored during the test.

The small stream approximately 200 feet to the west was monitored with a piezometer in the streambed and a flume. Shallow and deep piezometers installed in a cluster approximately 350 feet southwest of the Gephart Well monitored the wetlands soils. The pond to the north was monitored using a stage monitoring point and a piezometer in the soil beneath the pond.

Pumping at an average rate of 300 gallons per minute (gpm), drawdown at the pumping well was approximately 73 feet at the end of the 48-hour test. End-of-test drawdown was approximately 45 feet at both of the residential monitoring wells. No change in flow was observed on the small stream to the west and no change in stage was observed in the instream pond to the north. However, all four piezometers, including the two wetlands piezometers, the streambed piezometer, and the pond piezometer, showed significant drawdown from the pumping test, ranging from 0.5 to 2 feet.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (PADEP) Northeast Region Office (NERO) during review of the project. PADEP staff has reviewed this docket for consistency with its requirements.

Findings

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

Pumping test results and geologic data on the well indicate that the Gephart Well draws water from a moderately transmissive fractured-rock aquifer. A recharge boundary was observed in the time-drawdown data from the pumping well and in one of the residential monitoring wells. This response, combined with the drawdown observed in the four shallow piezometers installed in the creek, wetlands and pond, suggests that the bedrock aquifer received recharge or leakage during the test from the overlying glacial valley fill. Commission staff finds that the Gephart Well has the potential to induce surface-water infiltration from the stream, pond or wetlands. The quantity of any infiltration induced during the test was not sufficiently large to measurably change the flow of the small stream or the stage in the nearby instream pond.

Commission staff concludes from a distance-drawdown plot developed from the data collected during the pumping test that long-term significant drawdown (on the order of tens of feet) could extend to distances as great as two miles. Two private well owners within the cone of depression of the Gephart Well reported problems of turbidity with their well water during the pumping test, which probably resulted from large (tens of feet) drawdown of the water levels in their wells during the test. There are greater than 50 private wells within a distance of 2 miles and more than 40 private wells within a distance of 0.5 miles of the Gephart Well.

Commission staff recommends limiting the withdrawal from the Gephart Well to 0.216 mgd (as a 30-day average) to minimize impact from the Gephart Well to existing private wells and to wetlands. Commission staff recommends approval of a peak instantaneous pumping rate of 150 gpm for the Gephart Well.

At the reduced rate of withdrawal, Commission staff has concluded that the withdrawal should not have a significant adverse impact on private water supplies or wetlands in the area. However, Commission staff recommends that the project sponsor monitor private residential wells and wetlands piezometers at varying distances, between 500 and 7,000 feet, and in varying directions from the Gephart Well during the first three years of operation of the Gephart Well. Commission staff recommends that the project sponsor submit a monitoring plan for review and approval by Commission staff prior to the operation of the Gephart Well.

The project sponsor should immediately report to the Commission any adverse impacts to existing withdrawals and report all findings after each year of monitoring. If pumping of the Gephart Well adversely affects the monitored private wells or any other withdrawal, the project sponsor should be required to provide an alternate water supply, reduce its withdrawal or take other mitigation measures. Similarly, if pumping of the Gephart Well adversely affects any wetlands, such impacts should be mitigated. Further, Commission staff recommends that the Gephart Well not be operated during March and April each year, which is a critical period when shallow soil saturation is necessary to protect the functions and values of the wetlands.

The projected average daily demand through 2029 is 0.599 mgd. Commission staff recommends approval of a total system withdrawal of 0.599 mgd, which meets the projected system demand through 2029.

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, which is in compliance with this regulation, and system losses were 20 percent in 2002, the maximum set forth in Commission Regulation §804.20(a)(1).

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

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

Decision

1. The project's groundwater withdrawal of 0.216 mgd (30-day average) from the Gephart Well and a total system withdrawal limit (30-day average) of 0.599 mgd, are approved pursuant to Article 3, Section 3.10 of the Compact.

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

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

4. Except as provided for in Condition 7 below, the project sponsor shall keep daily records of the metered withdrawal and daily water levels in the Gephart Well. The required reporting data shall be submitted to the Commission annually, and as otherwise required. Annual monitoring reports are due within sixty (60) days after the close of the preceding year.

5. The project sponsor shall install a meter, accurate to within five (5) percent, on the Gephart Well. The project sponsor shall notify the Commission in writing when the meter is installed. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

6. The maximum instantaneous rate of production from the Gephart Well shall not exceed 150 gpm.

7. Within sixty (60) days from the date of this approval and prior to operating the well, the project sponsor shall develop a plan for monitoring private wells and wetlands at varying distances and directions from the Gephart Well, and submit the plan for Commission staff's review and approval. Monitoring points shall include private wells and wetlands at distances varying from 500 to 7,000 feet, in varying directions, from the Gephart Well. Both of the nearby wetlands piezometers, located approximately 350 feet southwest of the Gephart Well, that were monitored during the constant-rate pumping test, shall be included as monitoring points in the

plan. This plan shall include a schedule for implementation of the plan, a description of the proposed monitoring including locations and instrumentation, and mitigation measures for any affected wells or wetlands. Water-level measurements shall be recorded hourly in the monitoring points and continuously in the Gephart Well. The overall monitoring period shall include a 30-day period prior to the initiation of operation of the Gephart Well, and the period spanning the first three years of operation of the Gephart Well. Upon approval of the monitoring plan, the project sponsor shall implement the monitoring plan and, at the conclusion of the monitoring period, supply the results of the monitoring to the Commission. The monitoring results shall be documented in an interpretive report, including the monitoring data in digital and graphical form, due sixty (60) days after each year monitoring period, or otherwise as directed by Commission staff. After review of the report, Commission staff will determine any modification or changes to the monitoring program based on its findings. Should the monitoring prove to be inconclusive, the Commission reserves the right to require additional monitoring, as necessary.

8. The Gephart Well shall not be operated during March and April each year.

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

10. The project sponsor shall notify the Commission of any impacts or alleged impacts identified by or reported to the project in the area of concern addressed by the monitoring plan.

11. If the Commission determines that the operation of the project's groundwater withdrawal 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.

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

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

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

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

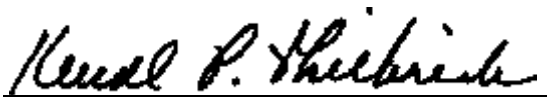
16. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

17. This approval is effective until March 29, 2030. The project sponsor shall submit a renewal application by September 29, 2029, and obtain Commission approval prior to continuing operation beyond March 29, 2030.

18. 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 29, 2005



Kendl P. Philbrick, Chair
Maryland Commissioner

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Docket No. 20050302
Approval Date: March 29, 2005

PENNSY SUPPLY, INC. dba SLUSSER BROTHERS
PITTSTON QUARRY

Consumptive Water Use of Up to 0.175 mgd,
for Quarrying of Sandstone and Processing of Aggregate,
Jenkins 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, 84 Stat. 1509 et seq., 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 for consumptive water use on November 22, 2004.

Description

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

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

Project Features. The project sponsor originally requested approval for the consumptive use of up to 0.150 million gallons per day (mgd) of water, and subsequently increased its request to 0.175 mgd. The project consumptively uses water for its aggregate crushing and washing operations, and dust control on haul roads. Based on water use records for October 2003 through 2004 submitted by the project sponsor, Commission staff calculates the project's current maximum average 30-day consumptive water use to be 0.051 mgd, and current peak-day consumptive water use to be 0.081 mgd.

The project sponsor excavates sandstone from the Pennsylvanian-age Llewellyn Formation and Pottsville Group for the production of aggregate. The quarry has been in operation since the 1940s. Pennsy Supply, Inc. purchased the property in October 2003 from Kaminski Brothers, Inc., and has operated the quarry since that time.

The project includes a processing (crushing) plant that was constructed in 2004 to replace an existing plant and two active asphalt plants. The project sponsor plans to remove the old processing plant and a third, inactive asphalt plant.

Water for the quarry's operation is withdrawn from the quarry sump, one well (Well 1) located at the processing plant, and the six sediment ponds. Well 1 has been in operation since November 2004, and is equipped with a pump having a 10-horsepower motor. Well 1 is operated, as needed, to maintain water in the quarry sump. The well is metered.

Water from Well 1 is pumped to the quarry sump and withdrawn from the sump for use at the processing plant for crushing and washing operations. The withdrawal from the quarry sump is not metered. The project sponsor constructed three sediment ponds adjacent to, and hydraulically connected with, the quarry sump to provide additional water storage for use at the processing plant. The three ponds have a total surface area of 2.37 acres. Runoff from processing operations is collected in the quarry sump/sediment ponds (not metered) and reused for quarry operations.

The project sponsor also can pump water stored in three older sediment ponds, located near the inactive processing plant, to the quarry sump, if needed. Two of these ponds (having a total surface area of 2.11 acres) existed prior to 1971. The third has a surface area of 0.41 acres. Excess water from the pond system can be discharged into Lampblack Creek (NPDES Permit No. PA0224391).

Water from the quarry sump supplies water trucks for dust control on haul roads. The withdrawal is not metered; however, the project sponsor maintains a log documenting the daily number of truckloads of water and the truck capacity.

Currently, consumptive water use for the crushing and washing operations is estimated by the project sponsor based on the number of hours of operation and the quantity of stone production, and the percent moisture retained in the product.

The quarry sump has a surface area of 1.22 acres and was developed after 1971. Quarry operations have not intercepted the water table, and minimal dewatering is required in the quarry pit. The project sponsor anticipates that quarry operations will intercept groundwater in the future and that dewatering activities will increase at that time.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (PADEP), Bureau of District Mining Operations, during review of the project. As part of its permitting action, PADEP authorized mining below the water table to an elevation of 986 feet and approved the project's withdrawal of groundwater for dewatering at the quarry. The Commission considered this review as adequate to meet the requirement of Commission Regulation §803.43. PADEP staff has reviewed this docket for consistency with its Noncoal Surface Mining Permit Nos. 6475SM10T and 40970302T.

Findings

The project is subject to Commission approval and reporting requirements, as per Commission Regulations §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 1.22-acre quarry sump, and a total 2.78 acres of 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. Two sediment ponds near the inactive processing plant predate the Commission's consumptive use regulation; therefore, the project sponsor is not required to provide compensation for the evaporative losses from these ponds.

The total quantity of water supplied to the processing plant from the quarry sump, minus the total quantity of water discharged from the processing plant (density compensated), is the quantity of water consumptively used through evaporation during processing and retention in the aggregate. Commission staff recommends that the project sponsor install meters to measure the daily quantity of water entering and leaving the processing plant. The project sponsor could propose an alternative to metering to quantify the consumptive water use for Commission staff's review and approval.

The project sponsor also withdraws water from the quarry sump to control dust on haul roads on the property. The total quantity of water withdrawn is not metered. Commission staff recommends that the quantity of water used for dust control should be calculated based on the capacity of the water trucks and the number of truckloads of water withdrawn. The project sponsor maintains a log of the daily number of truckloads of water used for dust control.

The project sponsor withdraws water from the well for equipment washing and to maintain water in the quarry sump.

The total water withdrawn from the production well is metered. Commission staff recommends that the project sponsor separately record the total daily quantity of water withdrawn from Well 1 and water used for equipment washing.

Commission staff recommends the project sponsor calculate the evaporative loss from the total 4.0 acres of post-1971 sediment ponds and the quarry sump using a methodology acceptable to the Commission.

Operations at the quarry predate January 23, 1971. However, the project sponsor has limited knowledge of the pre-1971 consumptive water use and has not requested a "grandfathered" quantity of consumptively used water.

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 0.175 mgd. Based on an analysis of limited production and sales records during the brief time period that the project sponsor has owned the quarry and the anticipated level of future production, Commission staff is recommending approval of the requested amount, which represents an increase of approximately 116 percent higher than the current estimated peak-day use of 0.081 mgd. Should the project's future consumptive water use exceed or be expected to exceed 0.175 mgd, the project sponsor must apply for a modification to this docket at that time.

The project sponsor reports that the production well is utilized at a total of less than 100,000 gpd on a 30-day average and, therefore, this withdrawal is currently less than the threshold specified in Commission Regulation §803.43, relating to groundwater withdrawals. If the groundwater withdrawal from the well(s) is expected to exceed 100,000 gpd on a 30-day average, the project sponsor must submit a groundwater withdrawal application to the Commission.

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

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

The project sponsor has operated in violation of Commission regulations since October 30, 2003, when its consumptive water use exceeded 20,000 gpd as a maximum 30-day average. The project sponsor voluntarily notified the Commission of its operation, complied with application procedures, and cooperated with Commission staff during its review of the project. The project sponsor has offered a $3,439.55 settlement to the Commission to compensate for noncompliance in violation of Commission Regulation §803.4 for the period of noncompliance beginning on October 30, 2003, and ending on the date of this approval. Commission staff recommends acceptance of the project sponsor's proposed settlement.

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

Decision

1. The project's consumptive water use of up to 0.175 mgd is approved pursuant to Article 3, Section 3.10 of the Compact.

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

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

4. 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, to measure the daily quantity of water entering and leaving the wash plant system. The project sponsor shall notify the Commission in writing when the meter is installed. The project sponsor may propose alternative accounting procedures to the Commission for staff review and approval.

5. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports 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 1.22-acre quarry sump, and a total 2.78 acres of four sediment ponds. Commission staff shall review and approve the method of calculation for evaporative loss from the ponds. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

6. The project sponsor shall maintain metering on the on-site well, accurate to within five (5) percent, to measure its groundwater withdrawal. The project sponsor shall keep daily records of the project's groundwater withdrawal and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter.

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

8. 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 1.22-acre quarry sump, and a total 2.78 acres of four sediment ponds. 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.

9. The project sponsor has offered a settlement by agreement pursuant to Commission Regulation §805.27, in the amount of $3,439.55 for its consumptive water use found to be in noncompliance with Commission Regulation §803.42, and is hereby accepted. Except where the full amount of same has been tendered to the Commission in advance hereof, this action shall be contingent upon, and shall not be effective until payment of the settlement amount is made to the

Commission or arrangements for such payment have been made that are acceptable to the Executive Director of the Commission. Failure to make such payment or payment arrangement with the Commission within forty-five (45) days hereof shall render this approval null and void.

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

11. If the Commission determines that the operation of the project's groundwater withdrawal 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.

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

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

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

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

16. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation

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

17. This approval is effective until March 29, 2030. The project sponsor shall submit a renewal application by September 29, 2029, and obtain Commission approval prior to continuing operation beyond March 29, 2030.

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

By the Commission:

Dated: March 29, 2005

Kendl P. Philbrick, Chair
Maryland Commissioner

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Docket No. 20050303
Approval Date: March 29, 2005

GROUP MOUNTAIN SPRINGS
SUGARLOAF MOUNTAIN SPRING

Consumptive Water Use of Up to 0.100 mgd,
for Bulk Water Hauling,
Sugarloaf and Benton Townships, Columbia 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, 84 Stat. 1509 et seq., 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 from Group Mountain Springs, a general partnership, on November 22, 2004.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water for bulk hauling of water for sale as spring water.

Location. The project is in the Middle Susquehanna Subbasin, HUC 02050107, Fishing Creek Watershed, Sugarloaf and Benton Townships, Columbia County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.100 million gallons per day (mgd). The source of water is Sugarloaf Mountain Spring, and the project is currently under construction.

The spring flows from a catchment box to a sump, where it will be pumped upslope to the proposed storage/load out facility for on-site disinfection and storage. Water will be periodically removed from the storage tank and transported to the bottling facility operated by Tulpehocken Spring Water in Northumberland, Pennsylvania.

The project sponsor conducted two separate gravity flow tests to evaluate the spring. The "high flow" gravity test was performed May 7-17 2004, and the "low flow" gravity test was conducted August 15–23, 2004. During the tests, the project sponsor monitored water levels in wetlands at the site.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (PADEP) during review of the project. PADEP is reviewing a Public Water Supply Permit application submitted by the project sponsor, and has reviewed this docket for consistency with its findings.

Findings

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

All water pumped to tanker trucks at the loading station is considered to be consumptively used. Commission staff recommends that the project sponsor install a meter to measure the daily quantity of water pumped to tanker trucks at the loading station. The project sponsor could propose an alternative to metering to quantify the consumptive water use for Commission staff's review and approval.

The project sponsor requested approval for a consumptive water use of up to 0.100 mgd. Based on an analysis of spring records supplied by the project sponsor, Commission staff is recommending approval of the requested amount. During the drought of 2002, the spring flow was measured to be 160 to 260 gallons per minute (gpm) and, during six months of SWIP testing in 2004, the flow ranged from 60 to 200 gpm. Commission staff calculates average daily flow (ADF) for the spring to be 149 gpm. Should the project's future consumptive water use be expected to exceed 0.100 mgd, the project sponsor must apply for a modification to this docket at that time.

The project's consumptive use of water is subject to water compensation requirements, as specified in 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 pumped to the loading station.

Commission staff has determined that because the water level in the spring is lowered by pumping, the water withdrawn is defined as groundwater under Commission regulations. The requested quantity does not exceed 100,000 gallons per day, as a consecutive 30-day average. The project sponsor should submit the appropriate application for review and approval by the Commission if the groundwater withdrawal will exceed the threshold specified in Commission Regulation §803.43.

Sugarloaf Mountain Spring is located in the headwaters area of an unnamed tributary to Raven Creek, which flows to Fishing Creek, a cold-water fishery (CWF) (Title 25, Chapter 93, Pennsylvania Code). During a recent site assessment by Pennsylvania Fish and Boat Commission (PFBC) staff, wild brook trout were noted in Raven Creek. Based on the stream's classification and its geographic location in the watershed, PFBC has recommended a minimum flow of 25 percent of the annual ADF, or 37 gpm, at the permanent weir installed near the spring during SWIP testing, to prevent loss of aquatic and wetland habitats. Commission staff concurs with this recommendation.

Commission staff recommends that the project sponsor allow a minimum passby flow of 25 percent of the annual ADF (37 gpm) from the spring at times water is being withdrawn. If at any time the project sponsor is unable to meet the prescribed passby flow all pumping from the sump must cease. The project sponsor should install and maintain a passby device to ensure compliance with the minimum flow requirement noted above.

The project is subject to 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.

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

Decision

1. The project's consumptive water use of up to 0.100 mgd is approved pursuant to Article 3, Section 3.10 of the Compact.

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

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

4. 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, to measure water pumped to tanker trucks at the loading station.

5. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity pumped to tanker trucks at the loading station. The project sponsor shall install and maintain metering at the loading station, accurate to within five (5) percent. The project sponsor shall notify the Commission in writing when the meter is installed.

6. The project sponsor shall allow a passby flow of not less than 25 percent of annual average daily flow (ADF), which equals 37 gpm at all times when water is being withdrawn from the spring. The project sponsor shall install and maintain a device to regulate the amount of withdrawal from the spring to meet the passby flow requirement. The project sponsor shall keep

daily records of the passby flow at all times when water is being withdrawn from the spring, and shall report the data to the Commission quarterly, and as otherwise required.

7. The project sponsor shall submit its design and proposed installation schedule for a passby control device at the permanent weir, within sixty (60) days from the date of this approval, for review and approval by Commission staff. Following approval, the project sponsor shall complete installation in accordance with the approved schedule and shall certify to the Commission that installation has been completed in accordance with the approved design. The passby system shall be kept fully functional and free of debris.

8. 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 pumped to tanker trucks at the loading station. Payments shall be made quarterly and shall be calculated by applying this rate to the daily amount of water consumptively used by the project during the preceding calendar quarter. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

10. 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.

11. 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.

12. If the project sponsor fails to comply with the provisions of the Compact or any rule, regulation or order of the Commission, or any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct

such noncompliance, unless an alternate period is specified in the notice. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing penalties, regardless of the period of noncompliance.

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

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

15. This approval is effective until March 29, 2030. The project sponsor shall submit a renewal application by September 29, 2029, and obtain Commission approval prior to continuing operation beyond March 29, 2030.

16. 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 29, 2005

Kendl P. Philbrick, Chair
Maryland Commissioner

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Docket No. 20050304
Approval Date: March 29, 2005

AQUA PENNSYLVANIA, INC.
EAGLE ROCK COMMUNITY WATER SYSTEM

Groundwater Withdrawal (30-Day Average) of 0.200 mgd from the Well ER-2 and 0.063 mgd from Well H (Huron),
for Public Water Supply,
Black Creek and Hazle Townships, 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, 84 Stat. 1509 et seq., and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.43, relating to groundwater withdrawals. The Commission received an original application from the prior project owners on August 25, 2000, and a complete revision from the current owners on November 1, 2004.

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 Middle Susquehanna Subbasin, HUC 02050107, on the divide between the Sugarloaf Creek and Tomhickon Creek watersheds, Black Creek and Hazle Townships, Luzerne County, Pennsylvania.

Project Features. The project sponsor has requested approval for the withdrawal (30-day averages) of 0.200 million gallons per day (mgd) from Well ER-2 and 0.063 mgd from Well H (Huron), for public water supply. Wells ER-2 and H are the primary existing sources for the water supply system, providing water to the resort facilities and residents in the Eagle Rock Community. The system previously also pumped the lower yielding Wells ER-1 and Janhanna, which are currently inactive and will be abandoned.

Aqua Pennsylvania, Inc. purchased the Eagle Rock water supply system from Eagle Rock Resort Company, Inc. in 2004. The Eagle Rock Resort Community is located in four municipalities and two counties, Schuylkill and Luzerne Counties (East Union and North Union Townships in Schuylkill County, and Black Creak and Hazle Townships in Luzerne County).

Constructed on a mountaintop site in August 1998, Well ER-2 is an open-rock well, 14 inches in diameter to depth of 58 feet, and 10 inches in diameter to a depth of 800 feet. The well has 10-inch diameter steel casing to a depth of 58 feet. Well ER-2 is completed in the sandstones, siltstones and shales of the Mauch Chunk Formation. The primary water-bearing zones are located at 565 feet, 660-668 feet, and 732 feet.

Well H (or the Huron Well) is an open-rock well with a total depth of 220 feet below ground surface. The well casing is 6 inches in diameter. There is no information on the location of water-bearing zones, and the installation date of the well is unavailable.

As currently configured, the water system has two separate service areas, one supplying the upper area of the community, and the other supplying the lower area. With residential connections in all four municipalities, the public water supply currently serves approximately 446 residential connections and the developer projects an addition of approximately 50 additional houses per year over the next 10 years and approximately 7 houses per year for the period 2015-2029.

The combined Eagle Rock Community water supply system has an existing average demand of 0.205 mgd and an existing maximum daily demand of 0.369 mgd. The average and maximum daily demands are projected to grow to 0.368 and 0.446 mgd, respectively, by 2027. Aqua Pennsylvania, Inc. acknowledges the need to develop additional wells to meet this demand. To that end, the project sponsor has drilled several test wells and, if yields are sufficient, one or more of these wells will be converted to production wells. In addition, the project sponsor indicates that it intends to construct an intercommunity pipeline between the Eagle Rock Community system and the nearby Oneida public water supply system.

All wastewater is treated at the Eagle Rock Waste Water Treatment Plant and discharged to Sugarloaf Creek.

Pumping Tests. A 52-hour constant-rate pumping test of Well ER-2 was conducted on January 26-28, 1999, with prior Commission approval. In addition to the pumping well, three other locations were monitored during the test, including Test Well 1, located approximately 3,600 feet from the pumping well; the clubhouse well, located approximately 800 feet west of the pumping well; and the quarry reservoir, located approximately 2,200 feet east of the pumping well. A stepped-rate pumping test of Well ER-2 preceded the constant-rate pumping test. Pumping at an average rate of 300 gallons per minute (gpm) or 1.08 mgd, total drawdown at the end of the test at the pumping well was approximately 345 feet. A recharge boundary, possibly related to colluvium along the toe slope of the mountain, was intersected during the testing, between 1,000 and 3,100 minutes. No drawdown related to the pumping test was measured at the two observation wells. A short rain event occurred two days before the pumping test.

No pumping test was submitted in support of the application for Well H, although the well has a long history of operation. The current pumping rate is reported to be 47 gpm (maximum instantaneous rate) and approximately 50,000 gallons per day (gpd).

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (PADEP) Northeast Region Office (NERO) during review of the project. PADEP issued Public Water Supply Permits No. 5498507 and 5498508, to Eagle Rock Utility Corporation in July 1999 for the grandfathered construction of the existing Janhanna Well 1 and ER-1, respectively, and Public Water Supply Permit No. 5499503 to Eagle Rock Utilities, Inc., in January 2000 for Well ER-2 (construction permit with a 'departmentally negotiated yield of 200 gpm'). PADEP approved the construction and operation of the Huron Well (Well H) in Water Supply Permit No. 5474501 issued in 1974. PADEP staff has reviewed this docket for consistency with its requirements.

Findings

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

Commission staff reviewed the groundwater availability analysis, pumping test results, and supporting information submitted by the project sponsor. Commission staff finds that the rainfall event did not adversely affect the results of the pumping test.

In the 1999 testing of Well ER-2, the trend of drawdown in the pumped well was initially steep due to the aquifer's hydraulic characteristics and later less steep influenced by the effect of a recharge boundary, possibly related to colluvium. Although no drawdown was measured in the observation wells that could be attributed to the pumping, the cone of depression from the test is predicted to be elliptical, generally parallel to bedding strike. Commission staff has concluded that the withdrawal is not likely to have a significant adverse impact on water supply wells in the area, water quality, or a substantial adverse impact on the low flow of streams.

Commission staff recommends approval of a peak instantaneous pumping rate of 200 gpm for Well ER-2 and a maximum pumping water level of 565 feet bgs, the uppermost water-bearing zone.

Due to limited sources in the system, Well ER-2 is currently the primary water supply source. The project sponsor reports that the pumping water level in the Well ER-2 is 640 feet bgs most of the time, below the uppermost water-bearing zone. Therefore, as an interim protective measure, Commission staff recommends that the pumping water level not exceed 655 feet bgs. This interim protective measure would allow development of additional sources and rehabilitation of Well ER-2, and should expire four (4) years from the date of this approval.

The project sponsor should continue to investigate alternative water supply sources and/or develop an adequate amount of storage to meet the system demands while allowing for reduced pumping of Well ER-2 and maintenance of a maximum pumping water level of 565 feet. Further, within sixty (60) days from the date of this approval, the project sponsor should submit a

plan for the rehabilitation of Well ER-2. The plan should allow for time for acquisition and permitting of new sources of sufficient capacity to allow the reduced pumping of Well ER-2, the redevelopment of the well that may be required, and a timetable to meet the 4-year deadline. The plan shall be submitted to the Commission for staff's review and approval.

In order to ensure that there will be no adverse lowering of the local water table in the future and that the resource is sufficient to support the development plans on a sustainable basis, staff recommends that the project submit a water resource development plan. The work plan for the water resources development plan should be submitted for Commission staff's review within sixty (60) days of the date of this approval and that the final plan be submitted within one year from the date of this approval.

Commission staff recommends that the pumping test requirement be waived for Well H. Based on its historical operation, Commission staff recommends approval of a peak instantaneous pumping rate of 47 gpm for Well H.

The withdrawal is subject to the Commission's water conservation requirements as per Commission Regulation §804.20(a). The water system is 100 percent metered, however, system losses reported for 2003 are greater than 30 percent. The unaccounted-for water loss of greater than 20 percent exceeds the maximum specified in Commission Regulation §804.20(a) (1). Commission staff recommends that the project sponsor achieve 100 percent compliance with the requirements by March 29, 2010. The project sponsor should report to the Commission annually on the progress made pursuant to this requirement, and must petition the Commission for an extension should unforeseen events occur that preclude compliance with the March 29, 2010 deadline.

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 in violation of Commission Regulation §803.43 prior to January 1, 2001.

Decision

1. The project's groundwater withdrawal of 0.200 mgd (30-day average) from Well ER2 and 0.063 mgd (30-day average) from Well H is approved pursuant to Article 3, Section 3.10 of the Compact.

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

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

4. The project sponsor shall keep daily records of the metered withdrawal and weekly water levels in the Wells ER-2 and H. 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 and monitor meters, accurate to within five (5) percent, on the Wells ER-2 and H.

5. The maximum instantaneous rates of production from the Wells ER-2 and H shall not exceed 200 gpm and 47 gpm, respectively.

6. Except as provided for in Condition "7," the pumping water level in Well ER-2 shall not exceed 565 feet bgs. The project sponsor shall install an automatic cutoff device within sixty (60) days from the date of this approval. The project sponsor shall notify the Commission in writing when the device is installed.

7. The project sponsor shall, as an interim protective measure, not allow the pumping water level in Well ER-2 to exceed 655 feet bgs. This interim protective measure shall expire four (4) years from the date of this approval.

8. Within sixty (60) days from the date of this approval, the project sponsor shall submit a plan for the rehabilitation of Well ER-2 to the Commission for staff's review and approval. The plan shall allow for time for acquisition and permitting of new sources of sufficient capacity to allow the reduced pumping of Well ER-2, the redevelopment of the well that may be required, and a timetable to meet the 4-year deadline.

9. Within sixty (60) days from the date of this approval, the project sponsor shall submit a plan of study for the water resources development plan to the Commission for staff's review and approval prior to commencing work on the study. The water resources development plan shall be submitted to Commission staff within one year of the date of this approval, and shall assess the sustainability of the resource with respect to future development.

10. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §804.20(a). The project sponsor shall have reduced unaccounted-for water to achieve 100 percent compliance with the requirements by March 29, 2010. The project sponsor shall report to the Commission annually on the progress made pursuant to this

requirement. Progress reports are due within sixty (60) days after the close of the preceding year. The project sponsor must petition the Commission for an extension should unforeseen events occur that preclude compliance with the March 29, 2010 deadline.

11. 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.

12. The constant rate pumping test requirement specified in Commission Regulation §803.43 (b) is hereby waived for Well H.

13. If the Commission determines that the operation of the project's groundwater withdrawal 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.

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

15. 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.

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

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

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

19. This approval is effective until March 29, 2030. The project sponsor shall submit a renewal application by September 29, 2029, and obtain Commission approval prior to continuing operation beyond March 29, 2030.

20. 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 29, 2005

Kendl P. Philbrick, Chair
Maryland Commissioner

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Docket No. 20050305
Approval Date: March 29, 2005

WOOLRICH, INC.

Consumptive Water Use of Up to 0.0836 mgd, for Bottled Spring Water,
Gallagher Township, Clinton 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 January 20, 2005.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water for bottling of spring water.

Location. The project (spring sources) is located in the West Branch Susquehanna Subbasin, HUC 02050203, Chatham Run Watershed, Gallagher Township, Clinton County, Pennsylvania. The spring-water bottling plant is located in adjacent Pine Creek Township, Clinton County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.0836 million gallons per day (mgd). The source of water is two springs, designated Spring 8 and Spring 9.

The springs are adjacent to Chatham Run, within the bottom of the stream valley. Water from both Springs 8 and 9 is collected in gravel-filled collection trenches that discharge by gravity to weir boxes. From the weir boxes, the water is piped by gravity to a pumping station and pumped to the water treatment and bottling facility. The new spring-water bottling plant is located in a portion of the existing Woolrich woolen mill.

Springs 8 and 9 are valley-bottom springs that issue from the base of colluvium and the weathered and highly fractured top of bedrock. A tracer study indicated that some flow that is naturally lost from the lower reaches of small tributary streams to Chatham Run emerge at

Spring 9. Bedrock on the lower valley walls and beneath the valley floor in the area of Springs 8 and 9 consists of gently dipping sequences of sandstone, shale, siltstone, and mudstone, with minor thin limestone interbeds.

The spring catchments and water treatment facility were constructed in late 2004 and 2005, and the facility began bottling water at less than 20,000 gallons per day (gpd) in February 2005. The project sponsor has recorded the daily amount of water bottled.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (PADEP) Northcentral Region Office during review of the project. PADEP did not require a permit for the facility due to the size of the bottles used in the bottling operation.

Findings

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

All water bottled at the bottling plant is considered to be consumptively used. The project sponsor has meters that measure the daily quantity of water pumped to the bottling plant and the daily quantity of water bottled.

The project sponsor requested approval for a consumptive water use of up to 0.0836 mgd. During the last 3 months of 2004, an unusually wet period, the flows measured at Spring 8 ranged from 45 to 160 gallons per minute (gpm) and the flows at Spring 9 ranged from 120-400 gpm. Commission staff observed Spring 9 during a recent drought period and estimate that spring flows could drop below 20 gpm. Therefore, total combined flow from Springs 8 and 9 could be less than 40 gpm during times of extreme low flows. Based on an analysis of limited spring-flow records supplied by the project sponsor, Commission staff is recommending approval of the requested amount. Should the project's future consumptive water use exceed or be expected to exceed 0.0836 mgd, the project sponsor must apply for a modification to this docket at that time.

The project's consumptive use of water is subject to water compensation requirements, as specified in 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 bottled at the bottling plant.

Springs 8 and 9 are located along Chatham Run, which is classified as a high quality, cold-water fishery (HQ/CWF) (25 Pennsylvania Code Chapter 93). The stream contains naturally reproducing Brook Trout. Commission staff has determined that Chatham Run has an annual average daily flow (ADF) of 16.8 cubic feet per second (cfs) (7,560 gpm) and a 7-day, 10-year low flow (Q7-10) of 0.186 cfs or 84 gpm immediately below the dam on existing Woolrich Reservoir 1.

Based on its evaluation of the limited data and knowledge of the hydrogeologic setting, Commission staff finds that the spring flow will diminish as streamflow drops during times of low flow, and that the withdrawal from the springs will be self-limiting. The project sponsor may wish to collect additional flow and water quality data at the springs and stream, particularly at times of low flows, to confirm the nature of the flow system.

Commission staff recommends that the project sponsor allow a passby flow of Q7-10 (84 gpm) immediately below the dam on the downstream reservoir (Reservoir 1) at times when water is being withdrawn from the springs. Commission staff further recommends that the rate of withdrawal be regulated at the point of taking to meet the passby requirements. If at any time the project sponsor is unable to meet the prescribed passby flow, all withdrawals from the springs must cease. The project sponsor should install and maintain a passby device to ensure that the minimum flow of 84 gpm is allowed to pass during these times.

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

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

Decision

1. The project's consumptive water use of up to 0.0836 mgd is approved pursuant to Article 3, Section 3.10 of the Compact.

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

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

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

5. The project sponsor shall allow a passby flow of not less than the 7-day, 10-year low flow (Q7-10) below the downstream reservoir (Reservoir 1), which equals 84 gallons per minute (gpm) at all times when water is being withdrawn from the springs. The project sponsor shall

install and maintain a device to regulate the amount of withdrawal from the springs to meet the passby flow requirement.

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

7. 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 bottled at the bottling plant. Payments shall be made quarterly and shall be calculated by applying this rate to the daily amount of water consumptively used by the project during the preceding calendar quarter. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

9. 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.

10. 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.

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

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

12. 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.

13. 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.

14. This approval is effective until March 29, 2030. The project sponsor shall submit a renewal application by September 29, 2029, and obtain Commission approval prior to continuing operation beyond March 29, 2030.

15. 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 29, 2005

Kendl P. Philbrick, Chair
Maryland Commissioner

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Docket No. 20050306
Approval Date: March 29, 2005

GRAYMONT (PA) INC.
PLEASANT GAP FACILITY

Consumptive Water Use of Up to 0.622 mgd,
for the Mining and Processing of Limestone and Production of Industrial Lime,
Spring Township, Centre County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, 84 Stat. 1509 et seq., 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 28, 2001, and revisions on June 13, 2003, and December 13, 2004.

Description

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

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

Background. The overall Graymont (PA) Inc. (Graymont) facility consists of an underground limestone mine, an open-pit limestone mine, known as the Gentzel Quarry, and associated mineral processing facilities for production of industrial (high calcium lime) and hydrated lime, and fine and coarse crushed-stone aggregate.

The Graymont facility is part of a complex of open-pit and deep mines that exists in the area to the northeast of Pleasant Gap, which is collectively referred to as the *Pleasant Gap Mine Complex*. Historically, this assemblage of mines had a number of owners and operators. Adjoining the Graymont facility to the southwest are two quarries, Brooks and White Rock, and the associated mineral processing facilities owned by Glenn O. Hawbaker, Inc. (Hawbaker). Virtually all of the mines in the Pleasant Gap Mine Complex were started for manufacture of

lime, although all or some of the output of certain mines, such as the Brooks and White Rock Quarries, have been redirected to the production of crushed limestone aggregate.

Historic mining activities prior to 1978 included surface quarrying operations and underground mining. The Pleasant Gap plant began surface quarrying and crushing operations as Standard Lime and Cement in the late 1940s, and three kilns and the hydrate plant were constructed in the 1950s. At one time, the Graymont mine was owned by Centre Lime and Stone Company, Inc. Graybec, Inc. purchased the facility in 1998, and the company was subsequently renamed Graymont in 1999. Current mining activity (exclusively underground) extends to 550 feet AMSL (above mean sea level) and is projected to proceed to a depth of 250 feet AMSL. Active surface mining operations were discontinued in August 1999 due to difficulties in removing the overburden required to mine down-dip. Gentzel Quarry has been allowed to fill with water and, as it is currently maintained, the water-filled pit has a surface area of approximately 3.5 acres and stores approximately 15 million gallons of water.

The White Rock Quarry has been in operation since approximately 1912 under various owners. Although the quarry is permitted and operated by Hawbaker, the White Rock Quarry property is currently owned by Centre Lime and Stone Company, Inc.

The Brooks Quarry has been in operation since the early 1980s. The Brooks Quarry was started by Marblehead Lime Company and Hawbaker is currently the contract mine operator of the quarry. The property included in the Brooks Quarry mining permit consists of two tracts, one currently owned by Centre Lime and Stone Company, Inc. and one currently owned by Graymont. Beyond split land ownership, ownership of the mineral reserves within the Brooks Quarry permit area is divided based on geology (rock quality). Mineral reserves suitable for lime production are owned by Graymont, while mineral reserves suitable only for crushed-stone aggregate production are owned by Centre Lime and Stone Company, Inc. Graymont refers to the portion of the Brooks tract owned by Hawbaker as the "Hawbaker Easement."

The original application submitted to the Commission by Graymont on June 28, 2001 included all mining and lime production operations at the Pleasant Gap facility, including the adjacent Glenn O. Hawbaker, Inc., (Hawbaker) Easement property. Review indicated that the withdrawal of groundwater and the consumptive water use on this property is controlled by Hawbaker, and in May 2003, Commission staff contacted Hawbaker to inform the project sponsor that a separate application should be filed for the Hawbaker property. The Easement property, along with quarrying at White Rock Quarry and associated limestone processing is addressed in Commission Docket No. 20050307.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.622 million gallons per day (mgd). Based on estimated water use data from January 2001 through December 2004 submitted by the project sponsor, the project's current peak-day consumptive water use is approximately 0.278 mgd. (The project sponsor indicated that it might use this quantity of water each day of its peak 30-day period, and therefore reports its maximum average 30-day consumptive water use also is approximately 0.278 mgd.) The requested quantity of consumptive water use includes increased hydrate production, lime kiln

dust preparation, and an estimated quantity of 228,960 gallons per day (gpd) for air quality controls related to the proposed new kiln, Kiln No. 7.

Graymont manufactures industrial (high calcium lime) and hydrated lime. The project sponsor mines high-calcium limestone (calcium carbonate) of the Ordovician-age Valentine Limestone in an active underground mine. Crushed high-calcium limestone is conveyed to the lime plant and heated in one of the project's five coal and coke-fired rotary kilns (Kilns 1 through 5), which results in the conversion of the limestone to industrial lime (calcium oxide). A portion of the lime that is produced is sent to a separate hydrate plant and mixed with water to create hydrated lime (calcium hydroxide).

Water for production at the facility primarily comes from mine dewatering pumpage. Since 2004, water from the underground workings is pumped through a series of intermediate sumps to the surface, and directed either to Gentzel Quarry for storage or to a 1 million-gallon holding tank (the mine tank). Water in Gentzel Quarry also can be pumped to the mine tank. From the mine tank, water can be used for production at the facility or discharged to Logan Branch approximately 3 miles downgradient from the mining operation. Water is discharged via the Whiterock Sinkhole, travels through natural conduits to Blue and East Springs, at the headwaters of Logan Branch. Water discharged through the 26-inch-diameter pipeline discharges to the headwaters of Logan Branch, which can be diverted to a fish hatchery operated by the Pennsylvania Fish and Boat Commission (PFBC) at Pleasant Gap.

Production water from the mine tank is directed to a 250,000-gallon capacity tank (the plant tank) that supplies plant operations including use at the primary crusher, hydrate plant, kilns, truck wash, water trucks (for control of fugitive emissions), Cal Ag (lime) plant, baghouse pile for dust control, existing LKD preparation (i.e., pug mill) for dust control, non-contact cooling water, and mine operations including drilling and dust control. Although withdrawals from the plant tank are not metered; since 2004, all production water is metered as it flows from the mine tank to the plant tank.

Other consumptive water uses are evaporative losses from the water tanks, settling ponds underground mine, and Gentzel Quarry. The project sponsor supplies water off-site to Agway for agriculture products, and this use is considered to be entirely consumptive.

If necessary, dewatering pumpage and water from Gentzel Quarry may be supplemented by water withdrawn from an unmetered make-up well. The make-up well was used prior to 1978 and is equipped with a 100-gallon per minute (gpm) pump. According to the project sponsor, the make-up well is utilized at less than 100,000 gallons per day (gpd) on a 30-day average and, thus, this withdrawal is less than the threshold specified in Commission Regulation §803.43, relating to groundwater withdrawals. The withdrawal is not currently metered.

A second well provides sanitary water for the facility and the wastewater is discharged to an on-lot septic system.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (PADEP) Bureau of Air Quality Control and Bureau of Mining and Reclamation during review of the project. PADEP approved the project's withdrawal of

groundwater for quarry and mine dewatering during its review of the mining operation. PADEP Bureau of Mining, Hawk Run District Office staff has reviewed this docket for consistency with its Mining Permits No.1479401 (Gentzel), No.1474301 (Underground 1-4) and No.14980301 (Underground 5 and 6).

Commission staff also has coordinated with the PFBC during review of the project. The PADEP requires that water be released from the Graymont and Hawbaker mining projects in the headwaters of Logan Branch to mitigate adverse impacts to the PFBC fish hatchery at Pleasant Gap. Part B, of the PADEP Industrial Minerals Surface Mining Permit No. 14980301 (revised October 11, 2002), states that a flow rate of 3,500 gpm is pumped from Graymont. It should be noted that this is equivalent to 2,500 gpm at the junction box for Raceway Series 11-14 (i.e., at the fish hatchery). When flow rates fall below this level, the project sponsor is contacted by PADEP or PFBC, and is required to transfer water to the fish hatchery either through a pipeline or, to maintain a cooler water temperature, into the Whiterock Sinkhole, which is located immediately adjacent to the storage tank. The sinkhole has a direct hydrologic connection to the main spring at the fish hatchery and water travels the approximate three-mile distance to the hatchery within one hour. Water discharged from the PFBC fish hatchery flows into Logan Branch.

Findings

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

All water that is used for the manufacture of lime and/or hydrated lime production, including non-contact cooling and environmental controls of the air emissions from the kilns, retained in aggregate, used for dust control, used for equipment washing, supplied to Agway, as well as water evaporating from the Gentzel Quarry, the uncovered storage tanks, settling ponds and the underground mine, is considered to be used consumptively. Water evaporation from the Gentzel Quarry, the uncovered storage tanks, settling ponds and the underground mine will be calculated by the project sponsor using a method acceptable to the Commission. 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 project sponsor currently calculates consumptive loss as follows: Water supplied to the hydrated lime plant is reacted completely with lime and all water associated with the kilns is evaporated; these are calculated by the project sponsor. Evaporative loss from dust control at the crusher is based on spray nozzle specifications and operating schedule. Evaporative loss from the agricultural lime dust control, truck wash and baghouse pile dust control is based on engineering estimates.

To meet the standards of the regulation regarding the reporting of the actual quantity of consumptive use while acknowledging the inherent complexity of a mining facility that has operated for more than 45 years, Commission staff recommends the project sponsor submit a metering plan to the Commission for review and approval within 60 days of the date of this approval. The plan should account for all water withdrawn from the underground operations and the total consumptive water use at the facility, as well as account for water discharged from the

facility. Water transferred via the pipeline to PFBC and discharged to the Whiterock Sinkhole should be separately measured and recorded. The project sponsor should propose an accounting methodology based on metering, rather than engineering estimation.

The project sponsor has requested a consumptive water use approval of up to 0.622 mgd. Based on an analysis of water use records supplied by the project sponsor and anticipated increases in consumptive water use related to upgrades and new kilns at the Pleasant Gap Plant, Commission staff is recommending approval of the requested amount. 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 be expected to exceed 0.622 mgd, the project sponsor must apply for a modification to this docket at that time.

Water was being consumptively used at the facility before January 23, 1971, the effective date of Commission Regulation §803.42. Based on the information submitted by the project sponsor, Commission staff has determined a pre-1971 water use of 91,700 gallons per day (gpd) 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 provide actual compensation water through releases from storage to Logan Branch.

The Graymont and Hawbaker mining projects already release water to the headwaters of Logan Branch from their mine dewatering activities and to mitigate adverse impacts to the PFBC fish hatchery at Pleasant Gap. PADEP has determined that the mining activities have reduced the flow rates at the hatchery's main spring, located approximately 3 miles downgradient from the mining operation. Graymont has agreed to pump at least 3,500 gpm during extreme drought events, which is equivalent to at least 2,500 gpm at the junction box for Raceway Series 11-14, in accordance with its Mining Permit No. 14980301. When flow rates fall below this level, the project sponsor is contacted by PADEP or PFBC, and transfers water to the fish hatchery via the pipeline or the Whiterock Sinkhole located on its property. Hawbaker and Graymont cooperatively discharged water to the hatchery during recent drought events, at flow rates as low as 500 gpm according to limited records and anecdotal information. Water from the PFBC fish hatchery flows into Logan Branch.

Logan Branch (HUC 02050204010) is a high quality cold-water fishery (HQCWF) (Title 25, Chapter 93, Pennsylvania Code). Based on the stream's classification, its geographic location in the watershed and the anticipated associated fishery of trout, and combined species of fish, the Pennsylvania/Maryland Instream Flow model was used to determine an appropriate passby flow. Commission staff has determined a minimum passby flow of 41 percent of the annual average daily flow (ADF), which equals 8.24 cfs or 3,700 gpm, is required at the point immediately downstream from the Pleasant Gap fish hatchery to prevent loss of aquatic habitat in the stream.

Since the project sponsor intends to continue its operation and consumptively use water during times when streamflow is less than 41 percent ADF, Commission staff recommends and the project sponsor has agreed to maintain a conservation release at all times when flow in Logan Branch downstream from the PFBC hatchery is less than 8.24 cfs or 3,700 gpm. Commission staff recommends that the Spring Creek Watershed Association gage, located directly downstream from the PFBC hatchery, be used to monitor flows in Logan Branch. The gage should be rated on a consistent basis, and its accuracy verified and maintained. If the gage is found to be inadequate, Commission staff recommends that a new gage be installed.

The amount of the conservation release should be based on the calculated drought year base flow contribution, absent mining, from the area impacted by operations at the Pleasant Gap Mine Complex. Commission staff calculates a combined contribution from both the Graymont and Hawbaker mining operations to be 960 gpm; and that the part from the groundwater basin impacted by Graymont to be 1.63 cfs or 730 gpm.

Commission staff recommends that the project sponsor maintain a conservation release of 730 gpm (1.05 mgd) during times when streamflow in Logan Branch is less than 41 percent ADF, which equals 8.24 cfs or 3,700 gpm at the point of compliance downstream from the PFBC hatchery.

Commission staff recommends that the actual groundwater inflow should be reevaluated based on metering after 3 years of monitoring, and that the conservation release be revised accordingly. In this regard, the project sponsor should submit a metering plan for measurement of all withdrawals, including those previously approved under the MOU, and all discharges. The project sponsor also should submit a monitoring plan for measurement of groundwater levels in order to establish the cone of depression related to mine dewatering. These plans should be submitted to the Commission for staff's review and approval, and the project sponsor should submit data summary reports and a map of seasonal low water table annually.

Following review of these data, Commission staff will reevaluate and recalculate the conservation release required for the protection of the Pleasant Gap fish hatchery and to prevent loss of aquatic habitat in the stream. Based on the findings of this monitoring, Commission staff recommends that this approval be modified, as necessary.

The conservation release during low flow periods must be made from water stored during high flow periods to satisfy the regulation. The Gentzel Quarry stores an estimated 15 million gallons of water that is available for release when at full capacity, as currently operated. The Gentzel Quarry volume should provide approximately 14 days of storage, based on a release of 730 gpm and the requested daily consumptive water use. Commission staff finds the quantity of stored water is insufficient to provide for the required releases and the project's consumptive water needs, and recommends that the project sponsor be required to develop or otherwise secure additional storage within a reasonable period of time.

The project sponsor must develop sufficient storage to make required releases and supply the project's consumptive water use and demonstrate its ability to reliably deliver the water to the downstream users, including instream uses. Based on this finding, Commission staff

recommends that the project sponsor submit an operations plan, subject to review and approval by Commission staff, describing the proposed sources, necessary storage volume, possible delivery pathways and their efficiencies, schedules including refilling storage reserves, and other factors required to provide for the conservation release. Copies of the agreements to provide for storage for other users also must be documented. As requested by PADEP and PFBC, the plan should set forth a strategy to reserve additional storage for the protection of the PFBC hatchery during extreme droughts.

Assessment of available storage capacity presumes that the project sponsor implements a strategy to capture excess water from its mine dewatering activities during high flows so that its reserves are full to capacity before entering a critical water shortage period. Part of the operations plan must address a strategy, any cooperative arrangements, and required construction to build the necessary storage to meet the total of the maximum consumptive water use authorized under this docket and the required conservation releases.

Any proposed revisions to the operations plan should be submitted for Commission staff's review and approval.

Commission staff recommends that the Executive Director be authorized to make determinations on the adequacy and amount of available storage capacity.

In the future, the project sponsor will need to maintain sufficient water storage in order to meet the demand for production water, as well as provide for the release to Logan Branch. Commission staff recommends that the project sponsor submit to Commission staff documentation (including copies of any pertinent agreements) to demonstrate that it has acceptable available on-site storage every five years.

In order to insure that the conservation releases will provide adequate protection to Logan Branch during critical low flow periods, the project sponsor needs to verify the suitability of the various pathways used for transmission of water from the facility to the headwaters of Logan Branch and the PFBC fish hatchery at Pleasant Gap. Commission staff recommends that the project sponsor submit a plan to evaluate the efficiency using metered data of the Whiterock Sinkhole. The alternate pathway, the pipeline, is assumed to be 100 percent efficient.

Commission staff finds that the previous releases by the project sponsor and Hawbaker to the PFBC fish hatchery related to their approvals from PADEP Mining do not meet the Commission's consumptive water use compensation requirements. These releases were made primarily from mine dewatering, not from water stored during high flow periods to be released during low flow periods, as required by the regulation.

Commission staff recommends that the Commission accept payment as the method of compensation for the project's prior consumptive water use.

The project sponsor operates a groundwater withdrawal related to the underground mining activities. Under the terms of the Memorandum of Understanding between the Commission and the PADEP, the project has been reviewed and approved for this groundwater withdrawal. Commission staff recommends that the project sponsor install and maintain

metering, accurate to within five (5) percent, on the groundwater withdrawal, and report the data to the Commission quarterly. The project sponsor could propose an alternative to metering for Commission staff's review and approval.

The project's groundwater withdrawal from the make-up well adjacent to the storage tank was in operation prior to 1978 but is not metered. Commission staff recommends that the withdrawal be metered and recorded. Commission staff finds that the well is currently 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 withdrawal from the make-up well is expected to exceed the regulatory threshold in any consecutive 30-day period, the project sponsor must submit a groundwater withdrawal application to the Commission.

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

The project sponsor has paid the required application fee and an additional fee to compensate for extraordinary costs of review, 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, until the date of this approval.

Decision

1. The project's consumptive water use of up to 0.622 mgd is approved pursuant to Article 3, Section 3.10 of the Compact.

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

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

4. Within sixty (60) days from the date of this approval, the project sponsor shall submit a metering plan to the Commission for review and approval by Commission staff that accounts for all water withdrawn, discharged, and consumptively used at the facility. The project sponsor shall propose a methodology to account for their consumptive water use based on metering, rather than estimation. Following approval, the project sponsor shall execute the plan and complete any installation of meters in accordance with the approved schedule, and shall certify to the Commission that the monitoring plan has been implemented. The project sponsor shall notify the Commission in writing when the meters are installed. The project sponsor shall maintain any meters, accurate to within five (5) percent.

5. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports 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 the manufacture of lime and/or hydrated lime, contact cooling and environmental controls of the air emissions from the kilns, retained in aggregate, trucked off-site, used for dust control, used for equipment washing, supplied to Agway, as well as water evaporating from the Gentzel Quarry, the uncovered storage tanks, settling ponds and the underground mine, as calculated in accordance with the approved plan described under Condition "4," above.

6. The project sponsor shall keep daily records of all the project's withdrawals and all of its discharges as measured in accordance with the approved plan described under Condition "4," above, 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.

7. Within sixty (60) days from the date of this approval, the project sponsor shall submit a monitoring plan for groundwater levels to the Commission for review and approval by Commission staff that evaluates the cone of depression related to mine dewatering to the northeast of the facility. Following approval, the project sponsor shall execute the plan and complete the evaluation in accordance with the approved schedule. The project sponsor shall prepare an analytical report and a map of the seasonally low water table with a delineation of mining related drawdown annually for the project area based on groundwater monitoring data and submit it to the Commission within sixty (60) days after the close of the preceding year, and as otherwise required.

8. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, or upon notice from the Commission during periods of low flow, the project sponsor shall release water at the rate determined in accordance with Conditions "12" and "13" from the Gentzel Quarry or the mine water tank to the pipeline or the Whiterock Sinkhole, in accordance with Condition "9." The project sponsor shall make the release at all times when a flow equal to, or less than, the 41 percent ADF flow of 8.24 cfs or 3,700 gpm is recorded at the stream gage located on Logan Branch downstream from the PFBC fish hatchery. The project sponsor shall monitor this stream gage, make the release, as necessary, and report these data to the Commission quarterly, and as otherwise required.

9. Within sixty (60) days from the date of this approval, the project sponsor shall submit a monitoring plan to the Commission for review and approval by Commission staff that evaluates the efficiency, using metered data, of the Whiterock Sinkhole as a transmission pathway for the release of water to Logan Branch, in accordance with Condition "8." Following approval, the project sponsor shall execute the plan and complete the evaluation in accordance with the approved schedule. The project sponsor shall report to the Commission the results of the study for review and approval for the release of water by Commission staff.

10. The project sponsor shall submit a description of the methodology and a design of the devices to be used to accomplish the release of water from the quarry and the design of the outflow measurement device(s) that will be used to monitor the release during passby periods 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.

11. The project sponsor shall use the existing stream gage on Logan Branch downstream from the PFBC fish hatchery, to determine the occurrence of passby flow periods. Within ninety (90) days from the date of this approval, the project sponsor shall document to the Commission that it has access to the gage and can verify the gage's accuracy. If the gage is found to be inadequate, or otherwise unavailable, the project sponsor shall be required to develop alternate gaging, subject to review and approval by Commission staff.

12. To satisfy the Commission's current requirements for consumptive water use set forth in Commission Regulation §803.42, or upon notice from the Commission during periods of low flow, the project sponsor shall release water at a rate of at least 1.63 cfs or 730 gpm from the Gentzel Quarry or the mine water tank to the pipeline or the Whiterock Sinkhole, or to an acceptable alternate discharge point, in accordance with Condition "9." The project sponsor shall make the release at all times when a flow equal to, or less than, the 41 percent ADF flow of 8.24 cfs or 3,700 gpm is recorded at the stream gage to be established in accordance with Condition "11" on Logan Branch downstream from the PFBC fish hatchery. The project sponsor shall monitor this stream gage, make the release, as necessary, and report these data to the Commission quarterly, and as otherwise required. This interim compensation and protective measure shall expire four (4) years from the date of this approval.

13. The project sponsor shall report the groundwater inflow based on the metering described under Condition "4" to the Commission annually, for the purpose of reevaluating and revising the required conservation release after three (3) years of monitoring.

14. The project sponsor shall develop or otherwise secure, and maintain sufficient storage to make the required releases and to meet consumptive water use needs at the site. In this regard, the project sponsor shall submit an operations plan that accounts for sources, storage volume, water handling for releases and refilling of storage, and other factors. The project sponsor shall provide copies of any agreements to provide for the required storage. The plan shall be submitted to the Commission within three (3) years for staff's review and approval. The project sponsor shall provide the Commission with documentation every five (5) years certifying that sufficient

water storage is available to meet the requirements of this approval. The Executive Director shall be authorized to make determinations on the adequacy and amount of available storage capacity. Within sixty (60) days from the date of this approval, the project sponsor shall provide to the Commission an interim plan that identifies the source(s) that shall be used to make the required release and other appropriate factors.

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

16. 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 daily quantity of water used for the manufacture of lime and/or hydrated lime, contact cooling and environmental controls of the air emissions from the kilns, retained in aggregate, trucked off-site, used for dust control, used for equipment washing, supplied to Agway, as well as water evaporating from the Gentzel Quarry, the uncovered storage tanks, settling ponds and the underground mine. 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 0.0917 mgd during the period from January 1, 2001, until the effective date of this approval. 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 0.0917 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. This payment shall be calculated and made by the project sponsor on or before June 30, 2005.

17. 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.

18. 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.

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

20. 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.

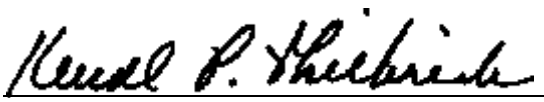
21. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

22. This approval is effective until March 29, 2030. The project sponsor shall submit a renewal application by September 29, 2029, and obtain Commission approval prior to continuing operation beyond March 29, 2030.

23. 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 29, 2005



Kendl P. Philbrick, Chair
Maryland Commissioner

SUSQUEHANNA RIVER BASIN COMMISSION
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Docket No. 20050307
Approval Date: March 29, 2005

GLENN O. HAWBAKER, INC.
PLEASANT GAP FACILITY
(WHITE ROCK QUARRY, BROOKS QUARRY & ASSOCIATED FACILITIES)

Consumptive Water Use of Up to 0.375 mgd,
for the Mining and Processing of Limestone,
Spring Township, Centre County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, 84 Stat. 1509 et seq., and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on September 4, 2003 and revisions on November 3, 2004.

Description

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

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

Background. The Glenn O. Hawbaker, Inc. (Hawbaker) facility consists of two open-pit limestone mines, known as the White Rock Quarry and the Brooks Quarry, and associated mineral processing facilities for production of fine and coarse crushed-stone aggregate and asphaltic or "bituminous" concrete. Property ownership, the holders of the mining permits, and ownership of the mineral reserves at these two quarries are split between three companies, although Hawbaker is the operator of both quarries and related aggregate-production facilities.

The Hawbaker facility is part of a complex of open-pit and deep mines that exists in the area to the northeast of Pleasant Gap, which is collectively referred to as the *Pleasant Gap Mine Complex*. Historically, this assemblage of mines had a number of owners and operators. Adjoining the Hawbaker facility to the northeast is the deep mine and associated mineral processing facilities owned by Graymont (PA) Inc. (Graymont). The Graymont mine was

previously owned by Centre Lime and Stone Company, Inc. Virtually all of the mines in the Pleasant Gap Mine Complex were started for manufacture of lime, although all or some of the output of certain mines, such as the Brooks and White Rock Quarries, have been redirected to the production of crushed limestone aggregate.

The White Rock Quarry has been in operation since approximately 1912 under various owners. The White Rock Quarry property is currently owned by Centre Lime and Stone Company, while the quarry is permitted by and operated by Hawbaker.

The Brooks Quarry has been in operation since the early 1980s. The Brooks Quarry was started by Marblehead Lime Company. The property included in the Brooks Quarry mining permit consists of two tracts, one currently owned by Centre Lime and Stone Company, Inc. and one currently owned by Graymont. Beyond split land ownership, ownership of the mineral reserves within the Brooks Quarry permit area is divided based on geology (rock quality). Mineral reserves suitable for lime production are owned by Graymont, while mineral reserves suitable only for crushed-stone aggregate production are owned by Centre Lime and Stone Company, Inc. Hawbaker is the contract mine operator of the Brooks Quarry site. Graymont refers to the portion of the Brooks tract owned by Hawbaker as the "Hawbaker Easement."

Glenn O. Hawbaker, Inc. and Centre Lime and Stone Company, Inc. are two separate Pennsylvania Domestic Business Corporations, though they have the same principal.

An application submitted to the Commission by Graymont on June 28, 2001 included the adjacent Hawbaker Easement, within the Brooks Quarry. Review of that application indicated that the consumptive water use on the Easement property is controlled by Hawbaker, and in May 2003, Commission staff contacted Hawbaker to inform the project sponsor that a separate application should be filed for the Hawbaker property.

Project Features. The project sponsor has requested approval for the consumptive use of water up to 0.375 million gallons per day (mgd). Based on estimated water use data from January 2001 through December 2003 submitted by the project sponsor, the project's current peak-day consumptive water use is approximately 0.369 mgd. The requested quantity of consumptive water use includes evaporative losses from ponds, sumps or flooded portions of the pits at the facility; evaporated water lost in dust control, both in haul road wetting and at spray nozzles at crushing portions of the processing facility, and water lost in wetted crushed fine and coarse aggregate product.

Hawbaker manufactures coarse and fine crushed-stone aggregate and asphaltic or "bituminous" concrete. The project sponsor mines limestone in the two (2) active open-pit mines (White Rock and Brooks Quarries).

Water for production at the facility comes from several sources, the largest of which is the currently flooded southwestern portion of the White Rock Quarry. Water from White Rock Quarry is pumped to a "clean water" storage tank at the No. 2 plant adjacent to the Brooks Quarry and used for processing at the No 2 Plant. A supply well located at the No. 2 Plant also supplies some of the water used at this plant. Turbid water from the No. 2 Plant is treated in

clarifiers and ponds, and some is reused at the plant. Water trucks used for dust control are also filled at the No. 2 Plant. During wet-weather periods (typically spring), some of the make-up water at the No. 2 Plant is derived from a small intermittent stream that flows between the White Rock and Brooks Quarries.

Water for wet processing at the No. 11 Plant is withdrawn from a supply well located near the plant. Water from the supply well is pumped to a clean-water tank, then withdrawn for wet processing at the plant. Turbid water is clarified and reused in the wet processing.

Some water at the Brooks Quarry maintenance shop is taken from a tank that is used to store collected surface runoff.

No groundwater or surface water is available for pumpage from the Brooks Quarry, as it is within the cone of depression of the adjacent Graymont deep mine.

Groundwater inflow and surface-water runoff at the active (northeastern) part of White Rock Quarry is pumped to the flooded (southwestern) part of the pit. Other than water withdrawn for processing operations or evaporated, water is discharged from White Rock Quarry to a bedrock conduit system at one of two active discharge points: the North Cave or the Gap Run Sinkhole.

Most water from the quarry discharges through overflow to an exposed cave, located on the northwestern quarry wall at approximate elevation 940 feet, designated as mine discharge point GOH#2 or the "North Cave." Hawbaker also has the ability to pump water from the pit into the North Cave if the water level in the pit falls below the level of the cave. Currently, there is no means of measuring the gravity or overflow discharge to the North Cave (GOH#2).

During extreme wet-weather, water from the bedrock conduit system will flow into White Rock Quarry from the North Cave. During these times, Hawbaker pumps water to the Gap Run Sinkhole, designated mine discharge point GOH#1. A flume currently exists to measure the flow discharged to the Gap Run Sinkhole (GOH#1).

The third possible point of discharge (designated mine discharge point GOH#3) is an injection well, located at the southwestern end of White Rock Quarry that was developed to intercept the conduit system. This injection well currently is not used because of turbidity problems at the Pleasant Gap Springs associated with its use. The well may be used in the future if the turbidity issue can be resolved.

At full stage to the elevation of the North Cave (940 feet msl), the flooded volume of the southwestern portion of the White Rock Quarry is approximately 228 million gallons (mg) or 700 acre-feet. A northeast-southwest oriented causeway, the top of which is near elevation 930 feet, breaks the flooded portion of the pit. Approximately one-third of the flooded volume is on the northwest side of this causeway from the pit floor to elevation 930 feet, approximately one-third is on the southeast side of the causeway from the pit floor to elevation 930 feet, and the remaining one-third is above the causeway over the entire flooded area between elevation 930 and 940 feet.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (PADEP). PADEP approved the project's withdrawal of groundwater for quarry and mine dewatering during its review of the mining operation. PADEP Bureau of Mining, Moshannon District Office staff has reviewed this docket for consistency with its Surface Mining Permits No. 14900301 (White Rock Quarry) and No.14810401 (Brooks Quarry).

The PADEP permit(s) held by Graymont and agreements between Graymont, Hawbaker, and Centre Lime and Stone Company require that water be released from the Graymont mining facility in the headwaters of Logan Branch to mitigate adverse impacts to the Pennsylvania Fish and Boat Commission (PFBC) fish hatchery at Pleasant Gap. Graymont has discharge points separate from those of Hawbaker for conveyance of water to the hatchery.

Part B, of the PADEP Industrial Minerals Surface Mining Permit No. 14980301 (revised October 11, 2002), states that a flow rate of 3,500 gpm is pumped from Graymont. It should be noted that this is equivalent to 2,500 gpm at the junction box for Raceway Series 11-14 (i.e., at the fish hatchery). Under an agreement among Centre Stone and Lime Company, Inc., Hawbaker and Graymont, Center Lime and Stone Company, Inc. and Hawbaker agree to cooperate with Graymont to satisfy this requirement. When flow rates at the Hatchery Springs fall below the 3500-gpm level, the project sponsor and Graymont are contacted by PADEP or PFBC and the project sponsor is required to transfer water to the fish hatchery by a discharge to either the North Cave (GOH#2) or the Gap Run Sinkhole (GOH#1). These discharge points have a direct hydrologic connection to the main springs at the fish hatchery and water travels the approximate 1½ mile distance to the southernmost hatchery springs within one hour. Water from the PFBC fish hatchery flows into Logan Branch.

In accordance with Part B of the PADEP Industrial Minerals Surface Mining Permit No. 14810401 (revised March 25, 2004), no water may be withdrawn from the White Rock Quarry (for mineral processing or other uses) during conservation periods in "Low Water Years" when the water level in the flooded southwestern portion of the quarry is at or below elevation 935 feet. This permit condition also preserves a quantity of water in storage for low-flow releases.

Findings

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

All water that is retained in aggregate, trucked off-site, used for the control of fugitive emissions, used for road wetting for dust control, used for equipment washing, as well as water evaporating from the sump and flooded portion of the White Rock Quarry, and the treatment ponds or open water tanks, is considered to be used consumptively. Water evaporation from the sump and flooded portion of the White Rock Quarry, treatment ponds, and uncovered storage or treatment tanks will be calculated by the project sponsor using a method acceptable to the Commission. 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 project sponsor currently calculates consumptive water use as follows: Evaporative loss from dust control at the No. 2 Plant crusher is based on spray nozzle specifications and operating schedule. Evaporative loss from road wetting is based on the volume of the tanker trucks used for wetting and the number of loads of water applied. Evaporative loss from treatment ponds, open tanks, and the pit sumps is based on water surface area and established probable seasonal evaporative rates. Water lost to wetted product is based on production tonnages and measured average water content. Commission staff recommends that the project sponsor install appropriate metering to allow for an accurate measurement of the groundwater withdrawal and the discharge from the on-site ponds to calculate the total consumptive water use at the facility.

To meet the standards of the regulation regarding the reporting of the actual quantity of consumptive use while acknowledging the inherent complexity of a mining facility that has operated for more than 90 years, Commission staff recommends the project sponsor submit a metering plan to the Commission for review and approval within 60 days of the date of this approval. The plan should account for all water withdrawn from wells, the White Rock Quarry Sump, and the minor surface-water sources, and the total consumptive water use at the facility, as well as account for water discharged from the facility. Water transferred via the North Cave or the Gap Run Sinkhole to PFBC should be separately measured and recorded. The project sponsor should propose an accounting methodology based on metering or other flow measurement devices such as flumes or weirs, rather than engineering estimation.

The project sponsor has requested a consumptive water use approval of up to 0.375 mgd. Commission staff is recommending approval of the requested amount, which is less than 2 percent greater than their current peak consumptive use of 0.369 mgd. Should the project's future consumptive water use be expected to exceed 0.375 mgd, the project sponsor must apply for a modification to this docket at that time.

Water was being consumptively used at the facility before January 23, 1971, the effective date of Commission Regulation §803.42. Based on the information submitted by the project sponsor, Commission staff has determined a pre-1971 water use of 45,700 gallons per day (gpd) 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 maintain a release of stored water to Logan Branch.

The project sponsor operates a groundwater withdrawal related to its mining activities. Under the terms of the Memorandum of Understanding between the Commission and the PADEP, the project has been reviewed and approved for this groundwater withdrawal. Commission staff recommends that the project sponsor install and maintain metering, accurate to within five (5) percent, on the groundwater withdrawal, and report the data to the Commission annually. The project sponsor could propose alternative flow measurement devices instead of

metering, such as flumes or weirs, particularly at the large mine discharge points (North Cave and Gap Run Sinkhole) for Commission staff's review and approval.

The Graymont and Hawbaker mining projects already release water to the headwaters of Logan Branch from their mine dewatering activities and to mitigate adverse impacts to the PFBC fish hatchery at Pleasant Gap. PADEP has determined that the mining activities have reduced the flow rates at the hatchery's main springs, located approximately 3 miles downgradient from the mining operation. Graymont has agreed to pump at least 3,500 gpm during extreme drought events, which is equivalent to at least 2,500 gpm at the junction box for Raceway Series 11-14, in accordance with its Mining Permit No. 14980301. When flow rates fall below this level, Graymont is contacted by PADEP or PFBC, and transfers water to the fish hatchery via the pipeline or the Whiterock sinkhole on its property. Hawbaker and Graymont cooperatively discharged water to the hatchery during recent drought events, at flow rates as low as 500 gpm according to limited records and anecdotal information. Water from the PFBC fish hatchery flows into Logan Branch.

Logan Branch (HUC 02050204010) is a high quality cold-water fishery (HQCWF) (Title 25, Chapter 93, Pennsylvania Code). Based on the stream's classification, its geographic location in the watershed and the anticipated associated fishery of trout, and combined species of fish, the Pennsylvania/Maryland Instream Flow model was used to determine an appropriate passby flow. Commission staff has determined that a minimum passby flow of 41 percent of the annual average daily flow (ADF), which equals 8.24 cfs or 3,700 gpm, is required at the point immediately downstream from the Pleasant Gap fish hatchery to prevent loss of aquatic habitat in the stream.

Since the project sponsor intends to continue its operation and consumptively use water during times when streamflow is less than 41 percent ADF, Commission staff recommends and the project sponsor has agreed to maintain a conservation release at all times when flow in Logan Branch downstream from the PFBC hatchery is less than 8.24 cfs or 3,700 gpm. Commission staff recommends that the Spring Creek Watershed Association gage, located directly downstream from the PFBC hatchery, be used to monitor flows in Logan Branch. The gage should be rated on a consistent basis, and its accuracy verified and maintained. If the gage is found to be inadequate, Commission staff recommends that a new gage be installed.

The amount of the conservation release should be based on the calculated drought year base flow contribution, absent mining, from the area impacted by operations at the Pleasant Gap Mine Complex. Commission staff calculates a combined contribution from both the Graymont and Hawbaker mining operations to be 960 gpm; and that the part from the groundwater basin impacted by Hawbaker to be 0.51 cfs or 230 gpm.

Commission staff recommends that the project sponsor maintain a conservation release of 230 gpm (0.33 mgd) when streamflow in Logan Branch is less than 41 percent ADF, which equals 8.24 cfs or 3,700 gpm at the point of compliance downstream from the PFBC hatchery. The project sponsor should submit designs of devices to accomplish the release, and associated measurement devices required to monitor the release for Commission staff's review and approval.

Commission staff recommends that the actual groundwater inflow should be reevaluated based on metering after 3 years of monitoring, and that the conservation release be revised accordingly. In this regard, the project sponsor should submit a metering plan for measurement of all withdrawals, including those previously approved under the MOU, and all discharges. The plan should be submitted to the Commission for staff's review and approval, and the project sponsor should submit data summary reports and a map of the seasonal low water table annually.

Following review of these data, Commission staff will reevaluate and recalculate the conservation release required for the protection of the Pleasant Gap fish hatchery and to prevent loss of aquatic habitat in the stream. Based on the findings of the monitoring, Commission staff recommends that this approval be modified, as necessary.

The conservation release during low flow periods must be made from water stored during high flow periods to satisfy the regulation. The White Rock Quarry stores an estimated 228 million gallons of water that is available for release when at full capacity, as currently operated. Commission staff finds the quantity of stored water is sufficient to provide for the releases.

The project sponsor must maintain sufficient storage to make required releases and supply the project's consumptive water use, and demonstrate its ability to reliably deliver the water to the headwaters of Logan Branch. In this regard, Commission staff recommends that the project sponsor submit an operations plan describing the proposed sources, necessary storage volume, water handling practices, possible release delivery pathways and their efficiencies, schedules including refilling storage reserves, and other factors required to provide for the conservation release. Copies of the agreements to provide for storage for other users also must be documented. As requested by PADEP and PFBC, the plan should set forth a strategy to reserve 189 mg of storage (the approximate volume at White Rock Quarry flooded to an elevation of 935 feet) for the protection of the PFBC hatchery during extreme droughts.

Though currently adequate, the project sponsor should be required at all times to maintain sufficient water storage in order to meet the demand for production water, as well as provide for the release to Logan Branch. Commission staff recommends that the project sponsor submit to Commission staff documentation (including copies of any pertinent agreements) to demonstrate that it has acceptable available on-site storage every five years. Any proposed revisions to the operations plan should be submitted for Commission staff's review and approval annually.

In order to insure that the conservation releases will provide adequate protection to Logan Branch during critical low flow periods, the project sponsor needs to verify the suitability of the various pathways used for transmission of water from the facility to the headwaters of Logan Branch and the PFBC fish hatchery at Pleasant Gap. Commission staff recommends that the project sponsor submit a plan to evaluate the efficiency, using metered data, of the Gap Run Sinkhole, the North Cave, and the injection well.

Commission staff finds that the previous releases by the project sponsor and Graymont to the PFBC fish hatchery related to their approvals from PADEP Mining do not meet the Commission's consumptive water use compensation requirements. These releases were made

primarily from mine dewatering, not from water stored during high flow periods to be released during low flow periods, as required by the regulation. Commission staff recommends that the Commission accept payment as the method of compensation for the project's prior consumptive water use.

The project sponsor operates a groundwater withdrawal related to its open-pit mining activities. Under the terms of the Memorandum of Understanding between the Commission and the PADEP, the project has been reviewed and approved for this groundwater withdrawal. Commission staff recommends that the project sponsor install and maintain metering, accurate to within five (5) percent, on the groundwater withdrawal, and report the data to the Commission quarterly. The project sponsor could propose an alternative to metering for Commission staff's review and approval.

The project's groundwater withdrawal from the well at the No. 11 plant began after 1978 (well drilled in 1999), and is not metered. Commission staff recommends that the withdrawal be metered and recorded. Commission staff finds that the well is currently 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 withdrawal from the well is expected to exceed 100,000 gpd on a 30-day average (3,000,000 gallons in any consecutive 30-day period), the project sponsor must submit a groundwater withdrawal application to the Commission.

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

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

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

Compliance Incentive Program

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

Decision

1. The project's consumptive water use of up to 0.375 mgd is approved pursuant to Article 3, Section 3.10 of the Compact.

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

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

4. Within sixty (60) days from the date of this approval, the project sponsor shall submit a metering plan to the Commission for review and approval by Commission staff that accounts for all water withdrawn, discharged, and consumptively used at the facility. The project sponsor shall propose a methodology to account for their consumptive water use based on metering, rather than estimation. Following approval, the project sponsor shall execute the plan and complete any installation of meters in accordance with the approved schedule, and shall certify to the Commission that the monitoring plan has been implemented. The project sponsor shall notify the Commission in writing when the meters are installed. The project sponsor shall maintain any meters, accurate to within five (5) percent.

5. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity of water retained in aggregate, trucked off-site, used for the control of fugitive emissions, used for road wetting for dust control, used for equipment washing, and evaporation from the sump and flooded portion of the White Rock Quarry and the treatment ponds or open water tanks, as calculated in accordance with the approved plan described under Condition "4," above.

6. The project sponsor shall keep daily records of all the project's withdrawals and all of its discharges as measured in accordance with the approved plan described under Condition "4," above, 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.

7. The project sponsor shall prepare an analytical report and a map of the seasonally low water table with a delineation of mining related drawdown annually for the project area based on groundwater monitoring data and submit it to the Commission within sixty (60) days after the close of the preceding year, and as otherwise required.

8. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, or upon notice from the Commission during periods of low flow, the project sponsor shall release water at the rate determined in accordance with Conditions "12" and "13" from the White Rock Quarry to the North Cave, the Gap Run Sinkhole or to an acceptable alternate discharge point, in accordance with

Condition "9." The project sponsor shall make the release at all times when a flow equal to, or less than, the 41 percent ADF flow of 8.24 cfs or 3,700 gpm is recorded at the stream gage located on Logan Branch downstream from the PFBC fish hatchery. The project sponsor shall monitor this stream gage, make the release, as necessary, and report these data to the Commission quarterly, and as otherwise required.

9. Within sixty (60) days from the date of this approval, the project sponsor shall submit a monitoring plan to the Commission for review and approval by Commission staff that evaluates the efficiency, using metered data, of the possible transmission pathways for the release of water to Logan Branch, in accordance with Condition "8." Following approval, the project sponsor shall execute the plan and complete the evaluation in accordance with the approved schedule. The project sponsor shall report to the Commission the results of the study, and the respective pathway efficiencies, for review and approval of acceptable pathways for the release of water by Commission staff.

10. The project sponsor shall submit a description of the methodology and a design of the devices to be used to accomplish the release of water from the quarry and the design of the outflow measurement device(s) that will be used to monitor the release during passby periods 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.

11. The project sponsor shall use the existing stream gage on Logan Branch downstream from the PFBC fish hatchery, to determine the occurrence of passby flow periods. Within ninety (90) days from the date of this approval, the project sponsor shall document to the Commission that it has access to the gage and can verify the gage's accuracy. If the gage is found to be inadequate, or otherwise unavailable, the project sponsor shall be required to develop alternate gaging, subject to review and approval by Commission staff.

12. To satisfy the Commission's current requirements for consumptive water use set forth in Commission Regulation §803.42, or upon notice from the Commission during periods of low flow, the project sponsor shall release water at a rate of at least 0.51 cfs or 230 gpm from the White Rock Quarry to the North Cave, the Gap Run Sinkhole or to an acceptable alternate discharge point, in accordance with Condition "9." The project sponsor shall make the release at all times when a flow equal to, or less than, the 41 percent ADF flow of 8.24 cfs or 3,700 gpm is recorded at the stream gage to be established in accordance with Condition "11" on Logan Branch downstream from the PFBC fish hatchery. The project sponsor shall monitor this stream gage, make the release, as necessary, and report these data to the Commission annually, and as otherwise required. This interim compensation and protective measure shall expire four (4) years from the date of this approval.

13. The project sponsor shall report the groundwater inflow based on the metering described under Condition "4" to the Commission annually, for the purpose of reevaluating and revising the required conservation release after three (3) years of monitoring.

14. The project sponsor shall maintain sufficient storage to make the required releases and to meet consumptive water use needs at the site. In this regard, the project sponsor shall submit an operations plan that accounts for sources, storage volume, water handling for releases and refilling of storage, and other factors. The plan shall be submitted to the Commission within three (3) years for staff's review and approval. The project sponsor shall provide the Commission with documentation every five (5) years certifying that sufficient water storage exists in the flooded part of the White Rock Quarry used for storage. Within sixty (60) days from the date of this approval, the project sponsor shall provide to the Commission an interim plan that identifies the source(s) that shall be used to make the required release and other appropriate factors.

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

16. 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 daily quantity of water consumptively used shall be the quantity retained in aggregate, trucked off-site, used for the control of fugitive emissions, used for road wetting for dust control, used for equipment washing, as well as water evaporated from the sump and flooded portion of the White Rock Quarry and the treatment ponds or open water tanks. 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 0.0457 mgd during the period from January 1, 2001, until the effective date of this approval. 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 0.0457 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. This payment shall be calculated and made by the project sponsor on or before June 30, 2005.

17. 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.

18. 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.

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

20. 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.

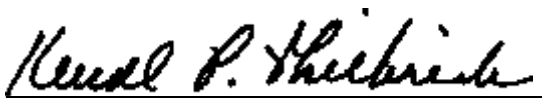
21. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

22. This approval is effective until March 29, 2030. The project sponsor shall submit a renewal application by September 29, 2029, and obtain Commission approval prior to continuing operation beyond March 29, 2030.

23. 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 29, 2005



Kendl P. Philbrick, Chair
Maryland Commissioner

SUSQUEHANNA RIVER BASIN COMMISSION
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Docket No. 20010206-2
Approval Date: February 8, 2001
Modification Date: June 14, 2001
Modification Date: March 29, 2005

JACKSON AND ETHEL PERRY

Consumptive Water Use of Up to 0.075 mgd from Two Springs,
for Bulk Water Hauling,
Wayne Township, Schuylkill 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 request for modification of the consumptive water use sources on October 27, 2004.

Description

Purpose. On February 8, 2001, the Commission approved Docket No. 20010206 (docket), authorizing the consumptive water use of up to 0.075 million gallons per day (mgd) from an unnamed spring, located in Wayne Township, Schuylkill County, Pennsylvania, for bulk water hauling. Subsequent to taking its action, the Commission received information from the project sponsor that revealed the surficial drainage area was less than originally calculated. The Commission approved a corrective modification in June 2001, subject to conditions enumerated in the docket.

The project sponsor now refers to the unnamed spring as Spring 1. This docket modification rescinds certain provisions, and adds a supplemental source, named Spring 2. There is no change in the total approved quantity of consumptive water use.

Findings

The project's consumptive water use specified in the docket is for a peak day of up to 0.075 mgd. Water from each spring flows by gravity through a pipe from the spring to a 43,000-gallon holding tank located at the loading facility near Township Road 641. The Pennsylvania Department of Environmental Protection (PADEP) has approved the load-out

facility (PADEP Water Supply Permit No. 3546495). From the tank, the water is pumped into tanker trucks. The bulk water withdrawal will be metered as it enters the filtration-storage-loading facility and will again be metered as it is loaded into tanker trucks.

The project's total consumptive water use is calculated as the total metered water leaving the filtration-storage-loading facility. The consumptive use of water by the project is subject to water compensation requirements as per Commission Regulation 803.42. To satisfy these requirements, the project sponsor has agreed to pay the Commission quarterly in-lieu-of providing actual compensation water.

As a condition of its approval, the project sponsor is required to suspend water withdrawals from Spring 1 when flow in the unnamed tributary into which the spring discharges is less than 7 gallons per minute (gpm), which represents 20 percent of the calculated average daily flow. This calculation is based on a surficial drainage area 0.05 square miles.

With the addition of Spring 2, the passby flow requirement increased to reflect the additional drainage area of 0.033 square miles associated with Spring 2. Commission staff recommends that no withdrawal be made from the springs when the flow in the unnamed tributary below Spring 2 is less than 12 gpm (equal to 20 percent of the calculated average daily flow). PADEP and the Pennsylvania Fish & Boat Commission concur with this recommendation.

The project sponsor should install a "passive" passby system on each of the spring catchment structures. Commission staff should review and approve the passby design or flow measurement devices prior to any construction. The project sponsor may propose alternative streamflow monitoring to the Commission for staff review and approval.

Commission staff recommends that the approved source specified in the original docket be modified to add a supplemental source, Spring 2 according to these findings. All conditions in Commission Docket No. 20010206-1 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 February 8, 2026. Commission staff recommends the duration of this docket modification be consistent with the term of the prior docket approval.

Decision

1. Commission Docket No. 20010206, as approved February 8, 2001, and subsequently modified on June 14, 2001, is hereby modified to approve Spring 2 as an additional source, pursuant to Article 3, Section 3.10 of the Compact.

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

3. Conditions (c) and (g) of Commission Docket No. 20010206-1, as modified and approved on June 14, 2001, are hereby rescinded.

4. The project sponsor shall cease water withdrawal from Springs 1 and 2 when flow in the unnamed tributary into which the springs discharge is less than 12 gpm below Spring 2.

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

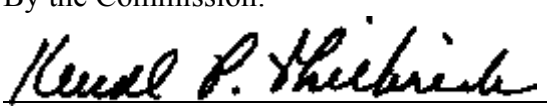
6. If the project sponsor fails to comply with the provisions of the Compact or any rule, regulation or order of the Commission, or any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate penalties. Upon written notice by the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

7. All other conditions in Commission Docket No. 20010206 not inconsistent herewith shall remain effective.

8. 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.

By the Commission:

Dated: March 29, 2005



Kendl P. Philbrick, Chair
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Docket No. 20050308
Approval Date: March 29, 2005

TEMPLE SPRINGS

Consumptive Water Use of Up to 0.100 mgd,
from Springs 1, 2A, 2B, 3, 4, 5, and 7 and Well BH-2
for Bulk Water Hauling,
Williams Township, Dauphin County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, 84 Stat. 1509 et seq., 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 June 27, 2001, and a subsequent revision on August 9, 2004 from Wissahickon Spring Water, Inc. Temple Springs, a general partnership, submitted a revised application as the spring owner on January 24, 2005.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water for bulk hauling of water for sale as spring water.

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050301, Wiconisco Creek Watershed, Williams Township, Dauphin County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.100 million gallons per day (mgd) from seven existing springs and a new well. Based on data provided by the project sponsor, Commission staff calculates the project's current maximum average 30-day consumptive water use to be 0.049 mgd, and peak-day consumptive water use to be 0.072 mgd.

Operations began at the project in 1991 and the facility has been in continuous operation since that time. The project was constructed to supply bulk spring water; currently, Wissahickon Spring Water, Inc. contracts with the project sponsor for the purchase of the water.

The sources of water are seven springs (Springs 1, 2A, 2B, 3, 4, 5, and 7) and Well BH-2 (proposed). The springs flow by gravity from individual catchments to a centralized wet well

(sump), and water in the wet well is pumped on demand through a 4-inch polyvinyl chloride (PVC) pipe to the storage facility for on-site disinfection and storage. The collection system is constructed with valves that allow the project sponsor to control the withdrawal at each spring. Water withdrawn from Well BH-2 will be discharged through 3-inch PVC pipe to the bulk storage facility and separately metered.

Well BH-2 is an open-rock, 8-inch-diameter well, drilled to a total depth of 180 feet and is cased to a depth of 31 feet. Well BH-2 is completed in interbedded shales and sandstones of the Mauch Chunk Formation. Major yielding zones in the well occur at 30-32 feet, 33-33.5 feet, 53.5 feet, 65 feet, 68-69 feet, 88 feet, and 93 feet. The project sponsor plans to equip Well BH-2 with a 3-horsepower submersible pump having a maximum rated capacity of 60 gallons per minute (gpm).

The Pennsylvania Department of Environmental Resources (PADEP) required a 48-hour, constant-rate pumping test, which was conducted from September 22-26, 2003, at approximately 40 gpm. In addition to the pumping well, local groundwater conditions and nearby wetlands were monitored during the testing using three wells and eight piezometers. Flows in the spring collection overflow pipe and in the unnamed tributary to Wiconisco Creek also were monitored.

The test was extended in length from 48 to 90 hours due to rain events (a total of 6.25 inches) that began shortly after the start of the test. Although Well BH-2 and the springs were shown to be hydraulically linked, the testing was severely compromised in terms of monitoring for impacts. Even with the rain interference, impacts from pumping were evident in wetland piezometers P-2, P-3, and P-4, and in the unnamed tributary. Flow in the stream declined approximately 30 gpm, or 75 percent of the pumping rate, during the test.

Water passes through two existing 1-micron filters, is disinfected on-site using ozonation, and stored in a 10,000-gallon stainless steel tank. Water is periodically removed from the storage tank and transported to a bottling facility, currently a plant in Kutztown, Pennsylvania, owned by Wissahickon Spring Water, Inc. The withdrawal from the tank is metered, though the project sponsor currently quantifies the water by means of a truck log documenting the daily number truckloads of water leaving the facility.

Coordination. Commission staff has coordinated with PADEP during review of the project. The spring passed surface-water influence protocol (SWIP) monitoring in 2002. PADEP approved Temple Springs' load-out facility under PADEP Public Water Supply Permit No. 2290508, issued September 20, 1991. PADEP approved the bottling plant in Kutztown, Berks County, under PADEP Permit No. 3066305.

Concurrent with the Commission's review process, the project sponsor applied to PADEP for a permit (Draft Public Water Supply Construction Permit No. 2204506) for the addition of a well, Well BH-2, at a withdrawal rate of 40 gpm. PADEP is withholding issuance of the permit pending Commission approval.

Findings

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

All water pumped to tanker trucks at the loading station is considered to be consumptively used. The project sponsor meters the withdrawal from the storage tank, though the project sponsor currently calculates the quantity of water pumped to tanker trucks based on the capacity of the water trucks and the number of truckloads of water leaving the facility. Commission staff recommends that the project sponsor meter the quantity of water leaving the loading facility.

The project sponsor requested approval for a consumptive water use of up to 0.100 mgd from the existing springs plus a new well. Based on an analysis of water use records for the spring sources supplied by the project sponsor and consideration of PADEP's existing permit, Commission staff is recommending approval of the requested amount. Flow measurements in the unnamed tributary to Wiconisco Creek collected in 1989 and 1990 (prior to development of the springs) indicated an average flow of 100 gpm, with a seasonal range between 80 gpm to 180 gpm. Flows measured during the SWIP testing performed between October 2001 and March 2002 indicated flows ranging from 42 gpm to 200 gpm. Should the project's future consumptive water use be expected to exceed 0.100 mgd, the project sponsor must apply for a modification to this docket at that time.

The project's consumptive use of water is subject to water compensation requirements, as specified in 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 pumped to the loading station.

Water withdrawn from Well BH-2 is groundwater. The requested quantity does not exceed 100,000 gallons per day (gpd), as a consecutive 30-day average, which is less than the regulatory threshold for withdrawals.

Commission staff recommends that the instantaneous withdrawal rate from BH-2 should not exceed 40 gpm. The project sponsor should separately meter the withdrawal from Well BH-2 and keep daily records of the withdrawal.

The project is located in the headwaters of an unnamed tributary to Wiconisco Creek, which is classified as a cold-water fishery (CWF) (Title 25, Chapter 93, Pennsylvania Code), with no known natural reproducing trout. Based on the stream's classification and its geographic location in the watershed, Commission staff recommends a minimum flow of 20 percent of the annual average daily flow (ADF), or 22 gpm, in the unnamed tributary to Wiconisco Creek to prevent loss of aquatic and wetland habitats.

Commission staff recommends that the project sponsor allow a minimum passby flow of 20 percent of the annual ADF (22 gpm) from the springs at times water is being withdrawn.

Further, to reduce the potential for adverse impacts to the bank-to-bank wetlands, Commission staff recommends that the project sponsor also cease its withdrawal from Well BH-2 when flow in the unnamed tributary to Wiconisco Creek is less than 22 gpm. The project sponsor should install a cutoff switch so that the well cannot be operated during the specified low-flow conditions. If at any time the project sponsor is unable to meet the prescribed passby flow, all withdrawals from all sources must cease. The project sponsor should install and maintain a passby device to ensure that the minimum flow of 22 gpm is allowed to pass during these times.

Commission staff should review and approve the passby design or flow measurement devices prior to any construction. The project sponsor may propose alternative streamflow monitoring to the Commission for staff review and approval.

The project is subject to 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.

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

1. The project's consumptive water use of up to 0.100 mgd is approved pursuant to Article 3, Section 3.10 of the Compact.

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

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

4. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly

monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity pumped to tanker trucks at the loading station. The project sponsor shall maintain metering at the loading station, accurate to within five (5) percent.

5. The maximum instantaneous rate of production from Well BH-2 shall not exceed 40 gpm. The project sponsor shall separately meter the withdrawal from Well BH-2 and keep daily records of the withdrawal. The project sponsor shall notify the Commission, in writing, when the meter is installed. 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.

6. The project sponsor shall allow a passby flow of not less than 20 percent of annual ADF, which equals 22 gpm, in the unnamed tributary to Wiconisco Creek, downstream from the springs at all times when water is being withdrawn from the springs and Well BH-2. The project sponsor shall install and maintain a device to regulate the amount of withdrawal from the springs and well to meet the passby flow requirement. The project sponsor shall keep daily records of flow in the unnamed tributary to Wiconisco Creek at all times when water is being withdrawn from the springs, and shall report the data to the Commission quarterly, and as otherwise required.

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

8. 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 pumped to tanker trucks at the loading station. Payments shall be made quarterly and shall be calculated by applying this rate to the daily amount of water consumptively used by the project during the preceding calendar quarter. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

10. 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 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 8 above.

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

12. 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.

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

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

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

16. This approval is effective until March 29, 2030. The project sponsor shall submit a renewal application by September 29, 2029, and obtain Commission approval prior to continuing operation beyond March 29, 2030.

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

By the Commission:

Dated: March 29, 2005

Kendl P. Philbrick, Chair
Maryland Commissioner

SUSQUEHANNA RIVER BASIN COMMISSION
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Docket No. 20050309
Approval Date: March 29, 2005

STONEY MOUNTAIN SPRINGS

Consumptive Water Use of Up to 0.072 mgd,
for Water Bottling and Bulk Water Hauling,
Porter Township, Schuylkill 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, 84 Stat. 1509 et seq., 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 June 27, 2001 from Wissahickon Spring Water, Inc. Stoney Mountain Springs, a sole proprietorship, submitted a revised application as the spring owner on December 23, 2004.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water for bottling and bulk hauling of water for sale as spring water.

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050301, Wiconisco Creek Watershed, Porter Township, Schuylkill County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.072 million gallons per day (mgd). Based on data provided by the project sponsor, Commission staff calculates the project's current maximum average 30-day consumptive water use to be 0.035 mgd, and peak-day consumptive water use to be 0.060 mgd.

Operations began at the project in 1976 and the facility has been in continuous operation since that time. The project currently consists of two primary operations: an on-site bottled water plant and bulk water supply.

The source of water is one spring that discharges through the gravel-lined floor of an approximately 8-foot by 6-foot covered basin located in the spring house. Water from the spring is gravity-fed through two separate pipes, a 3-inch PVC line to the bulk water building and a 2-inch PVC line to the bottled water plant.

Water entering the bulk water building is disinfected on-site and stored in a 15,000-gallon stainless steel tank. Water is periodically removed from the storage tank and currently transported to a bottling facility(ies), owned by Wissahickon Spring Water, Inc. The withdrawal from the tank is not metered; however, the project sponsor maintains a log documenting the daily number truckloads of water leaving the facility.

Water entering the bottling plant is pumped to one of four 80-gallon pressure tanks to provide bottling pressure. The raw water is passed through a 1-micron filter and is disinfected with an ultraviolet light unit (rated at 30 gpm) and an ozone disinfection unit (rated at 20 gpm) prior to feeding the bottle washing and bottle filling units. The project sponsor currently bottles 5-gallon and pint-sized bottles. The 5-gallon bottles are washed and sanitized prior to filling. Pint-sized bottles arrive at the bottling plant ready to be filled. The bottling operation is not metered; however, the project sponsor maintains a log documenting the quantity of bottled water produced.

A separate water service pipe for the distribution of water to three separate residences and a restaurant (currently closed) located on the property receives water filtered and disinfected with the UV light. The water used for domestic and commercial purposes is not metered.

Wastewater from process operations (bottle washing/sanitizing) and from the residences/restaurant is discharged (unmetered) to an on-lot septic system.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (PADEP) during review of the project. The spring passed surface-water influence protocol (SWIP) monitoring in 1996. PADEP approved Stoney Mountain Spring as a water source for the Wissahickon Spring Water, Inc. bottling plant in Rapho Township, Lancaster County, under PADEP Permit No. 7366083, issued August 29, 1986. Wissahickon's Kutztown Bottling Plant (Permit No. 3066035) also has approval to utilize Stoney Mountain Spring as a source of supply. On May 8, 2000, this system was granted approval to operate under the special permit by rule provisions in accordance with Chapter 109.1005(c). Wissahickon's Rapho Township Bottling Plant has recently been inactivated and is no longer in service. All local bottling operations now occur at the Kutztown Bottling Plant. PADEP approved the bottling operation under PADEP Permit No. 3546414, issued December 4, 1997. This permit limits water bottling to 20 gpm, based on the capacity of the ozonation equipment.

Findings

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

All water pumped to tanker trucks at the loading station and all water bottled at the on-site bottling plant is considered to be consumptively used. The project sponsor currently calculates the quantity of water pumped to tanker trucks based on the capacity of the water trucks and the number of truckloads of water leaving the facility. Similarly, the project sponsor calculates the quantity of water bottled on-site based on the number and volume of bottles filled. Commission staff recommends that the project sponsor install separate meters to measure: (1) the

daily quantity of water pumped to tanker trucks at the loading station, and (2) the quantity of water bottled at the bottling plant. The project sponsor could propose an alternative to metering to quantify the consumptive water use for Commission staff's review and approval.

Staff finds that consumptive water use resulting from bottle washing/sanitizing is nominal.

The project sponsor requested approval for a consumptive water use of up to 0.072 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 20 percent above the current peak-day use of 0.060 mgd. Should the project's future consumptive water use exceed or be expected to exceed 0.072 mgd, the project sponsor must apply for a modification to this docket at that time.

The project's consumptive use of water is subject to water compensation requirements, as specified in 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 pumped to the loading station and the daily quantity of water bottled at the on-site bottling plant.

Stoney Mountain Spring is adjacent to and located in the headwaters of an unnamed tributary to Wiconisco Creek, which is classified as a cold-water fishery (CWF) and Class D Brook Trout waters. Commission staff has determined that the subbasin has an annual average daily flow (ADF) of 0.222 mgd (154 gpm; 0.343 cfs) and a 7-day, 10-year low flow (Q7-10) of 6.3 gpm (0.014 cfs). Based on the stream's classification and its geographic location in the watershed, Commission staff used the Pennsylvania/Maryland Instream Flow model to determine a passby flow for the site.

Commission staff recommends that the project sponsor allow a passby flow of 27 percent of the annual ADF (41.6 gpm) to leave the spring subbasin at all times when water is being withdrawn from the spring. The rate of withdrawal should be regulated at the point of taking to meet the passby requirements. The project sponsor should install and maintain a passby device to ensure compliance with the minimum flow requirement noted above.

The project is subject to 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.

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

1. The project's consumptive water use of up to 0.072 mgd is approved pursuant to Article 3, Section 3.10 of the Compact.

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

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

4. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain separate meters, accurate to within five (5) percent, to measure the water pumped to tanker trucks at the loading station and water bottled at the on-site bottling plant. The project sponsor shall notify the Commission in writing when the meters are installed. The project sponsor could propose an alternative to metering to quantify the consumptive water use for Commission staff's review and approval.

5. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity pumped to tanker trucks at the loading station and bottled at the on-site bottling plant.

6. The project sponsor shall allow a passby flow of not less than 27 percent of annual average daily flow (ADF), which equals 41.6 gallons per minute (gpm) at all times when water is being withdrawn from the spring. The project sponsor shall install and maintain a device to regulate the amount of withdrawal from the spring to meet the passby flow requirement. The project sponsor shall keep daily records of the passby flow at all times when water is being withdrawn from the spring, and shall report the data to the Commission quarterly, and as otherwise required.

7. The project sponsor shall submit its design and a proposed construction schedule for the flow-measurement and control devices within sixty (60) days from the date of this approval for review and approval by Commission staff prior to any construction or installation. Following approval, the project sponsor shall complete construction/installation in accordance with the approved schedule and shall certify to the Commission that construction/installation has been

completed in accordance with the approved design. The passby system shall be kept fully functional and free of debris.

8. 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 pumped to tanker trucks at the loading station and bottled at the on-site bottling plant. Payments shall be made quarterly and shall be calculated by applying this rate to the daily amount of water consumptively used by the project during the preceding calendar quarter. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

10. 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 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 8 above.

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

12. 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.

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

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

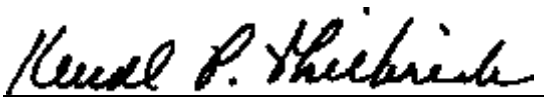
15. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

16. This approval is effective until March 29, 2030. The project sponsor shall submit a renewal application by September 29, 2029, and obtain Commission approval prior to continuing operation beyond March 29, 2030.

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

By the Commission:

Dated: March 29, 2005



Kendl P. Philbrick, Chair
Maryland Commissioner

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Docket No. 20030811-1
Approval Date: August 14, 2003
Modification Date: March 29, 2005

R.W. GRAND LODGE F. & A. M. OF PENNSYLVANIA
MASONIC VILLAGE AT ELIZABETHTOWN

Groundwater Withdrawals (30-Day Averages) of 0.259 mgd from Well EM-500, 0.259 mgd from Well EM-600 and 0.259 mgd from Well EM-700, and a Total System Withdrawal Limit (30-Day Average) of 0.400 mgd and a Consumptive Water Use of Up to 0.175 mgd, for Institutional Water Use, West 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 request for modification of the consumptive water use quantity on November 1, 2004.

Description

Purpose. The Commission originally approved the project on August 14, 2003, as Docket No. 20030811 (docket), issued in the name of Masonic Homes of the R.W. Grand Lodge F. & A. M. of Pennsylvania. The facility name was subsequently changed to Masonic Village at Elizabethtown (Masonic Village). In the docket, Masonic Village was approved for a groundwater withdrawal (30-day average) of 0.259 million gallons per day (mgd) from Well EM-500, 0.259 mgd from Well EM-600, 0.259 mgd from Well EM-700, a total system withdrawal of 0.400 mgd, and consumptive water use of up to 0.035 mgd, for institutional water use, subject to conditions enumerated in the docket. This docket modification rescinds certain provisions, and increases the consumptive water use quantity from 0.035 mgd to 0.175 mgd. There is no change in the approval for the groundwater withdrawal.

Findings

The project's consumptive water use specified in the docket is for a peak day of up to 0.175 mgd for boiler feed make-up, cooling, laundry, and miscellaneous other uses. The project sponsor obtains water from on-site wells, and is interconnected with a public water purveyor that can provide an emergency supply. The water from both sources is metered prior to its use. All of the wastewater generated from the Masonic Homes is discharged to the sanitary sewer system through one metered outfall line, and treated in the Elizabethtown Borough Sewer Authority's wastewater treatment facility.

The project's total consumptive water use has been calculated as the total metered water supplied to the facility from the wells and/or the public water supplier, minus the metered outflow from the facility.

In May 2004, the Elizabethtown Borough Sewer Authority contracted with Tri Star Inc. to inspect and calibrate Masonic Village's sewage disposal meter. During this process, the meter was found to contain a significant amount of grit that contributed to erroneous flow readings. The meter has been cleaned, calibrated and inspected, and is now functioning properly.

Although the project sponsor has submitted its monitoring data as required in the docket, the faulty metering resulted in underestimating the consumptive water use. Data collected following the meter calibration indicated a significantly higher consumptive use than previously calculated or approved in the original docket. The project sponsor contacted the Commission and submitted a request to increase its approved quantity of consumptive water use.

The project sponsor's application requests a consumptive water use of 0.175 mgd. The requested quantity is based on daily monitoring since May 25, 2004. The peak day consumptive water use during that time period was 0.146 mgd and the maximum 30-day average was 0.071 mgd. The requested quantity represents nearly 20 percent more than the current peak day. The project sponsor is requesting the increased quantity to allow for future growth planned within the next five (5) years and account for the limited amount of data supporting the request.

Commission staff recommends that the approved quantity of consumptive water use specified in the original docket be modified to a peak-day use of up to 0.175 mgd according to these findings.

While the project's water use has been in noncompliance with Commission regulations, there have been no adverse impacts associated with the consumptive water use and the project sponsor has cooperated with Commission staff during its review. With the metering issues resolved, the project sponsor has accurately established the project's demand. Due to these circumstances, Commission staff does not recommend imposition of a penalty for the prior noncompliance.

Commission staff recommends that all conditions in Commission Docket No. 20030811 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(a).

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 August 14, 2028. Commission staff recommends the duration of this docket modification be consistent with the term of the prior docket approval.

Decision

1. Commission Docket No. 20030811, as approved August 14, 2003, is hereby reissued in the name of Masonic Village at Elizabethtown and modified to approve an increase in consumptive water use of up to 0.175 mgd, pursuant to Article 3, Section 3.10 of the Compact.

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

3. Conditions (j) and (m) of Commission Docket No. 20030811, as approved August 14, 2003, are hereby rescinded.

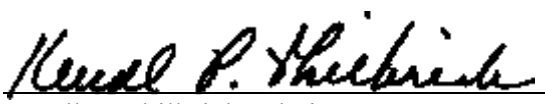
4. If the project sponsor fails to comply with the provisions of the Compact or any rule, regulation or order of the Commission, or any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate penalties. Upon written notice by the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

5. All other conditions in Commission Docket No. 20030811 not inconsistent herewith shall remain effective.

6. Based on Commission Regulation §803.30(a), this approval is effective until August 14, 2028. 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 February 14, 2028, and obtain Commission approval prior to continuing operation beyond August 14, 2028.

By the Commission:

Dated: March 29, 2005



Kendl P. Philbrick, Chair
Maryland Commissioner

Exhibit D

RESOLUTION NO. 2005-03

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

WHEREAS, review of proposed water resources projects pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact and the Commission's Regulations and Procedures for Review of Projects (18 CFR Part 803) continues to be a substantial and growing program activity representing a major public cost; and

WHEREAS, the Commission therefore believes that it is appropriate to revise the current project fee schedule by, among other things, expanding categorical charges beyond 1 million gallons per day (mgd) for consumptive use and withdrawal projects, and by adding certain special charges; and

WHEREAS, under Article 3, Section 3.9 of the Compact, "the Commission, from time to time, after public hearing upon due notice given, may fix, alter, and revise rates, rentals, charges and tolls…for…any services…which it provides;" and

WHEREAS, in December 2004, the Commission made these proposed project fee schedule revisions, and other information, available to the public during a 60-day comment period running through February 14, 2005; and

WHEREAS, the Commission conducted a public hearing on March 29, 2005 to receive comments on the proposed project fee schedule revisions; and

WHEREAS, consistent with the revisions hereby adopted in December 2006, and each year thereafter for four consecutive years, the Commission will consider a 10% increase in categorical fees; and

WHEREAS, in December 2006, and each year thereafter, the Commission will consider a Consumer Price Index (CPI) adjustment in fee amounts.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Commission hereby adopts a project fee schedule which is attached hereto as Exhibit A and made a part of this Resolution.

2. The provisions of this fee schedule are established by, and are subject to, this Commission Resolution No. 2005-03, which supersedes the provisions of Resolution Nos. 97-01, 98-19 and 2000-06.

3. Subject to public hearing upon due notice given and final Commission approval, the categorical fees set forth herein shall be increased at the rate of 10% per year for five consecutive

years, and a Consumer Price Index (CPI) adjustment shall be made annually, beginning on January 1, 2007.

4. This Resolution shall be effective July 1, 2005.

Date: March 29, 2005

Kendl P. Philbrick, Chairman

EXHIBIT A

Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed

PROJECT FEE SCHEDULE
July 1, 2005 – December 31, 2006

1. The Commission requires payment of a non-refundable project review fee, in accordance with Tables 1, 2 and 3 herein, for the following categories of projects which require review and approval by the Commission under Section 3.10(2) of the Compact and Commission Regulation 803.4 (18 CFR §803.4):

   a. Diversions of water into or out of the Susquehanna River Basin.

   b. Hydroelectric projects.

   c. Consumptive uses (including out-of-basin diversions), as defined and regulated by Commission Regulation 803.42.

   d. Groundwater withdrawals, as defined and regulated by Commission Regulation 803.43.

   e. Surface-water withdrawals, as defined and regulated by Commission Regulation 803.44.

   f. Any other projects requiring the review and approval of the Commission under Section 3.10 (2) of the Compact that do not involve a request for a quantity of water.

2. If any project involves more than one of the above categories, a separate application and fee is required for each category.

3. Agencies, authorities, or commissions of the signatories to the Compact are exempt from fees. However, political subdivisions of the signatory states are subject to the fees.

4. Agricultural water use projects primarily involving the raising of food or forage crops, trees, flowers, shrubs, turf and livestock, or aquaculture, are exempt from fees.

5. Municipal public water suppliers shall receive a 20% discount on all of the fees and special charges set forth herein; provided, however, that no fee paid by a municipal public water supplier under this fee schedule shall be less than the fee that would have been paid under the fee schedule in effect prior to this fee schedule.

6. The appropriate fee must be submitted to the Commission with the project application (see Paragraph 7 regarding an installment payment option). Failure to submit payment of the fee or the submission of an incorrect fee with the application will result in its return to the project sponsor, or, at the discretion of the Commission, will result in a billing of the proper fee to the project sponsor. The Commission will not take action on a project application until the appropriate fee is paid. Fees are non-refundable and are not reduced, nor any amount credited to the project sponsor, where the Commission's docket approval authorizes an amount or quantity of water which is less than that requested by the project sponsor.

7. If the fee exceeds $6,000, project sponsors have the option of making installment payments. This option provides for the payment of up to three consecutive equal annual installments with interest thereon at the rate of 10 percent per annum on the unpaid balance. The project sponsor should indicate that it intends to use this option when making application. The first annual installment is due at the time the application is submitted.

8. When the fee calculated in accordance with the tables below is deemed by the Executive Director to be insufficient due to exceptional costs associated with review, the Executive Director may impose a fee in the amount up to 100 percent of project review costs deemed by him or her to be exceptional.

9. Sponsors for modification of projects previously approved by the Commission shall be required to pay a fee in accordance with the schedule set forth below.

10. Sponsors for renewals of project approvals shall pay the same fees as sponsors of new projects.

11. The Commission may, for good cause shown, waive or reduce any of the fees set forth herein.

TABLE 1

PROJECT FEE SCHEDULE
July 1, 2005 to December 31, 2006

Project Category	Requested Quantities Or Capacities	Fee
Consumptive Use Projects Paying Consumptive Use Fee to Commission	20,000 gallons per day (gpd) - 100,000 gpd 100,001 gpd - 500,000 gpd 500,001 gpd - 1 million gallons per day (mgd) 1,000,001gpd – 5 mgd Over 5 mgd	$ 750 3,000 6,000 18,000 30,000
Consumptive Use Projects Not Paying Consumptive Use Fee to Commission	20,000 gallons per day (gpd) - 100,000 gpd 100,001 gpd - 500,000 gpd 500,001 gpd - 1 mgd 1,000,001 gpd to 5 mgd Over 5 mgd	$ 2,100 9,700 12,700 38,000 50,000
Groundwater & Surface Water Withdrawals	Up to 250,000 gallons per day (gpd) 250,001 gpd - 500,000 gpd 500,001 gpd - 1 mgd 1,000,001 gpd– 5 mgd 5,000,001 gpd – 10 mgd Over 10 mgd	$ 1,500 3,000 4,500 6,000 18,000 18,000 + $3,000 for each additional 1 mgd increment
Hydroelectric Projects* **These fees will be charged for review of applications for FERC exemption, short form, or regular license, if the hydroelectric project requires Commission review & approval. No fee will be charged for review of applications for a preliminary permit.*	Greater than 10 Megawatts (anything less handled under "all other projects" below)	$7,500
All other projects requiring review under Section 3.10(2) of the Compact that do not involve a request for a quantity of water	e.g. stream encroachments, discharges to interstate waters, etc.	$2,500

TABLE 2

PROJECT MODIFICATION FEE SCHEDULE[1]
July 1, 2005 to December 31, 2006

Project Category	Requested Modified Quantities Or Capacities	Fee
Consumptive Use Projects	Zero to increase of 100,000 gpd Increase of 100,001 gpd - 500,000 gpd Increase of 500,001 gpd - 1 mgd Increase of 1,000,001 gpd – 5 mgd Increase over 5 mgd	$ 750 3,000 6,000 18,000 30,000
Groundwater & Surface Water Withdrawal	Zero to increase of 250,000 gpd Increase of 250,001 gpd - 500,000 gpd Increase of 500,001 gpd - 1 mgd Increase of 1,000,001 gpd – 5 mgd Increase of 5,000,001 gpd – 10 mgd Over 10 mgd	$ 1,000 2,000 3,000 4,500 18,000 18,000 + $3,000 for each additional 1 mgd increment
Hydroelectric Projects* **These fees will be charged for review of applications for FERC exemption, short form, or regular license, if the hydroelectric project requires Commission review & approval. No fee will be charged for review of applications for a preliminary permit.*	Greater than 10 Megawatts (anything less handled under "all other projects" below.)	$7,500
All other projects requiring review under Section 3.10 (2) of the Compact that do not involve a request for a quantity of water	e.g. stream encroachments, discharges to interstate waters, etc.	$2,500

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

TABLE 3

SPECIAL CHARGES
July 1, 2005 to December 31, 2006

Pumping Test Evaluation	$ 2,000
Out-of-Basin Diversion (≤250,000 gpd)	5,000
Out-of-Basin Diversion (>250,000 gpd)	15,000
Transfer of Existing Approval	1,000
Emergency Certificate	2,500