

Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed



May 9, 2008

TO ALL CONCERNED:

At the March 13, 2008 meeting, the draft minutes of the December 5, 2007 Commission meeting were approved as written. Please attach this notice to your copy of the December 5, 2007 minutes.

- DRAFT -

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

**MINUTES OF THE
SUSQUEHANNA RIVER BASIN COMMISSION
March 13, 2008
#2008-01**

The meeting was held in the Bedford Springs Resort, 2139 Business Route 220, Bedford, Pennsylvania. Chairman Myers called the meeting to order at 1:00 p.m.

ROLL CALL

Commissioners Present

Ms. Cathleen C. Myers, Dep. Sec. for Water Management, Pa. Dept. of Environmental Protection (PADEP)

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

Brig. Gen. Todd T. Semonite, Commander, U.S. Army Corps of Engineers (USACE), North Atlantic Division

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

Alternate Commissioners and Advisors Present

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

Staff Present

Mr. Paul O. Swartz, Executive Director

Mr. Thomas W. Beauduy, Deputy Director

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

Ms. Susan S. Obleski, Director of Communications

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

Mr. Duane A. Friends, Chief Admin. Officer

Mr. Richard A. Cairo, General Counsel

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

Ms. Ava Stoops, Administrative Specialist

Also Attending

Mr. Ray Yacuzzo, NYDEC, Region 8

INTRODUCTION/WELCOME

Chairman Myers and the other commissioners each commented briefly on relevant activities in their jurisdictions.

Commissioner Semonite explained the civil works mission of the North Atlantic Division of the U.S. Army Corps of Engineers and his role as a representative of the federal government and all of its various agencies on the Commission. He further commented on the coordinative value of the previous day's conference in which SRBC brought together representatives of eight different federal agencies to review and comment on the draft SRBC Comprehensive Plan revisions. He went on to describe SRBC as a world class, premier commission with a strong reputation for excellence in water resources management. The Commission provides an effective forum where member jurisdiction agencies can tee up the issues and have an intellectually and scientifically based dialog. The Corps is proud to be a part of the Commission team.

Commissioner Lynch mentioned the broad responsibilities of the N.Y. Dept. of Environmental Conservation (NYDEC), which extend beyond environmental protection to the management of natural resources such as fish and wildlife, parks and forests. Recent DEC activities relating to the Susquehanna Basin include: 1) the convening of a flood summit in Binghamton to review the flood event of June 2006 and how coordination among responsible agencies can be improved, 2) the release of a report on aging water treatment infrastructure, and 3) the establishment of an invasive species unit within NYDEC.

Commissioner Sachs mentioned a special legislative session in Maryland to deal with a budget deficit of \$1.7 billion caused by the downturn in the economy. This could affect funding for an annual \$500 million non-point source pollution initiative. He also indicated that, with water shortage problems now appearing in places like Maryland's Piedmont, there will be more and more emphasis on the long neglected topic of water supply. Finally, because Maryland is the recipient of all water quantity and quality impacts in the upstream states, the importance of the Commission's water management mission to the State of Maryland and Chesapeake Bay is clear.

Referring to Commissioner Semonite's remarks, Chairman Myers commented favorably on the renewed collaborative effort of the federal agencies to coordinate their water management activities through the Susquehanna and Delaware River Basin Commissions. She then focused her remarks on two infrastructure initiatives by the Rendell Administration, the first dealing with dam safety and flood mitigation, and the second addressing the sustained financing, operation and maintenance of water and wastewater systems. The Governor hopes to address several of these infrastructure issues in next year's budget.

Finally, Pennsylvania, as the middle state in the Susquehanna Basin, has a unique appreciation for both the upstream and downstream state perspectives. It is useful to have a forum like the Susquehanna River Basin Commission where the states can come together to solve problems without regard to political boundaries.

The Executive Director reinforced the remarks of Commissioner Semonite regarding the importance of interagency coordination. He then presented several facts and figures on the Juniata River Subbasin where today's meeting was being held. He pointed out that the Juniata is the second largest tributary of the Susquehanna River, having about 6,700 stream miles and a drainage area of about 3,400 square miles. The subbasin, which contains only about 7% of the basin's total population, includes 14 counties and 205 municipalities, and contains 36 game lands, five state forests and 11 state parks. About 75% of the land area is forested. There are three major water uses in the subbasin – industrial – 35%, power generation – 30%, and municipal – 24%, and there are 770 impaired stream miles, mostly impaired by agriculture, but some by abandoned mine drainage.

He went on to recount the bloody pre-revolutionary history of the subbasin when it was the site of several massacres by both Native American tribes and white settlers.

Commissioner Myers noted the presence of Pennsylvania State Senator John H. Eichelberger of the 30th Senatorial District, who indicated that he was pleased to be in attendance.

1. Minutes of the December 5, 2007 Commission Meeting

On a motion by Commissioner Sachs, seconded by Commissioner Lynch, the minutes of the regular business meeting of December 5, 2007 were unanimously adopted as written.

PRESENTATIONS

2. Restoration of Bedford Springs Resort

Representatives of the Bedford Springs Resort, the site of the Commission meeting, gave a brief presentation on the history and restoration of the Resort. For over 200 years, people were attracted to the numerous springs that bubble up on the resort's site. There were many prominent visitors in early years, including Presidents James K. Polk and James Buchanan. Ronald Reagan had also been a visitor prior to winning the Presidency.

In the mid-1980s there was a flash flood that inundated the resort facilities, closing the resort for nine years. Finally, investors took interest in the property and \$120 million was spent to restore it and the nearby golf course. Shober's Run, which runs through the golf course and was the source of flooding at the resort site, has also been restored to a more natural condition through the removal of legacy sediments and stabilization of its banks.

3. Hydrologic Conditions

SRBC Water Resources Management Division Chief Michael Brownell presented information on the current hydrologic conditions in the Susquehanna Basin. A January/February 2008 precipitation surplus of 2 inches restored stream flows, groundwater levels and reservoir levels to normal or above normal conditions throughout the basin. Even the City of Baltimore's reservoirs, which remained at low levels from the second half of 2007 through early 2008, are

now completely full. Groundwater levels in places like Clinton County, Pa., that had been under a drought warning, have completely rebounded. A 2-4 inch water equivalent remained in the upper basin snowpack, posing some danger of flooding in the event of a rapid warm-up combined with rainfall.

ACTION ITEMS

PUBLIC HEARING

The Commission convened a public hearing covering three topics: 1) an administrative appeal by East Hanover Township, Dauphin County, Pa. under 18 CFR §808.2 requesting an administrative hearing, 2) action on project applications including those from Millennium Pipeline Co. that involve diversions of water, and a settlement in lieu of penalties offer in connection with the Pepsi Bottling Group application, and 3) the rescission of a docket approval for Walsh Construction, Fermanagh Twp., Juniata County.

4. Regulatory Program Actions

a. Request for Administrative Hearing Re: Approval of Mountainview Thoroughbred Racing Association, Inc. Docket No. 20020819-1, Modification of Consumptive Use¹

Chairman Myers noted that East Hanover Township had submitted its appeal electronically on January 7, 2008, with a hard copy submission on January 9, 2008. The appeal requested an administrative hearing on the Commission's approval on December 5, 2007 of a modification to a previously approved consumptive use project by Mountainview Thoroughbred Racing Association, Inc. (MTRA). That appeal also requested a stay of the Commission's approval. Copies of the appeal, along with a response to the request for stay from MTRA dated January 14, 2008, and the response of the Executive Director denying the stay request dated January 22, 2008 were provided to the Commission members.

Chairman Myers then called on SRBC Deputy Director Thomas W. Beauduy to explain the contents of the Township's appeal and provide the staff's recommendations for its disposition. Mr. Beauduy explained that the Commission's original approval of the consumptive use project for MTRA dated to August 15, 2002. The approval was for consumptive use from two wells that pre-dated the Commission's regulations for a peak day amount of 438,000 gallons per day (gpd) for use in connection with the race track facilities. No objection was made by the Township at the time of this initial approval.

On December 5, 2007, the Commission approved a modification of the 2002 consumptive use approval to allow use of the water for the new gaming facilities at the site as well as for the race track. No increase was granted in the previously approved peak day limit of 438,000 gpd. Neither was any increase granted in the amount of water that could be withdrawn from the two wells, which have an historical 30-day average withdrawal of 148,000 gpd. An

¹ The account of this public hearing contained in these minutes should only be considered an unofficial summary. A stenographic transcript was made containing the official record of the hearing.

increase in the groundwater withdrawal is, instead, the subject of an application by MTRA slated for action later in this public hearing.

As noted by Chairman Myers, on January 7, 2008, East Hanover Township filed an appeal under 18 CFR §808.2 requesting an administrative hearing on the Commission's approval of December 5, 2008 and sought a stay of that approval. This appeal was filed three days after the 30-day deadline for filing such appeals established under 18 CFR 808.2 (a), which results in the denial of the request for an administrative hearing unless unanimously waived by the Commission upon due cause shown. On January 14, 2008, MTRA filed a response to the request for stay seeking a denial of such request, because the appeal was untimely, there was little likelihood of the Township prevailing on the merits, and the contentions regarding irreparable harm were not supported by affidavits or other supporting documents. On March 11, 2008, the project sponsor also filed a brief in opposition to the Township's appeal. MTRA is represented by counsel at today's hearing who will make a separate statement to the Commission.

On January 22, 2008, Executive Director Paul Swartz, using his authority under 18 CFR §808.2, acknowledged receipt of the appeal and denied the request for a stay. This denial was based on the failure of the Township to meet the requirements under §808.2(d) for the submission of affidavits showing irreparable harm. The Township also failed to show how harm would result from the granting of a consumptive use modification that allowed no increase in water use or in groundwater withdrawal. In any case, it now appeared that the issuance of a stay is final due to the Township's failure to appeal the Executive Director's denial of stay in the 30-day period specified by 18 CFR §808.2.

Up until the filing of a second document with the Commission immediately before the convening of this hearing, the Township's arguments were exclusively based on a groundwater withdrawal increase that has not yet been approved and is before the Commission at today's meeting. The Township had not really challenged any of the facts, professional judgment or science upon which the consumptive use modification was granted.

From a quick review of the second Township filing, it appeared to be multi-purpose in nature, relating both to the appeal of the consumptive use approval and the MTRA withdrawal application on today's meeting agenda. Focusing on the former, the Township requested that the untimely filing of its appeal be waived or that, under Section 806.32, the Commission reopen the consumptive use docket approved on December 5, 2007 because the Commission should have required on-site mitigation instead of payment of a consumptive use mitigation fee.

Alternatively, The Township requested that the appeal of the consumptive use approval be consolidated with an appeal of the groundwater withdrawal approval that the Township expected to pursue following action on the withdrawal application at today's meeting. Also in the alternative, the Township requested that the Commission limit the consumptive use approval to 150,000 gpd until resolution of the appeals.

Mr. Beauduy then stated the staff recommendations for disposition of the appeal as follows:

1. The appeal should be denied as untimely because 18 CFR §808.2 makes it clear that untimely appeals are denied by operation of the regulation. The Township has demonstrated nothing that would constitute sufficient due cause to excuse what should be strict enforcement of the standard set forth in the regulation.
2. Even if the Commission should decide to grant the waiver, the request for an administrative appeal should nonetheless be denied because the record for the December 5, 2007 consumptive use approval is both adequate and complete, having been based on fact, science, fair analysis and professional judgment.

Attorney Jaromir Kovarik then rose to request a waiver on the timeliness issue. On a motion by Commissioner Lynch, seconded by Commissioner Sachs, the Commission unanimously consented to allow Mr. Kovarik to demonstrate whether the Township had due cause for the late filing of the appeal in this matter. Among the points raised by Mr. Kovarik were:

1. He had visited the Commission offices prior to the filing deadline in an attempt to negotiate a solution to the Township's objections. Likewise, there has been numerous communications between the Township and the MTRA.
2. He referred to the Federal Rules of Civil Procedure, indicating that the Township was acting in good faith, and without prejudice to MTRA.

Attorney Scott Gould, representing MTRA, pointed out that allowing the appeal would have implications in terms of the deadlines for the Township to file a federal court appeal. It was his client's position that the appeal was definitely untimely and should be disallowed for this reason. Even if allowed, the appeal should be denied on its merits as per Mr. Beauduy's arguments.

On a motion by Commissioner Sachs, seconded by Commissioner Lynch, the Commission unanimously denied the request for a waiver of the untimely filing of the appeal by East Hanover Township.

The Chair noted for the record that the Commissioners did review the request for appeal on the merits so as to assure an understanding of the issues. There was agreement that the issues raised were related to MTRA's withdrawal application that is before the Commission at this meeting and not the consumptive use approval. This meant that these issues were really not ripe for appeal and therefore it is highly doubtful that the Township would have succeeded on the merits in this appeal had the timeliness issue been waived.

Because the Commission feels that the issues raised on this appeal are related to the withdrawal application, the Commission welcomed the Township's comments on that application. If the Township was not satisfied with the outcome of the Commission's deliberations on the withdrawal application, the Township would still have full appeal rights and would not be foreclosed from raising these same issues.

b. Project Applications

Michael Brownell first provided some background information on the Commission's review authority and its consumptive use and water withdrawal regulations. The main purpose of these regulations is to avoid adverse environmental impacts and conflicts among users, particularly during periods of drought and low flow. Cumulative impacts are also considered. He explained the methods available for compliance with the consumptive use regulation, including discontinuance of use, provision of storage water, and payment into the SRBC Water Management Fund to enable purchase of water storage for release during low flow periods.

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

Because some of the projects involved diversions of water, the General Counsel briefly noted where and when newspaper notices of today's public hearing had been published.

The dockets recommended for action included the following projects²:

- Cooperstown Dreams Park, Inc. (Modification) (Exhibit A1)
- Millennium Pipeline Co., LLC – Chenango River, Owego Creek & Cayuta Creek) (Exhibit A2)
- Millennium Pipeline Co., LLC – Susquehanna River & Newtown Creek (Exhibit A3)
- Sand Springs Development Corp. (Modification) (Exhibit A4)
- First Quality Tissue, LLC Lock Haven Facility (Exhibit A5)
- Wynding Brook, Inc.-Wynding Brook Golf Club (Exhibit A6)
- Mountainview Thoroughbred Racing Assn., Inc. (Exhibit A7)
- Bottling Group, LLC, dba The Pepsi Bottling Group (Exhibit A8)
- Martin Limestone, Inc. Burkholder Quarry (Modification) (Exhibit A9)
- Springwood, LLC (Springwood Golf Club) (Exhibit A10)
- Port Deposit Water & Sewer Authority (Exhibit A11)

Mr. Brownell then described these projects and the proposed conditions of approval for each, spending extra time on the Mountainview Thoroughbred Racing Association application for water withdrawal referred to above in paragraph a. Water from the withdrawal would be used for race track and casino operations at the site. Among other things, Mr. Brownell discussed the local geology, its water bearing characteristics with respect to MTRA's wells, monitoring locations used during aquifer testing, the analysis of the testing results, and surface water monitoring.

Based on staff evaluation, the recommended docket approves a 30-day average of 400,000 gpd from Well 101 and 165,000 gpd from Well 102, with a total system withdrawal limitation of 400,000 gpd based on a 30-day average. Other conditions that the staff also

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

recommended include: 1) drawdown limitations on the wells, 2) a monitoring program that would allow staff to make adjustments to the drawdown limitations, 3) maximum instantaneous yield limits on the wells, 4) certification of well meters, 5) installation of data loggers in the wells, 6) submission of plans for construction of three monitoring wells and three stream monitoring weirs, 7) submission of a plan for operational testing, and 8) preparation of a water development plan within three years.

The Chair then inquired whether there was anyone in the audience who wished to comment on any of these projects. Mr. Jaromir Kovarik, attorney representing East Hanover Township, Dauphin County; Mr. Scott Gould, attorney representing MTRA; and Mr. Tim Higgins of GeoServices, Limited; indicated that they wished to comment on the application.

Attorney Kovarik, who is also a professional geologist, referred to various sections of a 75-page filing he made with the Commission that morning and listed the reasons why he believed the withdrawal application for MTRA should not be approved. Among other things, he alleged insufficient information to form a basis for approval, discrepancies in calculations, a fire event causing a water shortage, insufficient aquifer testing conducted during a rainy period, lack of knowledge about the size and characteristics of the aquifer, including whether it was a confined aquifer, monitoring deficiencies, and possible impacts on nearby residential wells. He also noted that there had been several changes in the draft docket that also gave him concerns such as the recalculation of recharge rates. He concluded by asking that this docket be consolidated with the previously approved consumptive use docket for MTRA, and that, if the withdrawal docket is approved, withdrawals be limited to 200,000 gpd pending further study and monitoring of the aquifer.

MTRA Attorney Scott Gould told the Commission that his client accepted the conditions recommended by SRBC staff for approval of the withdrawal in the amount of 400,000 gpd, though some of the conditions may be more stringent than necessary and will add expense to the project. MTRA is also spending another \$800,000 on a water recycling system that will reuse water from an onsite treatment facility for toilets, and track watering. He further explained that the fire event caused the wells to be drawn beyond the SRBC limitations, and therefore the pumps were automatically shut down. The shut down was not caused by a shortage of water from the wells. This issue will be addressed in future water use protocols with the Township on fire related use of hydrants.

Mr. Higgins noted that plans for the aquifer testing conducted by his firm were all approved in advance by the Commission staff. There was a substantial monitoring network in place consisting of 18 monitoring locations. These locations included 13 wells, two piezometers and three stream weirs. A 72-hour stepped drawdown test was done and the wells were monitored for recovery. No adverse impacts were observed. Based on the test results, GeoServices concluded that the aquifer could sustain a 400,000 gpd withdrawal by MTRA. Though the tests were run during a rainy period, the aquifer itself in the Hamburg formation was still at drought levels. As for Mr. Kovarik's claim that the aquifer could be confined, the storage values for the aquifer were consistent with an unconfined aquifer. Also, the slow response of wells to the testing is yet another indication that the aquifer is unconfined.

Mr. Brownell offered a brief response to several of the points made by Mr. Kovarik regarding recharge calculations, and further monitoring and testing. He made the point that the recommended peak day system limit of 438,000 gpd also took into account MTRA's storage tank and the potential storage in the water treatment plant.

Chairman Myers commented on the importance of monitoring measures to protect the aquifer and other nearby users and noted Mr. Kovarik's concerns about impacts on nearby residential wells. The Commission has the ability to reopen the docket approval and issue new orders or attach additional conditions if problems should be detected. She asked Mr. Brownell for reassurance that red flags will go up if any unforeseen problems develop.

Mr. Brownell pointed out that, during a review of a withdrawal application, one of the first things that staff focuses on is where the other groundwater uses are located. In this case, to meet the concerns about impacts nearby residential wells, the staff recommended a monitoring well on either end of the two MTRA pumping wells to monitor for long strike impacts, and another monitoring well to monitor impacts to the Chesapeake Homes area mentioned as an area of concern by Mr. Kovarik.

Commissioner Semonite asked why, in the revised docket, the recharge area is a higher number, as well as the recharge rates. Mr. Brownell explained that when the staff went back and re-examined the factors relating to how water is delivered to the aquifer from the mountain colluvium, and the effects of this delivery on nearby streams, it was decided that there is, in reality, a larger capture area for groundwater than originally contemplated. The docket was revised accordingly.

To reassure the residents in the vicinity of MTRA wells, Commissioner Semonite asked Mr. Brownell to explain how the monitoring measures will allow the Commission to detect any problems that arise during the three year monitoring period and take appropriate action in a reopening proceeding. Mr. Brownell indicated that the staff would not recommend this docket for approval if it believed that nearby residents would be adversely impacted. If staff is wrong about this, the strategically placed monitoring wells will quickly bring any problems to light and corrective action will be taken.

On a motion by Commissioner Semonite, seconded by Commissioner Sachs, the Commission unanimously approved the recommendations of staff concerning the eleven projects presented for approval.

c. Rescission Action

Mr. Brownell presented the Walsh Construction consumptive use docket approval for rescission by the Commission. The project associated with this consumptive use - highway construction - has been completed and there is no longer a need for the consumptive use. On a motion by Commissioner Semonite, seconded by Commissioner Sachs, the Commission unanimously approved the rescission of the Walsh Construction, Docket No. 20050603.

END PUBLIC HEARING

6. Consumptive Use Fee Increase – Public Release

Chief Administrative Officer Duane Friends presented a staff request to publicly release a proposed increase in the SRBC consumptive use mitigation fee, which has not been adjusted since January 1, 1993. The fee is offered to consumptive use project sponsors as an optional method of compliance with the SRBC consumptive use regulation. The other methods include direct mitigation by the user at the project site and discontinuance of the use during defined periods of low flow.

Under the staff proposal, the fee would increase from \$.14 per thousand gallons of water consumed to \$.28 per thousand gallons of water consumed, effective January 1, 2009, and thereafter be annually adjusted for inflation. The funds that are collected go into a restricted water management fund that is used to pay the cost of storage and conduct technical feasibility studies related to new storage.

Consumptive use in the basin is on the increase. Staff now estimates that an additional 390 million gallons of water (mgd) will be needed by the year 2025 to mitigate current and future consumptive uses. Recent studies also show the cost of storage rising to between \$.23 and \$2.00 per thousand gallons.

Mr. Friends requested that the Commission authorize staff to release the proposal to the public by sending notices to water users, holding a public hearing upon due notice in newspapers and government registers, and setting a 60-day comment period. After receiving and responding to any public comments, staff hopes that the Commission will be able to adopt the revised fee at its June 2008 meeting.

Chairman Myers commented that, as a matter of policy, the Commission prefers that consumptive users develop their own means of mitigation that can provide more localized benefits. An artificially low mitigation fee does not encourage them to do so. Also, with the increased costs of storage, it has becoming increasingly difficult for the Commission to provide storage on behalf of project sponsors who choose to pay the mitigation fee. This increase, along with periodic adjustments for inflation, will certainly help the Commission meet these higher costs in future years.

Commissioner Sachs also noted that few, if any, large, multi-purpose reservoirs are likely to be constructed in the future, meaning that other alternatives will need to be found for mitigation of consumptive uses.

On a motion by Commissioner Sachs, seconded by Commissioner Semonite, the Commission unanimously approved the staff's request to publicly release the proposed increase in the SRBC Consumptive Use Mitigation Fee in the manner described by Mr. Friends.

7. Consumptive Use Mitigation Plan

Mr. Brownell presented a proposed SRBC Consumptive Use Mitigation Plan to the Commission and requested its adoption. Staff worked with the Commission's Water Resources Management Advisory Committee for approximately two years to produce the plan.

The plan was needed for the proper management of growing consumptive use demands in the Susquehanna Basin. As of 2005, there was about 116 million gallons per day (mgd) of unmitigated consumptive use in the basin. This figure is expected to grow to about 300 mgd by the year 2025. That use is occurring largely in the lower Susquehanna basin by power producers utilizing such technology as air quality scrubbers. The staff is also receiving frequent inquiries about additional power plant installations in the basin.

He went on to describe the inadequacies of the average 7-day, 10-year low flow criterion (Q7-10) that the Commission formerly used as its low flow standard. Among other things, Q7-10 occurs very infrequently and is a flat line standard that is not seasonally adjusted. The Q7-10 is really more of a water quality standard than an instream habitat protection standard. The plan lays out a strategy for consumptive use mitigation that is a more appropriate blend of monthly averages and seasonal thresholds. Using the Conowingo Hydropower Project as an example, he illustrated how the standards set forth in the plan would provide better seasonal mitigation and instream flow protection in the tail race of Conowingo Dam.

Discussion continued at length on strategies for implementing the plan. At the end of his remarks, Mr. Brownell presented a resolution (Exhibit B) for adoption and implementation of the proposed Consumptive Use Mitigation Plan. The Executive Director pointed out that the resolution calls for the eventual inclusion of the plan in the SRBC Comprehensive Plan that itself is currently undergoing a major revision. On a motion by Commissioner Lynch, seconded by Commissioner Semonite, the proposed Consumptive Use Mitigation Plan was unanimously adopted by the Commission.

8. 2008 Water Resources Program

The Executive Director presented a resolution (Exhibit C) providing for the adoption of the SRBC Water Resources Program for 2008. The Susquehanna Compact requires that the Commission adopt a water resources program annually based on the Comprehensive Plan. The program is supposed to list those projects and facilities that the Commission proposes to be undertaken by the Commission, its member jurisdictions, and private organizations or persons during the ensuing six year period or such other period established by the Commission. The program is based upon a set of stated needs such as improving water quality, controlling sediment, mitigate drought impacts and enhancing recreation.

This year, there had been an unprecedented amount of public and private input on the contents of the program. Those providing input included 11 federal agencies, ten state agencies, two regional planning agencies, five county/local agencies and seven non-governmental

organizations. The program being recommended, therefore, represents an excellent example of intergovernmental coordination.

With the ongoing revision of the Comprehensive Plan, the staff envisions that the next Water Resources Program will be different from the ones adopted in recent years. For 2009 and beyond, the Water Resources Program will be directly linked to the revised Comprehensive Plan as an implementation vehicle. Therefore, the set of needs in next year's plan will be revised to be more in sync with the Comprehensive Plan.

On a motion by Commissioner Semonite, seconded by Commissioner Lynch, the Commission unanimously adopted the resolution approving the 2008 Water Resources Program, allowing for its revision throughout the year, and calling for its distribution to legislators, policymakers and the public. Both the Executive Director and the commissioners commended SRBC Communications Director Susan Obleski for her work on the Program and thanked Ms. Amy Guise of the U.S. Army Corps of Engineers Baltimore District, who was highly instrumental in obtaining input from federal agencies.

9. Revised FY-2009 Budget

Mr. Friends presented revisions to the FY-2009 Budget that was adopted by the Commission in June 2007. The revisions include an increase of \$350,000 in the budget due mainly to the addition of the New York flood mitigation grant. He highlighted a few other work program items such as implementation of the just adopted Consumptive Use Mitigation Plan, an AMD restoration project on Bear Run Creek, the continuation of work in the Paxton Creek Watershed, and ongoing project review efforts.

General Semonite indicated that while the federal agencies do support funding for the Commission's current expense budget, there has not been an actual appropriation from Congress and, therefore, there is not yet any authority for the Corps of Engineers to pay the funding request set forth in this budget.

Chairman Myers thanked Commissioner Semonite for that clarification and agreed that the numbers in the budget are always contingent upon appropriations by the member jurisdictions. Some state appropriations are also pending at this time.

On a motion by Commissioner Lynch, seconded by Commissioner Sachs, the revisions to the FY-2009 Budget as presented by Mr. Friends were unanimously approved by the Commission.

10. Grant/Contract Approvals

Watershed Assessment and Protection Chief David Heicher presented two grants and one contract for the approval/ratification of the Commission.

a. Grant Approval – Amendment for Additional Funds for the TMDL Contract

The purpose of this grant is to provide funding for the SRBC to assist PADEP in establishing TMDLs (Total Maximum Daily Loads) within areas affected by abandoned mine

drainage (AMD) in the Susquehanna River Basin. The grant scored 10-out-of-10 on the SRBC grant evaluation scale. The PADEP will provide \$69,785, the entire amount of the grant.

b. Grant Approval – Surface Water Assessments in the Susquehanna River Basin

Under this grant, the SRBC will assist PADEP in conducting macroinvertebrate assessments at targeted stations in accordance with a strategy for assessing the quality of Pennsylvania’s unassessed free-flowing waters. Chairman Myers expressed appreciation for the Commission’s ability to provide technical assistance to PADEP. Without this assistance, it is likely that the department would not be able to complete these assessments, which will contribute valuable information on the health and structure of important watersheds. The PADEP will provide \$29,515, the entire amount of the grant.

On a motion by Commissioner Sachs, seconded by Commissioner Semonite, the Commission unanimously approved/ratified the grant applications regarding TMDL completion and surface water assessments described by Mr. Heicher.

c. Contract Approval – Assessment of Optimizing Use of Commission Water Storage at Cowanesque

Staff requested authorization to execute a Memorandum of Agreement (MOA) with the U.S. Dept. of the Army in an amount not to exceed \$400,000 for technical services related to the preparation of an assessment of optimizing use of the Commission-owned storage at Cowanesque and Curwensville Lakes during low flow periods.

On a motion by Commissioner Lynch, seconded by Commissioner Sachs, the Commission unanimously authorized execution of the MOA for technical services described by Mr. Heicher.

11. Public Release of Draft Comprehensive Plan Revisions – Add on Item

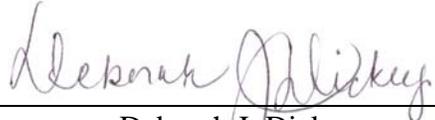
The Executive Director explained that the staff would like to have the authority to publicly release a draft of the Comprehensive Plan revisions at the appropriate time following a scheduled Commission retreat on this matter in early April and before the Commission’s June meeting. This would involve the publication of notices, the scheduling of public hearings and the setting of a comment period. The Commission’s authorization would help keep the revision process on schedule and get the draft into the hands of the public as soon as possible.

Commissioner Lynch moved that the Commission authorize the Executive Director to release for public review the draft revisions of the SRBC Comprehensive Plan, with the timing of such release as the Executive Director deems appropriate. He further moved that the Director publish such notice as required by the Compact, schedule public hearings, and provide a 90-day comment period. This motion was seconded by Commissioner Sachs and unanimously adopted by the Commission.

ADJOURNMENT

The Chairman adjourned the meeting at 4:12 p.m. The next regular meeting of the Commission is tentatively scheduled for June 12, 2008 in Elmira, NY.

Date Adopted



Deborah J. Dickey
Secretary to the Commission



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20060602-1

Approval Date: June 14, 2006

Modification Date: March 13, 2008

COOPERSTOWN DREAMS PARK, INC.

Surface Water Withdrawals (Peak Day) of 0.124 mgd from Burditt Brook Pond,
0.124 mgd from Susquehanna River Pumping Station 01,
and 0.124 mgd from Susquehanna River Pumping Station 02,
and Consumptive Water Use of up to 0.124 mgd,
for Irrigation of Playing Fields and Associated Landscaping,
Town of Hartwick, Otsego County, New York

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10, of the Susquehanna River Basin Compact (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received an application for an increase in consumptive use of water on September 26, 2007, and surface water withdrawal applications and additional information on January 18, 2008.

Description

Purpose. The purpose of the application is to request approval for an increase in consumptive water use from 0.025 million gallons per day (mgd) to 0.124 mgd for irrigation of playing fields and landscaping at an existing youth baseball camp. The project sponsor also submitted applications to withdraw surface water for use at the facility. The Commission originally approved the project on June 14, 2006, as Docket No. 20060602 (Docket). As approved, the project sponsor was authorized to consumptively use up to 0.025 mgd, subject to conditions enumerated in the Docket. This docket modification approves the requested increase in consumptive water use, approves surface water withdrawals from three locations, and also changes certain provisions contained within the Docket.

Location. The project is located in the Upper Susquehanna Subbasin, HUC 02050101, Susquehanna River Watershed, Town of Hartwick, Otsego County, New York.

Project Features. The project sponsor has requested approval for an increase in withdrawal and consumptive use of up to 0.124 mgd for irrigation of baseball fields and landscaping. The project's current maximum average daily consumptive use is 0.025 mgd, and

its maximum daily total withdrawal and consumptive use is 0.097 mgd. Water is typically applied to each field at a rate of 1.5 inches per week. Estimating the area of each field as 4,523,893.3 square inches, the project sponsor calculates that total water use will be 92,324.4 gallons per day (gpd) for the 22 baseball fields. Cooperstown Dreams Park, Inc. currently has 22 baseball fields, all equipped with irrigation. The project sponsor intends to expand the landscaping at the facility in the future.

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

Water for the irrigation system is withdrawn from Burditt Brook at a 0.138-acre on-stream pond, and from the Susquehanna River at two intakes approximately 2,000 feet apart. Pumping capacities (maximum instantaneous rates of withdrawal) at the intakes are as follows: 100 gallons per minute (gpm) at the intake on Burditt Brook Pond, 100 gpm at Susquehanna River Pumping Station 01, and 226 gpm at Susquehanna River Pumping Station 02.

The Burditt Brook Pond intake supplies water to irrigate baseball fields 1 through 10. The Susquehanna River Pumping Station 01 supplies water for fields 11 through 14, and can supply water to Burditt Brook Pond when needed. The Susquehanna River Pumping Station 02 supplies water to fields 15 through 22.

The project sponsor utilizes two wells for potable water at the facility for food preparation, bath houses, and sanitary purposes. Wastewater from the potable system is discharged to on-site septic fields. Six additional wells exist at the facility, but are not in use.

Findings

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

All water used for playing field and landscape irrigation, as well as all water evaporated from the storage pond, is considered to be used consumptively. The amount of water evaporated from the 0.138-acre storage pond will continue to be calculated by the project sponsor using a method acceptable to the Commission.

In accordance with the Commission's consumptive water use monitoring and reporting requirements, Commission staff recommends that the project sponsor maintain metering at fields 11 through 14, and maintain the current metering at Susquehanna River Pumping Station 02 and at Burditt Brook Pond. The project sponsor should measure and record the daily quantity of water consumptively used, and should electronically submit the required monitoring data to the Commission quarterly, as specified in Commission Regulation §806.30(b)(1).

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

alternative monitoring or accounting procedure requested by the project sponsor should be reviewed and approved by Commission staff.

The project sponsor has requested approval for an increase in consumptive water use of 0.099 mgd, for a total consumptive use request of 0.124 mgd. Based on water use data and irrigation calculations supplied by the project sponsor, Commission staff recommends approval of the requested quantity.

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

The project sponsor has requested surface water withdrawals of up to 0.124 mgd, each, from the Burditt Brook Pond, Susquehanna River Pumping Station 01 and Station 02. The project sponsor currently maintains meters at the Burditt Brook Pond pump intake, and at the Susquehanna River Pumping Station 02. Surface water withdrawal is not metered at the Susquehanna River Pumping Station 01; however, water use from this pumping station is monitored by metering at each field where water is used. Commission staff recommends that a meter be installed at the Susquehanna River Pumping Station 01 to measure withdrawal. In addition, Commission staff recommends that any water supplied to Burditt Brook Pond by the Susquehanna River Pumping Station 01 be metered. The quantity of withdrawal pumped at each intake location should be measured on a daily basis and the withdrawals should be electronically submitted to the Commission quarterly, as specified in Commission Regulation §806.30(b)(1).

Commission staff recommends approval of the requested quantities of withdrawal of 0.124 mgd, each, from the Burditt Brook Pond and Susquehanna River Pumping Stations 01 and 02, at the current maximum instantaneous pumping rates of 100 gpm at the intake on Burditt Brook Pond, 100 gpm at Susquehanna River Pumping Station 01, and 226 gpm at Susquehanna River Pumping Station 02.

The project sponsor operates a surface water intake on Burditt Brook that, according to the Docket, is limited by a passby flow equal to 20 percent of the average daily flow of Burditt Brook. The project sponsor is required to maintain a downstream release of water from the pond on Burditt Brook of 0.535 cubic feet per second (cfs) (240 gpm) or, when streamflow into the pond is less than 240 gpm, the project sponsor must allow a flow amount equal to the total inflow of the stream to the pond. Commission staff recommends that the project sponsor record the amount of flow released by the passby system daily and electronically submit the data to the Commission quarterly, as specified in Commission Regulation §806.30(b)(1).

Commission staff finds that the current design of the passive passby system is acceptable.

Withdrawals by the project from the Susquehanna River are less than 10 percent of the low flow rate that occurs for 7 consecutive days during a 10-year period (Q7-10) and, therefore, Commission staff determined that a protective passby flow requirement is not needed for the withdrawals from the Susquehanna River.

Commission staff recommends that all other conditions in Commission Docket No. 20060602 that are not inconsistent with this docket action should remain effective.

The project is subject to water conservation requirements, as per Commission Regulation §806.25(c).

The project sponsor has paid the appropriate application fee, in accordance with Commission Regulation §806.16, and in accordance with Commission Resolution No. 2006-08. The project sponsor has provided all proofs of notification, as required by Commission Regulation §806.15.

Commission staff recommends that this approval remain effective until June 14, 2031, the term of the prior Docket approval.

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

Decision

1. The project's consumptive water use of up to 0.124 mgd, and surface water withdrawals of up to 0.124 mgd from the Burditt Brook Pond (when available), up to 0.124 mgd from Susquehanna River Pumping Station 01, and up to 0.124 mgd from Susquehanna River Pumping Station 02 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 surface water withdrawal and consumptive water use reporting requirements, as per Commission Regulation §806.30.

4. Conditions "1," "3," "4," "5," and "9" of the original Docket are hereby rescinded.

5. Within sixty (60) days, the project sponsor shall install metering, accurate to within five (5) percent, at the Susquehanna River Pumping Station 01 intake, in accordance with Commission Regulation §806.30, and report to the Commission when the meter installation is complete.

6. The project sponsor shall keep daily records of each of the project's surface water withdrawals and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter.

7. Within sixty (60) days, the project sponsor shall install metering, accurate to within five (5) percent, to measure the daily quantity of water pumped into Burditt Brook Pond from Susquehanna River Pumping Station 01.

8. The project sponsor shall keep daily records of the project's consumptive water use, and shall electronically report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity of evaporative loss from the storage pond plus the quantity pumped to the irrigation system. The project sponsor shall maintain metering on the irrigation system, accurate to within five (5) percent.

9. To satisfy the Commission's current mitigation requirements for consumptive water use set forth in Commission Regulation §806.22, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project. The daily quantity of water consumptively used shall be the quantity of evaporative loss from the storage pond plus the quantity pumped to the irrigation system. Payments shall be made quarterly and shall be calculated by applying this rate to the daily amount of water consumptively used by the project during the preceding calendar quarter. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

10. The project sponsor shall report when water is supplied to Burditt Brook Pond by the Susquehanna River Pumping Station 01 and, during drought conditions, the daily withdrawal from Burditt Brook Pond shall not exceed the daily amount of water supplied by Susquehanna River Pumping Station 01.

11. The project sponsor shall keep daily records of each of the project's passby flow and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter.

12. The passby system on Burditt Brook shall be kept fully functional and free of debris.

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

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

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

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

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

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

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

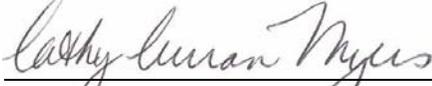
19. All other conditions in Commission Docket No. 20060602 not inconsistent herewith shall remain effective.

20. This approval is effective until June 14, 2031. The term of this docket modification is in accordance with the term of the prior Docket approval. As specified in Commission Regulation §806.31(e), the project sponsor shall submit a renewal application by December 14, 2030, and obtain Commission approval prior to continuing operation beyond June 14, 2031.

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

By the Commission:

Dated: March 13, 2008



 Cathy Curran Myers, Chair
 Pennsylvania Commissioner



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Docket No. 20080301

Approval Date: March 13, 2008

MILLENNIUM PIPELINE COMPANY, L.L.C.

Surface Water Withdrawals (Peak Day) of up to 2.480 mgd from Chenango River, up to 3.000 mgd, When Available, from Owego Creek, and up to 2.810 mgd, When Available, from Cayuta Creek, for Hydrostatic Testing of a Gas Pipeline, Broome, Tioga, and Chemung Counties, New York

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10, of the Susquehanna River Basin Compact (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received an application for the pipeline on August 16, 2007, and received additional applications for each point of withdrawal on November 19, 2007.

Description

Purpose. The purpose of the applications is to request approval for surface water withdrawals associated with the hydrostatic testing of a gas pipeline.

Location. The proposed pipeline spans the northern section of the Susquehanna River Basin in the state of New York; the project sponsor has requested approval for withdrawals at the following locations (east to west):

1. Upper Susquehanna Subbasin, Chenango River Watershed, HUC 02050102130, Towns of Chenango and Fenton, Broome County, New York;
2. Upper Susquehanna Subbasin, Owego Creek Watershed, HUC 02050103130, Towns of Tioga and Owego, Tioga County, New York; and
3. Upper Susquehanna Subbasin, Cayuta Creek Watershed, HUC 02050103220, Towns of Windsor and Van Etten, Chemung County, and Town of Barton, Tioga County, New York.

Project Features. The project sponsor has requested approval for water withdrawals from five streams in the Susquehanna River Basin for hydrostatic testing, three of which are listed in Table 1. The maximum daily withdrawals range from 2.150 to 4.130 million gallons per day (mgd). The other two withdrawals involve diversions and are the subject of Commission

Docket No. 20080302. The requested quantities were based on calculations of the volume of pipe to be tested. The project sponsor estimates that the maximum average 30-day withdrawal will approximately equal the requested peak day.

Table 1. Requested Points of Withdrawal

Waterway	Subbasin	Watershed	HUC	Town	County	Requested Peak Withdrawal (mgd)
Chenango River	Upper Susquehanna	Chenango River	02050102130	Towns of Chenango and Fenton	Broome	2.480
Owego Creek	Upper Susquehanna	Owego Creek	02050103130	Towns of Tioga and Owego	Tioga	3.000
Cayuta Creek	Upper Susquehanna	Cayuta Creek	02050103220	Towns of Windsor and Van Etten; Town of Barton	Chemung and Tioga	2.810

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

The Millennium Pipeline Company, L.L.C. (Millennium) plans to construct and operate an approximate 182-mile, 30-inch-diameter buried natural gas transmission pipeline and associated facilities. The pipeline will extend across eight counties and spans the northern section of the Susquehanna River Basin, from the planned Corning Compressor Station in Steuben County, New York, to the existing Ramapo Meter Station in Rockland County, New Jersey. The pipeline and associated facilities are located entirely within an existing Columbia Gas Transmission System right-of-way.

The pipeline is comprised of five distinct, interconnected sections. Each section will be tested separately. Water will be withdrawn from a nearby stream, pumped into the pipeline, pressurized, and held for a minimum period of 8 hours to confirm the integrity of the pipeline. If there is no leakage, the water will be drained back to the source stream. Approximately 92 miles are contained within the Susquehanna River Basin. Where the pipeline crosses the basin divide into the Great Lakes Basin and into the Delaware River Basin, the project sponsor intends to withdraw water for the testing from the Susquehanna River Basin (from the Susquehanna River and Newtown Creek) and transfer it outside of the basin within the pipeline, which is a diversion and consumptive water use according to Commission regulations. The diversion and consumptive use, and related withdrawals, are described in Commission Docket No. 20080302.

The project is currently under construction and anticipated hydrostatic testing is scheduled to begin in April 2008.

Coordination. Plans for the project were initiated in the mid-1990s and, due to the interstate nature of the project, the Federal Energy Regulatory Commission (FERC) assumed the role of the lead agency pursuant to the National Environmental Policy Act. FERC approved the project in September 2002 (FERC Docket Nos. CP98-150 et al. and CP98-151 et al.). In August 2005, Millennium filed an application to amend the FERC dockets to include the Millennium project as part of the Northeast project (NW0-07) to provide natural gas storage to the northeast. The NE-07 Project includes the Ramapo Expansion Project (Algonquin Gas Transmission System, LLC), Empire Connector Project (Empire State Pipeline and Empire Pipeline, Inc.), and Market Access Project (Iroquois Gas Transmission System).

FERC issued a Draft Supplemental Environmental Impact Statement (EIS) on the NE-07 project in June 2006, and a Final Supplemental EIS on October 13, 2006. The U.S. Army Corps of Engineers (USACE), the New York State Department of Environmental Conservation (NYSDEC), the U.S. Fish and Wildlife Service, the New York State Office of Parks and Recreations and the Historic Preservation, the Palisades Interstate Park Commission, and the New York State Department of Agriculture and Markets commented on the FERC application.

Commission staff has reviewed the Draft Supplemental EIS on the NE-07 project issued by FERC in June 2006, and a Final Supplemental EIS issued on October 13, 2006. NYSDEC will specify in the State Pollutant Discharge Elimination System (SPDES) permit any requirements of the process wastewater prior to its discharge to the streams. Commission staff has coordinated with NYSDEC during review of the project.

Findings

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

The project sponsor has requested approval to withdraw surface water of up to 2.480 mgd from Chenango River, up to 3.000 mgd from Owego Creek, and up to 2.810 mgd from Cayuta Creek.

Based on the design calculations and preliminary water balance provided by the project sponsor, Commission staff is recommending approval of the requested quantity of the withdrawals.

Commission staff recommends that the project sponsor record on a daily basis both the metered inflow for hydrostatic testing and measured outflow from the hydrostatic testing. A meter should be installed on each surface water intake in accordance with Commission Regulation §806.30, and the project sponsor should keep daily records of the withdrawal from each source. Water also should be metered as it is discharged to the source stream, and the project sponsor should install an appropriate meter at each discharge location. The project sponsor should maintain meters so as to provide a continuous, accurate record of the withdrawal(s).

All measurements should be recorded at approximately the same time each day. Any alternative metering and monitoring procedure should be reviewed and approved by Commission staff.

Commission staff recommends the project sponsor submit a proposed metering plan to the Commission for review and approval. The plan should individually account for all water withdrawn and discharged from Chenango River, Owego Creek, and Cayuta Creek, and should describe locations and specifications of all proposed meters.

The project sponsor proposes to operate surface water intakes on Chenango River, Owego Creek, and Cayuta Creek. Commission staff recommends that each intake design minimize potential aquatic impacts associated with impingement and entrainment through the use of technology consistent with standards defined in the Clean Water Act.

Based on the hydrostatic testing design submitted by the project sponsor, the maximum peak day withdrawal from Chenango River, Owego Creek, and Cayuta Creek is listed below (Table 2). The requested maximum withdrawal at each location is greater than 10 percent of the 7-day, 10-year low flow (Q7-10 flow) for the Owego Creek and Cayuta Creek at the point of withdrawal. Therefore, a passby flow is required on these streams to protect aquatic resources and downstream users (Table 2).

Table 2. Flow Statistics

Waterway	Requested Peak Day (mgd)	Estimated Peak Day Withdrawal as % Q7-10	ADF (cfs)	Passby 20% ADF (cfs)	Passby 20% ADF (gpm)
Chenango River	2.48	1	2,612	None	None
Owego Creek	3.00	22	275	55	24,713
Cayuta Creek*	2.81	52	108	22	9,708
ADF – Average Daily Flow cfs – cubic feet per second gpm – gallons per minute					

Using the Commission's passby flow guidance, staff calculates that the project sponsor should allow a passby flow of not less than 20 percent of annual ADF, which equals 55 cfs (24,713 gpm) at Owego Creek, and 22 cfs (9,708 gpm) at Cayuta Creek, and to cease all withdrawals when streamflow is less than the 20 percent ADF.

However, the FERC's approval states that the stream withdrawal shall not cause the flow of the stream to fall below 106 cfs for Chenango River, 9.5 cfs for Owego Creek, and 52 cfs (April 1 to September 30) and 105 cfs (October 1 to March 31) for Cayuta Creek. These withdrawal limits (Table 3) are based on the following seasonal thresholds: (1) from April 1 to

September 30, either the lowest median monthly flow (for a gaged location) or 0.5 cfs per square mile of drainage area (for an ungaged location); and (2) from October 1 to March 31, either the lowest median monthly flow (for a gaged location) or 1.0 cfs per square mile of drainage area (for an ungaged location).

Table 3. Comparison of Passby Flows

Waterway	Drainage Area (square miles)	Lowest Median Monthly Flow (cfs)	20% ADF cfs (gpm)	April 1 – September 30		October 1 – March 31	
				Passby in cfs	Passby in gpm	Passby in cfs	Passby in gpm
Chenango River	1,600	106	522	800	359,065	1,600	718,130
Owego Creek	182	9.5	55 (24,715)	91	40,844	182	81,687
Cayuta Creek*	105	-	22 (9,710)	52	23,339	105	47,127

*Cayuta Creek – Ungaged stream
Passby methodology (adapted from NYSDEC); Passby = 0.5 cfs x DA = csm (cfs) for 1.0 cfs x DA = csm (cfs)

To afford adequate instream protection, Commission staff recommends that the project sponsor allow a passby flow on Owego Creek of 55 cfs (24,715 gpm). For Cayuta Creek, Commission staff recommends that the more protective passby flows of 52 cfs (April 1 to September 30) and 105 cfs (October 1 to March 31), as required by FERC, be incorporated in this docket approval. For Chenango River, Commission staff recommends that the more protective passby flow of 106 cfs, as required by FERC, be incorporated in this docket approval.

Staff recommends that the project sponsor develop a plan to comply with the required passby flows to protect aquatic resources. The project sponsor should submit its plan within 30 days from the date of this approval for review and approval by Commission staff prior to any withdrawal. Following approval, the project sponsor shall employ the approved plan. During operation of each intake, the project sponsor must maintain the passby flow methodology/measurement system during withdrawals.

Due to the short-term nature of this project, Commission staff recommends a 5-year term of approval.

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

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

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

Decision

1. The project's surface water withdrawal from the Chenango River of up to 2.480 mgd, when available, is approved pursuant to Article 3, Section 3.10, of the Compact.
2. The project's surface water withdrawal from the Owego Creek of up to 3.000 mgd, when available, is approved pursuant to Article 3, Section 3.10, of the Compact.
3. The project's surface water withdrawal from the Cayuta Creek of up to 2.810 mgd, when available, is approved pursuant to Article 3, Section 3.10, of the Compact.
4. The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision.
5. The project sponsor shall comply with all Commission regulations, including reporting requirements contained in Commission Regulation §806.30.
6. Prior to commencing withdrawals, the project sponsor shall install metering on each surface water withdrawal, accurate to within five (5) percent, and keep daily records of the project's surface water withdrawals and discharge. The project sponsor shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter. The project sponsor may propose alternative monitoring to the Commission for staff review and approval.
7. The project sponsor shall maintain any meters or other measuring devices approved by the Commission, accurate to within five (5) percent, so as to provide a continuous, accurate record of withdrawals, discharges, and uses, and certify to the Commission the accuracy of all measuring devices and methods to within five (5) percent of actual flow.
8. The project sponsor shall allow a flow to pass in Owego Creek directly below the intake of not less than 55 cfs (24,715 gpm). When the streamflow below the intake is less than this amount, the withdrawal shall be reduced to maintain 55 cfs (24,715 gpm) in the stream channel directly below the intake. When the natural flow is equal to or less than 55 cfs (24,715 gpm), no water may be withdrawn, and the entire natural flow shall be allowed to pass the intake to maintain such natural flow in the channel below the intake as may prevail above.
9. The project sponsor shall allow a flow to pass in Cayuta Creek directly below the intake of not less than 52 cfs (23,339 gpm) (April 1 to September 30) and 105 cfs (47,127 gpm) (October 1 to March 31). When the streamflow directly below the intake is less than this amount, the withdrawal shall be reduced to maintain 52 cfs (23,339 gpm) (April 1 to September 30) and 105 cfs (47,127 gpm) (October 1 to March 31) in the stream channel directly

below the intake. When the natural flow is equal to or less than 52 cfs (24,715 gpm) (April 1 to September 30) and 105 cfs (47,127 gpm) (October 1 to March 31), no water may be withdrawn, and the entire natural flow shall be allowed to pass the intake to maintain such natural flow in the channel below the intake as may prevail above.

10. The project sponsor shall allow a flow to pass in Chenango River directly below the intake of not less than 106 cfs (47,500 gpm). When the streamflow below the intake is less than this amount, the withdrawal shall be reduced to maintain 106 cfs (47,500 gpm) in the stream channel directly below the intake. When the natural flow is equal to or less than 106 cfs (47,500 gpm), no water may be withdrawn, and the entire natural flow shall be allowed to pass the intake to maintain such natural flow in the channel below the intake as may prevail above.

11. Within thirty (30) days of this approval, the project sponsor shall submit its design or methodology for the passby flow measurement devices/methodologies for review and approval by Commission staff prior to any withdrawal. Following approval, the project sponsor shall employ the approved passby design. The passby system shall be kept fully functional during withdrawals. The Commission reserves the right to inspect the withdrawal location at any time to insure that passby flows are maintained.

12. The project sponsor shall notify the Commission of its intent to initiate withdrawals pursuant to this docket at least 96 hours before initiating any withdrawal.

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

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

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

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

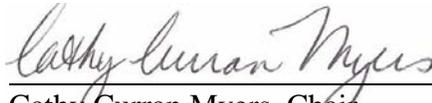
17. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

18. This approval is effective until March 13, 2013. As specified in Commission Regulation §806.31(e), if the project sponsor submits a renewal application no later than September 13, 2012, the existing approval shall be deemed extended until such time as the Commission renders decision on the application.

19. The project sponsor has a period of three (3) years from the date of this approval to commence its withdrawal 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 13, 2008



Cathy Curran Myers, Chair
Pennsylvania Commissioner



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Docket No. 20080302

Approval Date: March 13, 2008

MILLENNIUM PIPELINE COMPANY, L.L.C.

Withdrawals of up to 4.130 mgd from the Susquehanna River and 2.150 mgd, When Available, from Newtown Creek, and Consumptive Water Use through Out-of-Basin Diversions of up to 3.200 mgd, and Into-Basin Diversions of up to 3.200 mgd, Associated with Hydrostatic Testing of a Gas Pipeline, Town of Windsor, Broome County, and Town of Horseheads, Chemung County, New York

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10, of the Susquehanna River Basin Compact (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received an application for the pipeline on August 16, 2007, received additional applications for each point of withdrawal on November 19, 2007, and an application for the diversions on January 14, 2008.

Description

Purpose. The purpose of the applications is to request approval for surface water withdrawals associated with the hydrostatic testing of a gas pipeline, and approval of diversions out of and into the Susquehanna River Basin for a portion of that water used for testing the pipeline in the Delaware River and Great Lakes Basins.

Location. The proposed pipeline spans the northern section of the Susquehanna River Basin in the state of New York; the project sponsor has requested approval for withdrawals and resulting diversions at the following locations (east to west):

4. Upper Susquehanna Subbasin, Susquehanna River Watershed, HUC 02050101220, Town of Windsor, Broome County, New York; and
5. Chemung Subbasin, Newtown Creek Watershed, HUC 02050105170, Town of Horseheads, Chemung County, New York.

Project Features. The project sponsor has requested approval for withdrawals from five streams in the Susquehanna River Basin for hydrostatic testing at maximum daily water withdrawals ranging from 2.150 to 4.130 million gallons per day (mgd). Three of those

withdrawals are the subject of Commission Docket No. 20080301. The other two withdrawals, which also involve diversions out of and into the basin, are described in this docket and listed in Table 1. The requested quantities are based on calculations of the volume of pipe to be tested. The project sponsor estimates that the maximum average 30-day withdrawal will approximately equal the requested peak day.

Table 1. Requested Points of Withdrawal

Waterway	Subbasin	Watershed	HUC	Town	County	Requested Peak Withdrawal (mgd)
Susquehanna River	Upper Susquehanna	Susquehanna River	02050101220	Town of Windsor	Broome	4.130
Newtown Creek	Chemung	Newtown Creek	02050105170	Town of Horseheads	Chemung	2.150

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

The Millennium Pipeline Company, L.L.C. (Millennium) project plans to construct and operate an approximate 182-mile, 30-inch-diameter buried natural gas transmission pipeline and associated facilities. The pipeline spans the northern section of the Susquehanna River Basin, from the planned Corning Compressor Station in Steuben County, New York, to the existing Ramapo Meter Station in Rockland County, New Jersey. The pipeline and associated facilities are located entirely within an existing Columbia Gas Transmission System right-of-way.

The pipeline is comprised of five distinct, interconnected sections. Each section will be tested separately. Water will be withdrawn from a nearby stream, pumped into the pipeline, pressurized, and held for a minimum period of 8 hours to confirm the integrity of the pipeline. If there is no leakage, the water will be drained back to the source stream.

Approximately 92 miles are contained within the Susquehanna River Basin. Where the pipeline crosses the basin divide into the Delaware River Basin and into the Great Lakes Basin, the project sponsor intends to withdraw water for the testing from the Susquehanna River Basin and transfer it outside of the basin within the pipeline, which is a diversion and consumptive water use according to Commission regulations.

On the eastern side, the pipeline segment leaves the Susquehanna River Basin near the Town of Windsor and extends approximately 17.5 miles into the Delaware River Basin. An estimated 3.200 million gallons of water will be withdrawn from the Susquehanna River and diverted into the Delaware River Basin for the hydrostatic testing. On the western side, the pipeline leaves the basin near the Town of Horseheads and extends approximately 3.41 miles into the Great Lakes Basin. An estimated 0.621 million gallons of water will be withdrawn from Newtown Creek and diverted to the Great Lakes Basin for hydrostatic testing.

Millennium's diversion is not currently recognized in the Commission's Comprehensive Plan.

The project is currently under construction and anticipated hydrostatic testing is scheduled to begin in April 2008.

Coordination. The Federal Energy Regulatory Commission (FERC) reviewed the NE-07 Project and issued a Draft Supplemental Environmental Impact Statement (EIS) in June 2006, and a Final Supplemental EIS on October 13, 2006. The U.S. Army Corps of Engineers (USACE), the New York State Department of Environmental Conservation (NYSDEC), the U.S. Fish and Wildlife Service, the New York State Office of Parks and Recreation and the Historic Preservation, the Palisades Interstate Park Commission, and the New York State Department of Agriculture and Markets reviewed and commented on the FERC approval.

Commission staff has reviewed the Draft Supplemental EIS of the NE-07 Project issued in June 2006, and a Final Supplemental EIS issued on October 13, 2006. NYSDEC will specify in the State Pollutant Discharge Elimination System (SPDES) permit any requirements of the process wastewater prior to its discharge to the streams. Commission staff has coordinated with NYSDEC during review of the project.

Findings

The project is subject to Commission approval, monitoring, and reporting requirements, as per Commission Regulations §806.4, §806.22, §806.23, §806.24, and §806.30.

Surface Water Withdrawal. The project sponsor has requested approval for a surface water withdrawal of up to 4.130 mgd (peak day) from the Susquehanna River and a withdrawal of up to 2.150 mgd (peak day) from Newtown Creek.

The project sponsor proposes to operate surface water intakes on the Susquehanna River and Newtown Creek. Commission staff recommends that each intake design minimize potential aquatic impacts associated with impingement and entrainment through the use of technology consistent with standards defined in the Clean Water Act.

Based on the hydrostatic testing design submitted by the project sponsor, the requested withdrawal from the Susquehanna River and Newtown Creek is 4.130 mgd and 2.150 mgd, respectively. Commission staff has calculated the average daily flow (ADF) of the Susquehanna River at the withdrawal location to be 2,954 cubic feet per second (cfs), and the 7-day average flow with a 10-year recurrence interval (Q7-10) to be 156 cfs. Commission staff has calculated the ADF of Newtown Creek at the withdrawal location to be 35 cfs, and the Q7-10 flow to be 3 cfs.

The requested peak day withdrawal is greater than 10 percent of the Q7-10 flow for Newtown Creek at the point of withdrawal. Therefore, a passby flow is required to protect aquatic resources and downstream users.

Using the Commission's passby flow guidance, staff calculates that the project sponsor should allow a passby flow of not less than 20 percent of annual ADF, which equals 7 cfs (3,173 gallons per minute [gpm]) at Newtown Creek, and to cease all withdrawals when streamflow is less than the calculated passby flow.

However, the FERC's approval states that the stream withdrawal shall not cause the flow of Newtown Creek to fall below 5.3 cfs because it is a gaged stream. This withdrawal limit is based on the lowest median monthly flow.

Commission staff recommends that the more conservative passby flow of 7 cfs (3,173 gpm) for Newtown Creek, as calculated using Commission policy, be required in this docket approval to protect aquatic resources and downstream users.

The project sponsor should submit its design or methodology for the passby flow measurement within 30 days from the date of this approval for review and approval by Commission staff prior to any withdrawal. Following approval, the project sponsor shall employ the approved design. During operation of each intake structure, the project sponsor must maintain the passby flow methodology/measurement system during withdrawals.

Commission staff recommends that the project sponsor record on a daily basis both the metered inflow for hydrostatic testing and measured outflow (discharge) from the hydrostatic testing. A meter should be installed on each surface water intake in accordance with Commission Regulation §806.30, and the project sponsor should keep daily records of the withdrawal from each source. Water also should be metered as it is returned to the source stream, and the project sponsor should install an appropriate meter at each discharge location. The project sponsor should maintain meters so as to provide a continuous, accurate record of the withdrawal(s).

All measurements should be recorded at approximately the same time each day. Any alternative metering and monitoring procedure should be reviewed and approved by Commission staff.

Commission staff recommends the project sponsor submit a proposed metering plan to the Commission for review and approval. The plan should individually account for all water withdrawn from and returned to the Susquehanna River and Newtown Creek, and should describe locations and specifications of all proposed meters.

Diversions. All water withdrawn from the Susquehanna River and from Newtown Creek and transmitted across the basin divide constitutes a diversion of the Susquehanna River Basin's waters as defined in Section 1.2(4) of the Compact. The diverted waters are considered to be consumptively used under Commission Regulation §806.24(b)ii. On the eastern end of the project, the pipeline extends approximately 17.5 miles into the Delaware River Basin; the out-of-

basin pipe length, when full, holds approximately 3.20 million gallons of water. On the western end of the project, the pipeline extends approximately 3.41 miles into the Great Lakes Basin; the out-of-basin pipe length, when full, holds approximately 0.621 million gallons of water.

The project sponsor has requested approval of a consumptive water use by means of diversion of up to 3.200 mgd. Commission staff recommends approval of the requested amount. Should the project sponsor's future consumptive water use be expected to exceed 3.200 mgd, the project sponsor must apply for a modification to this docket.

The daily quantity of water transferred from the Susquehanna River to the Delaware River Basin and from Newtown Creek to the Great Lakes Basin should be determined volumetrically. Any leakage and failures outside of the Susquehanna River Basin should be tracked as part of the diversion calculations.

Conversely, the project sponsor plans to return the water back to the source stream following hydrostatic testing. Commission staff finds that provided the project sponsor secures discharge permits from the appropriate agency(ies), the diversion into the Susquehanna River Basin is acceptable to the Commission.

Commission staff recommends approval of the requested diversion quantity of up to 3.230 mgd. All water that is diverted from the Delaware River Basin and Great Lakes Basin into the Susquehanna River Basin also should be accounted for (volumetrically).

To document the out-of-basin and into-basin diversions, Commission staff recommends that the daily records should be submitted to the Commission quarterly, and as otherwise required.

Due to the short-term nature of this project, Commission staff recommends a 5-year term of approval.

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

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

The project is physically feasible. This project is required for the optimum planning, development, conservation, utilization, management, and control of the water resources of the basin and, as a diversion, may significantly affect the water resources of the basin.

The project involves a diversion of water and a public hearing is required to be held in conjunction with the Commission's review process. Notice as required in Compact Section 3.10(5) has been provided. Commission staff also has reviewed the application according to Commission Regulation §806.24, as enumerated below.

Out-of-Basin Diversion Considerations

1. *Any adverse effects and cumulative adverse effects the project may have on the ability of the Susquehanna River Basin to meet its own present and future needs.*

The requested quantity of the diversion of water from the basin is within the quantity of water that has been reviewed and approved as part of the comprehensive FERC docket. Provided that the minimum instream passby requirement is maintained, the Susquehanna River and Newtown Creek will be protected from adverse habitat loss or other environmental impact in the downstream sections and flow loss to the basin during critical low flow periods.

2. *The location, amount, timing, purpose, and duration of the proposed diversion and how the project will individually and cumulatively affect the flow of any impacted stream or freshwater inflow of the Chesapeake Bay.*

The Susquehanna River, near the Town of Windsor, Broome County, New York, is located in the Upper Susquehanna River Subbasin and Newtown Creek, near the Town of Horseheads, Chemung County, in the Chemung River Subbasin are the sites of the diversion. With the application, Millennium is proposing a new short-term withdrawal that contains a diversion component. Withdrawals from the Susquehanna River and Newtown Creek will be of short duration, limited by pipe capacity, to supply water for a 72-hour hydrostatic test. Providing that Millennium operates in compliance with the Commission's surface water withdrawal regulation and other permits consolidated under FERC, the project will have minimal increased impact beyond that contemplated in the Commission's Comprehensive Plan on the flow regimes of the Susquehanna River, Newtown Creek, or the Chesapeake Bay. Focusing on low flow periods, the water withdrawal approval requires Millennium to maintain a passby of 20 percent of the ADF at the point of taking on Newtown Creek.

3. *How the project will individually or cumulatively affect other environmental, social, and recreational values.*

Commission staff finds no significant individual or cumulative social or recreational impacts. Environmental values are protected by requiring the project allow a passby flow of at least 20 percent ADF at all times during the taking on Newtown Creek.

4. *Whether there is a reasonably foreseeable need for the quantity of water requested by the project sponsor and how that need is measured against other reasonably foreseeable needs in the Susquehanna River Basin.*

Yes. There is a reasonably foreseeable need for the water use by the project sponsor. Millennium's use of the water for hydrostatic testing will ensure that the construction of the 30-inch-diameter pipeline meets its metrics. The requested quantity of water is directly related to the volume of water needed to fill approximately 17.5 miles of pipeline that extends beyond the basin divide (into the Delaware Basin); the requested volume is enough to fill the section of pipeline that crosses into the Great Lakes Basin (3.41 miles).

5. *The impact of the diversion on economic development within the Susquehanna River Basin, the member jurisdictions, or the United States of America.*

The proposed project is expected to positively impact that part of the basin immediately adjacent to the project area and other areas in the Northeast using natural gas for heating and power generation.

6. *The cost of the diversion versus other alternatives, including certain external costs such as impacts on the environment or natural resources.*

The project sponsor will rely on the Susquehanna River and Newtown Creek as its sole source of supply for the hydrostatic testing for portions of the pipeline that are outside of the basin divide. Millennium has undertaken an alternative water supply study for the hydrostatic testing; it was determined that due to construction methodologies and existing infrastructure, diverting water from both the Susquehanna River and Newtown Creek was the most feasible approach. Furthermore, due to the demand needs, a public water supply source would be economically and logistically unpractical.

7. *The amount and location of water being diverted to the Susquehanna River Basin from the importing basin.*

Millennium reports that approximately 100 percent of the water diverted will be returned to the basin after the successful completion of the hydrostatic testing. Commission staff recommends the project sponsor provide a detailed accounting procedure to accurately measure the water returned to the basin.

8. *The proximity of the project to the Susquehanna River Basin.*

Millennium's pipeline extends 17.5 miles in the Delaware River Basin and 3.41 miles in the Great Lakes Basin. The majority of Millennium's pipeline that will be hydrostatically tested with waters from the Susquehanna River Basin is within the Susquehanna River Basin.

9. *The project sponsor's pre-Compact legal authority to withdraw or divert the waters of the basin.*

No pre-Compact use exists.

10. *Any policy of the member jurisdictions relating to water resource, growth, and development.*

As an interstate natural gas transmission facility, the Millennium project is regulated by FERC, as the lead federal agency for review of the project pursuant to the National Environmental Policy Act. Cooperating agencies in the review process are the USACE, NYSDEC, the U.S. Fish and Wildlife Service, the New York State Office of Parks Recreation

and Historic Preservation, the Palisades Interstate Park Commission, and the New York State Department of Agriculture and Markets.

In addition to FERC, the development of the Millennium project requires permits or approvals from other federal and state regulatory authorities. With respect to water resource issues, the project requires a Section 101404 permit from the USACE, as well as a Clean Water Act Section 401 water quality certification and Section 402 hydrostatic test water permit from NYSDEC. Millennium has received permits from both agencies.

11. *Any land use or natural resource planning being carried out in the importing basin?*

The project is consistent with known land use and natural resource planning at the municipal, county, state, and federal level.

12. *Has the project sponsor demonstrated that reasonable efforts have been made to develop sources within the basin of need?*

The project sponsor will rely on Susquehanna River and Newtown Creek for the needs of the hydrostatic testing, additional development or an ongoing need is not required by the project design. The project sponsor has explored alternative supply from within the basin of need, and due to the project location area and design, additional water availability is restrictive. With appropriate passby of 20 percent of the ADF at each the point of taking, the project sponsor could continue to rely on the Susquehanna River and Newtown Creek throughout the duration of this approval.

Following a thorough review of the material submitted by the project sponsor, and providing that the project sponsor meets all conditions contained in this docket and all other necessary governmental approvals, Commission staff has determined that the proposed diversion of water meets the requirements of the Commission's diversion regulation.

Decision

1. The project's surface water withdrawal up to 4.130 mgd from the Susquehanna River, when available, consumptive water use through an out-of-basin diversion of up to 3.200 mgd from the Susquehanna River, and the into-basin diversion of up to 3.200 mgd from the Susquehanna River are approved pursuant to Article 3, Section 3.10, of the Compact.

2. The project's surface water withdrawal up to 2.150 mgd from Newtown Creek, when available, consumptive water use through an out-of-basin diversion of up to 0.621 mgd from Newtown Creek, and the into-basin diversion of up to 0.621 mgd from Newtown Creek are approved pursuant to Article 3, Section 3.10, of the Compact.

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

4. The project sponsor shall allow a flow to pass in Newtown Creek directly below the intake of not less than 7 cfs (3,173 gpm). When the streamflow below the intake is less than this amount, the withdrawal shall be reduced to maintain 7 cfs (3,173 gpm) in the stream channel directly below the intake. When the natural flow is equal to or less than 7 cfs (3,173 gpm), no water may be withdrawn, and the entire natural flow shall be allowed to pass the intake to maintain such natural flow in the channel below the intake as may prevail above.

5. The project sponsor shall comply with all Commission regulations, including monitoring and reporting requirements contained in Commission Regulation §806.30.

6. The project sponsor shall keep daily records of the surface water withdrawals and the consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity of water withdrawn from either the Susquehanna River and Newtown Creek, and diverted across the basin divide.

7. The project sponsor shall submit a metering plan to the Commission for review and approval by Commission staff within thirty (30) days of the approval or thirty (30) days prior to the withdrawal of water. This plan shall account for all water withdrawn and returned from each of the Susquehanna River and Newtown Creek sources which is to be diverted out of and into the Susquehanna River Basin. Following approval, the project sponsor shall execute the plan and complete any installation of meters in accordance with the approved schedule. The project sponsor shall notify the Commission, in writing, when the meter(s) have been installed and certify the accuracy of the measuring devices to within five (5) percent of actual flow. Prior to operation, the project sponsor shall notify the Commission that the monitoring plan has been implemented at each surface water withdrawal.

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

9. To satisfy the Commission's current mitigation requirements for consumptive water use set forth in Commission Regulation §806.22, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project. The daily quantity of water consumptively used shall be the difference in the metered withdrawal and the metered discharge of water at each point of taking. 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 mitigation, is subject to change at the Commission's discretion.

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

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

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

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

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

15. This approval is effective until March 13, 2013. As specified in Commission Regulation §806.31(e), if the project sponsor submits a renewal application no later than September 13, 2012, the existing approval shall be deemed extended until such time as the Commission renders decision on the application.

16. The project sponsor has a period of three (3) years from the date of this approval to commence its withdrawal and consumptive use 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 13, 2008



Cathy Curran Myers, Chair
Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20030406-1

Approval Date: April 10, 2003

Modification Date: March 13, 2008

SAND SPRINGS DEVELOPMENT CORP.– SAND SPRINGS GOLF COMMUNITY

Groundwater Withdrawals (30-Day Averages) of 0.014 mgd from Irrigation Well 1 and 0.072 mgd from Irrigation Well 2, and a Total System Withdrawal Limit of 0.086 mgd, and Consumptive Water Use of up to 0.420 mgd, for Golf Course Irrigation, Butler 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 (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received the results of the aquifer testing on July 2, 2007, and based on its review, proposes the following ex parte modification.

Description

Purpose. The Commission originally approved the project on April 10, 2003, as Docket No. 20030406 (Docket). As originally approved, the Sand Springs Development Corp.–Sand Springs Golf Community was authorized to consumptively use water up to 0.420 million gallons per day (mgd), and to withdraw 0.130 mgd (30-day average) from Irrigation Wells 1 and 2, subject to conditions enumerated in the Docket. The project sponsor had requested in its application that the requirement for pumping tests (now aquifer tests) be waived because the wells had been in use for 10 years. In its approval, the Commission based its findings on the groundwater availability analysis and supporting information submitted by the project sponsor. As an alternative to performance of two short-term, constant-rate aquifer tests, Commission staff recommended that the project sponsor conduct a year of groundwater monitoring during actual well operation to demonstrate that the water withdrawals do not impact surface water or existing groundwater users. Ultimately, the project sponsor proposed a controlled testing plan that was acceptable to Commission staff, conducted the aquifer tests in May 2007, and submitted the results of this testing in July 2007. This docket modification presents findings related to that testing, reduces the approved groundwater withdrawal to a sustainable quantity of 0.086 mgd, reduces the maximum instantaneous rates of pumping, and revises certain provisions contained within the Docket.

Location. The project is located in the Middle Susquehanna Basin, HUC 02050107, Nescopeck Creek Watershed, Butler Township, Luzerne County, Pennsylvania.

Project Features. Water for golf course irrigation is withdrawn from two wells, Irrigation Wells 1 and 2, and pumped to a common wet well. Water in the wet well is then pumped to two interconnected off-stream ponds (Ponds 1 and 2), as described in the Docket. The irrigation system withdraws stored water from Pond 2.

Irrigation Well 1 was drilled in 1993 as a nominal 8-inch-diameter, open-rock hole to a depth of 455 feet. The pump in this well has a rated capacity of 80 gallons per minute (gpm) (0.115 mgd). Irrigation Well 2 was drilled in 1993 as a nominal 8-inch-diameter, open-rock hole to a depth of 806 feet. The pump in this well has a rated capacity of 35 gpm (0.050 mgd).

Both ponds supply irrigation water and were previously reported by the project sponsor to be spring-fed and receive some surface water and storm water runoff. The ponds are located in the headwaters of Long Run, a tributary of Nescopeck Creek. The downstream (southern) pond has an overflow structure to allow excess water to be released to Long Run. In April 2007, the project sponsor permanently lined the ponds with geosynthetic materials. The lining prevents withdrawals from the ponds from intercepting shallow groundwater and flow at the springheads, and also insures that water stored in the ponds cannot drain through the bottom of the ponds.

Commission staff has calculated the combined total surface area of the ponds to be 1.50 acres, and the total volume to be approximately 3.4 million gallons. When at full capacity, the storage ponds can provide for approximately 26 days of irrigation, based on an average day consumptive use allocation of 0.130 mgd.

Aquifer Test. A 72-hour, constant-rate aquifer test of Irrigation Wells 1 and 2 (simultaneously pumping) was conducted on May 15-18, 2007. The testing plan was reviewed and approved by Commission staff. Stepped-rate tests of the irrigation wells preceded the constant-rate testing and established pumping rates of 10 gpm for Irrigation Well 1 and 50 gpm for Irrigation Well 2. These pumping rates are less than the rated pump capacities previously approved as the maximum instantaneous rates of production.

During the testing, water levels were monitored in the irrigation wells and within three pairs of nested wetland piezometers, and flow measurements were recorded at a weir installed on Long Run. The maximum drawdown recorded within Irrigation Wells 1 and 2 was approximately 87 and 239 feet, respectively. After 72 hours of pumping, there were no discernable impacts to water levels in any of the wetland piezometers or any observed flow loss at the weir on Long Run.

Findings

The project is subject to Commission approval and reporting requirements, as per Commission Regulations §806.4, §806.21, §806.22, §806.23, and §806.30.

In the Docket, Irrigation Well 1 was approved for a maximum instantaneous pumping rate of 35 gpm and a 30-day average withdrawal of 0.050 mgd. Irrigation Well 2 was approved at a maximum instantaneous pumping rate of 85 gpm and a 30-day average of 0.122 mgd.

Based on the results of the aquifer testing, stepped-rate tests, groundwater availability analysis, and other information, Commission staff recommends that the approved quantities for groundwater withdrawal be reduced. Step tests of the irrigation wells conducted prior to the constant-rate test indicated that actual sustainable pumping rates are 10 gpm for Irrigation Well 1 and 50 gpm for Irrigation Well 2.

Commission staff recommends that the maximum instantaneous rates of production for the wells should not exceed the rates at which Wells 1 and 2 were tested; 10 gpm and 50 gpm for Irrigation Wells 1 and 2, respectively. Likewise, Commission staff recommends that the project's groundwater withdrawals (30-day averages) be approved at 0.014 mgd for Irrigation Well 1 and 0.072 mgd for Irrigation Well 2, and 0.086 mgd for the total system withdrawal limit.

Projections for drawdown after 180 days of pumping at constant rates of 10 gpm and 50 gpm, the average length of the irrigation season, indicate that the maximum drawdown would be 190 feet below the top of casing in Irrigation Well 1 and 300 feet below the top of casing in Irrigation Well 2. These projections indicate that, at the recommended pumping rates, it should be possible to maintain active pumping water levels above the uppermost significant water-bearing zones without the pumping level controls currently required in the Docket. Therefore, Commission staff recommends that Docket condition "d" be rescinded.

A review of the hydrogeologic setting and the drawdown responses within the wells indicates that the wells draw water from a partially confined aquifer that induces leakage from overlying glacial deposits and adjacent strata. However, borehole logs for the wetland piezometers indicate that the wetlands are likely supported by very low permeability glacial till consisting mostly of compressed clay. Further, no discernable impacts to water levels in any of the wetland piezometers or loss of flow at the weir on Long Run were observed during the testing. Therefore, Commission staff does not anticipate any significant adverse impacts to the wetlands or Long Run related to pumping.

Commission staff recommends that the passby requirement on Long Run contained in Docket condition "f" be rescinded. The aquifer testing has demonstrated that groundwater withdrawals from Wells 1 and 2 do not induce flow from surface water resources. By installing the new geotextile liner, the project sponsor has isolated the two ponds used as alternate sources for irrigation water from spring flow and the shallow groundwater system. Commission staff anticipates that these measures will minimize any impacts to surface water and shallow groundwater from future withdrawals from the ponds.

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

The project is subject to water conservation requirements, as per Commission Regulation §806.25(c).

The project is subject to Commission monitoring and reporting requirements, as per Commission Regulation §806.30. The project sponsor should measure and record the daily quantity of water withdrawn from each irrigation well and should electronically submit the required monitoring data to the Commission quarterly, as specified in Commission Regulation §806.30(b)(1).

Commission staff recommends that all other conditions in the Docket not inconsistent herewith should remain effective.

Commission staff recommends the application fee and notification requirements contained in Commission Regulations §806.13 and §806.15 be waived due to the nature of this docket modification.

Commission staff recommends that this approval remain effective until April 10, 2028, the term of the prior Docket approval.

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

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

Decision

1. Commission Docket No. 20030406, as approved April 10, 2003, is hereby modified to approve the project's groundwater withdrawals (30-day averages) of 0.014 mgd from Irrigation Well 1 and 0.072 mgd from Irrigation Well 2, and a total system withdrawal limit of 0.086 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. The project sponsor shall comply with all Commission regulations, including reporting requirements, as per Commission Regulation §806.30.

4. Conditions "b," "c," "d," "e," "f," and "q" of the original Docket are hereby rescinded.

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

of the preceding quarter. The daily quantity of water consumptively used shall be the quantity of evaporative loss from the storage ponds plus the quantity pumped to the irrigation system.

6. The project sponsor shall maintain metering on Irrigation Wells 1 and 2, accurate to within five (5) percent, to measure its groundwater withdrawal. The project sponsor shall keep daily records of the project's groundwater withdrawal and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter.

7. The maximum instantaneous rates of production for Irrigation Wells 1 and 2 shall not exceed 10 gpm and 50 gpm, respectively. Within thirty (30) days from the date of this approval, the project sponsor must provide documentation that the wells are equipped with a device that limits the instantaneous rates of production.

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

9. The application fee requirements, pursuant to Commission Regulation §806.13 and in accordance with Commission Resolution No. 2006-08, are hereby waived.

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

11. The notification requirements specified in Commission Regulation §806.15 are hereby waived.

12. If the Commission determines that the operation of the project's groundwater withdrawals from Irrigation Wells 1 and 2 adversely affects any existing groundwater or surface water withdrawal, the project sponsor shall be required to provide, at its expense, an alternate water supply or other mitigating measure.

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

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

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

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

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

18. All other conditions in Commission Docket No. 20030406 not inconsistent herewith shall remain effective.

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

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 13, 2008



Cathy Curran Myers, Chair
Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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Docket No. 20080303

Approval Date: March 13, 2008

FIRST QUALITY TISSUE, LLC– LOCK HAVEN FACILITY

Surface Water Withdrawal of up to 10.500 mgd (Peak Day) from Bald Eagle Creek,
and Consumptive Water Use of up to 2.500 mgd (Peak Day),
for Tissue Manufacturing and Water Bottling,
Castanea, Bald Eagle, and Allison Townships, Clinton County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10, of the Susquehanna River Basin Compact (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received the consumptive water use and surface water withdrawal applications on December 18, 2007, and amendments to the applications on February 11, 2008.

Description

Purpose. The purpose of the application is to request approval for consumptive water use and surface water withdrawal for processes related to tissue manufacture and water bottling operations at the First Quality Tissue, LLC (First Quality) Lock Haven facility.

Location. The project is located in the West Branch Susquehanna Subbasin, HUC 02050204, within portions of Castanea, Bald Eagle, and Allison Townships, Clinton County, Pennsylvania.

Project Features. First Quality, the project sponsor, has requested approval for consumptive water use of up to 2.500 million gallons per day (mgd) on a peak day, of which up to 1.900 mgd will be consumptive use related to the installation of a new water purification and water bottling operation. The project sponsor also has requested approval for a surface water withdrawal of up to 10.500 mgd (peak day) from Bald Eagle Creek. Based on the design of the facility, the project sponsor estimates that the maximum 30-day average surface water withdrawal and consumptive water use will be approximately 9.600 mgd and 2.500 mgd, respectively.

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

First Quality operates a tissue manufacturing facility on the site of the former International Paper plant. The facility currently withdraws an average of 4.000 mgd of water from Bald Eagle Creek via the Pennsylvania Canal for tissue manufacturing including process dilution, process cleanup, cooling, and boiler makeup.

A small dam on Bald Eagle Creek, located downstream of the canal entry point, raises the water level to convey water through the canal and into the raw water basin. The canal is 12,300 feet long from its confluence with Bald Eagle Creek to its end at the raw water basin. Water from the raw water storage basin is withdrawn through three concrete square intake structures equipped with screens. After entering the filter building, the water is filtered and metered, then pumped to process operations. Process wastewater is treated through clarification and aerated stabilization before discharge through a diffused outfall to Bald Eagle Creek under authorization in National Pollutant Discharge Elimination System (NPDES) Permit No. PA-0228818. Storm water is discharged to Bald Eagle Creek through three separate outfalls.

Currently, consumptive water losses at First Quality primarily results from evaporation at two tissue manufacturing lines, one that commenced operation in December 2004 and the second that commenced operation in December 2007. The project sponsor estimates that product drying for both tissue manufacturing lines is approximately 0.600 mgd.

The project sponsor intends to install water purification and water bottling at the plant site, and anticipates this bottling will start operation in June 2008. Water for the bottling operation will come from the intake structure in the filter building, which supplies water to the tissue manufacturing facility. The project sponsor projects a withdrawal for bottling of up to 2.000 mgd.

A second project involving a cogeneration power plant is under development and was originally included in the applications; however, the project sponsor withdrew its request for action on this project in its February amendment. The cogeneration plant is not scheduled to begin operation before 2011, and the project sponsor will submit applications for the additional consumptive use at a later date to better coordinate with all of the environmental permitting with other agencies.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (PADEP) Northcentral Region Office during the review of the project. The project sponsor has obtained a NPDES permit for the discharge(s) to Bald Eagle Creek. The PADEP has determined that the proposed bottle size is exempt from its review and approval requirements.

Findings

The project is subject to Commission approval, monitoring, and reporting requirements, as per Commission Regulations §806.4, §806.22, and §806.23.

Although the project predates the Commission's consumptive water use and surface water withdrawal regulations, the project identified that its proposed addition of a water purification and water bottling operation will sufficiently increase consumptive water use to be subject to Commission Regulation §806.4, relating to consumptive use and withdrawal projects requiring review. The project sponsor has requested approval for consumptive water use of up to 2.500 mgd (peak day) and a surface water withdrawal of up to 10.500 mgd (peak day) from Bald Eagle Creek via the Pennsylvania Canal.

All water evaporated or otherwise lost from the tissue manufacturing lines, including product drying, cooling, and boiler makeup, and treated and bottled, is considered to be a consumptive water use subject to Commission regulation.

Commission staff recommends approval of the requested quantity of consumptive water use, 2.500 mgd, on a peak day. The project sponsor should submit a plan to quantify the daily consumptive water use associated with manufacture of tissue and the bottling of water for review and approval by Commission staff. The plan should contain metering that is accurate to within 5 percent, or other suitable methods of measurement, on the water diverted to the facility, on the wastewater, and other locations, as appropriate. The project sponsor should report the daily consumptive water use to the Commission quarterly.

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

The project sponsor has a pre-Compact consumptive water use for paper manufacture previously determined to be 0.681 mgd, based on Commission definition of pre-Compact use contained in Regulation §806.3 as "the maximum average daily quantity or volume of water consumptively used over any consecutive 30-day period prior to January 23, 1971." For purposes of this docket, this quantity of consumptive water use for papermaking is considered "grandfathered" and is exempt from water mitigation requirements.

The project's consumptive use of water not related to papermaking is subject to water mitigation requirements, as per Commission Regulation §806.22. To satisfy these requirements, the project sponsor proposes to provide monetary payments to the Commission quarterly. If the project's daily consumptive water use for papermaking exceeds 0.681 mgd, the project sponsor also must provide mitigation for that amount.

The existing surface water withdrawal began prior to November 11, 1995; however, the project sponsor's new consumptive use for bottled water triggers Commission review and approval of the surface water withdrawal as per Regulation §806.4.

Commission staff recommends approval of the requested surface water withdrawal of up to 10.500 mgd (peak day), as submitted by the project sponsor. Based on the U.S. Geological

Survey's stream gaging station on Bald Eagle Creek at Beech Creek, Pennsylvania, the low flow rate that occurs for 7 consecutive days during a 10-year period (Q7-10) at the project location is approximately 105.3 mgd.

Withdrawals by the project from Bald Eagle Creek are less than 10 percent of the Q7-10 flow and, therefore, Commission staff determined that a protective passby flow requirement is not needed for the withdrawal from Bald Eagle Creek.

The project sponsor should submit a plan to quantify the daily total surface water withdrawal from Bald Eagle Creek for review and approval by Commission staff. The plan should contain metering that is accurate to within 5 percent, or other suitable methods of measurement, on the water diverted to the facility. The project sponsor should maintain meters so as to provide a continuous, accurate record of the withdrawal. The project sponsor should report the daily surface water withdrawal to the Commission quarterly. Should the project's future withdrawal be expected to exceed a peak day of 10.500 mgd, the project sponsor must apply for a modification to this docket.

The project sponsor has paid the application fee in accordance with Commission Regulation §806.16, and in accordance with Commission Resolution No. 2006-08. The project sponsor has provided all proofs of notification, as required by Commission Regulation §806.15.

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

Decision

1. The project's surface water withdrawal from Bald Eagle Creek of up to 10.500 mgd, and the project's consumptive use of water up to 2.500 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 monitoring and reporting requirements, as per Commission Regulation §806.30.

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 from the river, the wastewater discharge, and the total consumptive water use at the facility. Following approval, the project sponsor shall execute the plan and complete any installation of meters or other means of measuring surface water withdrawals in accordance with the approved schedule. The project sponsor shall notify the Commission, in writing, when the meters are installed and certify the accuracy of the measuring devices to within

five (5) percent of actual flow. The project sponsor shall notify the Commission when the monitoring plan has been implemented.

5. The project sponsor shall keep daily records of the project's consumptive water use and surface water withdrawal, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity evaporated or otherwise lost from the tissue manufacturing lines, including product drying, cooling, and boiler makeup; and treated and bottled.

6. To satisfy the Commission's current mitigation requirements for consumptive water use set forth in Commission Regulation §806.22, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project for water purification and bottling, and that quantity in excess of the grandfathered quantity for papermaking. The daily quantity of water consumptively used for water bottling shall be the quantity treated and bottled. The daily quantity of water consumptively used for papermaking shall be the quantity evaporated or otherwise lost from the tissue manufacturing lines, including product drying, cooling, and boiler makeup. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project for water bottling, plus any quantity consumptively used for papermaking in excess of the grandfathered quantity of 0.681 mgd. If the daily grandfathered quantity for papermaking exceeds the project's daily consumptive water use for papermaking, that day's consumptive water use for papermaking is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

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

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

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

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.

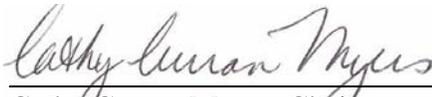
13. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

14. This approval is effective until March 13, 2023. As specified in Commission Regulation §806.31(e), if the project sponsor submits a renewal application no later than September 13, 2022, the existing approval shall be deemed extended until such time as the Commission renders decision on the application.

15. 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 13, 2008



Cathy Curran Myers, Chair
Pennsylvania Commissioner



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Docket No. 20080304

Approval Date: March 13, 2008

WYNDING BROOK, INC. – WYNDING BROOK GOLF CLUB (FORMERLY TURBOT HILLS GOLF COURSE)

Surface Water Withdrawals (Peak Day) of up to 0.499 mgd from the Susquehanna River and up to 0.217 mgd, When Available, from Muddy Run, and Consumptive Water Use of up to 0.499 mgd, for Golf Course Irrigation, Turbot Township, Northumberland County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10, of the Susquehanna River Basin Compact (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received applications requesting approval of a consumptive use of water and surface water withdrawals on December 17, 2007, and additional information on January 18, 2008.

Description

Purpose. The purpose of the application is to request approval of surface water withdrawals from the Susquehanna River and Muddy Run, and the consumptive water use of up to 0.499 million gallons per day (mgd) for irrigation of greens, tees, and fairways at an existing 18-hole golf course.

Location. The project is located in the West Branch Susquehanna Subbasin, HUC 02050206, Muddy Run Watershed, Turbot Township, Northumberland County, Pennsylvania.

Project Features. The project sponsor has requested approval of surface water withdrawals of up to 0.499 mgd from the Susquehanna River and up to 0.217 mgd from Muddy Run, and consumptive water use of up to 0.499 mgd for irrigation of greens, tees, and fairways at an existing 18-hole golf course. The project's current maximum average daily consumptive use is 0.217 mgd, and its maximum daily total withdrawal and consumptive use is 0.217 mgd. A new automatic irrigation system was installed in 2006 to provide for full irrigation of greens, tees, and fairways on the golf course. Based on two seasons of irrigation and design requirements of the new irrigation system, the project sponsor estimates that the project's peak

day consumptive water use will be 0.499 mgd and the maximum average 30-day consumptive water use will be 0.100 mgd.

The golf course was constructed in 1927 and has been in operation since that time. The Commission previously approved the project as Turbot Hills Golf Course in 2002 (Docket No. 20020808). Wynding Brook, Inc. purchased the golf course and has renamed it Wynding Brook Golf Club, and has submitted these applications for surface water withdrawal and consumptive water use.

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

Currently, water for the irrigation system is withdrawn from Muddy Run and directly applied to the golf course through the irrigation system. The surface water withdrawal is accomplished using a 66.5-horsepower pump with a rated capacity of 500 gallons per minute (gpm). The project sponsor has a passby structure at the point of withdrawal. The irrigation system is equipped with a totalizing flow meter.

According to Commission staff's analysis in 2002, approximately 16 percent of the time streamflow will not be sufficient to maintain the recommended passby flow rate and meet the golf course irrigation needs. The Commission required that the project initiate a study to identify other sources of water to address this deficiency.

The project sponsor plans to utilize a new intake and pumping station on the Susquehanna River to address this deficiency and provide water for the new irrigation system. The pump capacity of the new system is 500 gpm and consists of a 6-inch pump that can be operated up to 60 horsepower.

The new source is designed to meet the project's irrigation demands, while allowing for the required passby flow in Muddy Run. Water will continue to be withdrawn from Muddy Run, when available, as a backup source.

Findings

The project is subject to Commission approval, monitoring, and reporting requirements, as per Commission Regulations §806.4, §806.21, §806.22, and §806.30.

All water used for golf course irrigation is considered to be used consumptively. The irrigation system is equipped with a meter that measures the quantity of water pumped to the irrigation system.

The project sponsor has requested approval for a consumptive water use of up to 0.499 mgd (peak day). Based on water use data and irrigation calculations supplied by the project sponsor, Commission staff is recommending approval of the requested amount. Should the project's future consumptive water use be expected to exceed 0.499 mgd, the project sponsor must apply for a modification to this docket.

The project's consumptive use of water is subject to water mitigation requirements, as per Commission Regulation §806.22. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission. The payment will be based on the daily quantity of water used for irrigation.

In accordance with the Commission's consumptive water use monitoring and reporting requirements, Commission staff recommends that the project sponsor maintain metering on the irrigation system. The project sponsor should measure and record the daily quantity of water consumptively used and should electronically submit the required monitoring data to the Commission quarterly, as specified in Commission Regulation §806.30(b)(1).

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

The project sponsor has requested approval of a surface water withdrawal of up to 0.499 mgd from the Susquehanna River and a withdrawal of up to 0.217 mgd from Muddy Run. Commission staff recommends approval of the requested quantities of withdrawal from the Susquehanna River and Muddy Run, when available, at the maximum instantaneous pumping rates of 500 gpm at each intake. On any day, the total withdrawal cannot exceed 0.499 mgd, the recommended peak day consumptive water use.

Commission staff previously reviewed the project's surface water intake on Muddy Run. Muddy Run is classified as a warm-water fishery (Title 25, Chapter 93, of the Pa. Code). Commission staff has calculated the Q7-10 flow for Muddy Run to be 0.82 cubic feet per second (cfs) (368 gpm) at the point of withdrawal. The surface water intake is a pump that has a capacity of 500 gpm. The withdrawal is greater than 10 percent of the Q7-10 flow (0.082 cfs or 36.8 gpm) at the point of withdrawal, thereby requiring a passby flow to protect aquatic resources and downstream users. Commission staff recommends that the project sponsor allow a passby flow of not less than 20 percent of annual average daily flow, which equals 2.29 cfs (1,030 gpm), and to cease all withdrawals when streamflow is less than 2.29 cfs.

Commission staff finds that the existing design of the passby system along Muddy Run is acceptable. During operation of the intake structure, the project sponsor must continue to maintain the passby system, keeping it fully functional and free of debris. The Commission reserves the right to inspect the passby flow device and intake structure at any time.

The proposed withdrawal by the project from the Susquehanna River is less than 10 percent of the low flow Q7-10 rate and, therefore, Commission staff determined that a protective passby flow requirement is not needed for the withdrawal from the Susquehanna River.

In accordance with the Commission's withdrawal monitoring and reporting requirements, Commission staff recommends that the project sponsor install and maintain meters at the intakes at Muddy Run and the Susquehanna River to measure the daily quantity of water pumped from each of the streams to the irrigation system. The project sponsor should measure and record the daily quantity of water withdrawn from each stream and should electronically submit the required monitoring data to the Commission quarterly, as specified in Commission Regulation §806.30(b)(1). The project sponsor may propose an alternative to intake metering for review and approval by Commission staff.

Commission staff recommends that Commission Docket Nos. 20020808 and 20020808-1 be rescinded.

The project is subject to water conservation requirements, as per Commission Regulation §806.25(c).

The project sponsor has paid the appropriate application fees, in accordance with Commission Regulation §806.16, and in accordance with Commission Resolution No. 2006-08. The project sponsor has provided all proofs of notification, as required by Commission Regulation §806.15.

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

Decision

1. The project's consumptive use of water of up to 0.499 mgd, and surface water withdrawals of up to 0.217 mgd from Muddy Run (when available) and up to 0.499 mgd from the Susquehanna River, 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 withdrawal and consumptive water use reporting requirements, as per Commission Regulation §806.30.

4. Commission Docket Nos. 20020808 and 20020808-1, issued to Turbot Hills Golf Course, are hereby rescinded.

5. Within sixty (60) days, the project sponsor shall install metering, accurate to within five (5) percent, at the Susquehanna River intake, and maintain metering on the Muddy Run intake, in accordance with Commission Regulation §806.30. The project sponsor shall report to the Commission when the meter installation is complete. The project sponsor may propose an alternative to intake metering for review and approval by Commission staff.

6. The project sponsor shall keep daily records of the quantity of water pumped from the Susquehanna River and/or Muddy Run, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter.

7. The project sponsor shall keep daily records of the project's consumptive water use, and shall electronically 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 the irrigation system. The project sponsor shall maintain metering on the irrigation system, accurate to within five (5) percent.

8. To satisfy the Commission's current mitigation requirements for consumptive water use set forth in Commission Regulation §806.22, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project. The daily quantity of water consumptively used shall be the quantity of water pumped to the irrigation system. 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 allow a flow to pass in Muddy Run directly below the intake structure of not less than 2.29 cfs (1,030 gpm). When the streamflow below the intake is less than this amount, the withdrawal shall be reduced to maintain 2.29 cfs (1,030 gpm) in the stream channel below the intake. When the natural flow is equal to or less than 2.29 cfs (1,030 gpm), no water may be withdrawn, and the entire natural flow shall be allowed to pass the intake structure to maintain such natural flow in the channel below the intake as may prevail above. Within sixty (60) days, the project sponsor shall certify to the Commission that its existing passive passby flow device calibrated accordingly. The passby system shall be kept fully functional and free of debris. The Commission reserves the right to inspect the passby flow device and intake structure at any time. The project sponsor may propose an alternative to a passive passby flow device to the Commission for staff review and approval.

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

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

12. To satisfy the Commission's registration requirement, the project sponsor shall register with the Pennsylvania Department of Environmental Protection all surface water and

groundwater sources described in this docket in accordance with the Pennsylvania Water Resources Planning Act (Pennsylvania Act 220).

13. 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.

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 project is subject to enforcement actions pursuant to Commission Regulation §808.

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.

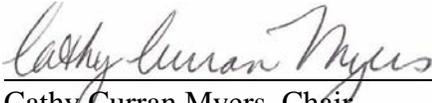
16. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

17. This approval is effective until March 13, 2023. As specified in Commission Regulation §806.31(e), if the project sponsor submits a renewal application no later than September 13, 2022, the existing approval shall be deemed extended until such time as the Commission renders decision on the application.

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

By the Commission:

Dated: March 13, 2008



 Cathy Curran Myers, Chair
 Pennsylvania Commissioner



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Docket No. 20080305

Approval Date: March 13, 2008

MOUNTAINVIEW THOROUGHBRED RACING ASSOCIATION, INC.

Groundwater Withdrawals (30-Day Averages) of 0.400 mgd from Well 101 (East), 0.165 mgd from Well 102 (West), and a Total System Withdrawal Limit (30-Day Average) of 0.400 mgd, for Maintenance and Operation of a Horse Racing and Casino Gaming Facility, East Hanover Township, Dauphin County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10, of the Susquehanna River Basin Compact (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received the application on July 17, 2007, and the hydrogeologic report on January 25, 2008.

Description

Purpose. The purpose of the application is to request approval for the withdrawal of groundwater associated with the commercial operation of a thoroughbred horse-racing track and a new casino gaming facility. The Commission approved the consumptive use of water of up to 0.438 million gallons per day (mgd) in Commission Docket No. 20020819 (Docket), approved August 15, 2002, subsequently modified on December 5, 2007.

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

Project Features. Mountainview Thoroughbred Racing Association, Inc. has requested approval for groundwater withdrawals (30-day averages) of 0.504 mgd from Well 101 (East Well), 0.165 mgd from Well 102 (West Well), and a total system withdrawal limit of 0.400 mgd. The wells are used to supply water for the casino and horse-racing operations, which include water for the air conditioning, sanitary, and maintenance needs of the casino, grandstand, groom's quarters, horse barns, and racetrack. Commission staff recommends approval of a lesser quantity, as described in the findings, below.

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

The wells are located within 2,100 feet of each other, along the toeslope of Blue Mountain and at the distal edge of the colluvium that blankets the contact between the Martinsburg Formation and the older Hamburg Sequence strata. The exposed bedrock near the production wells strikes approximately north 70 degrees east and dips at approximately 80 degrees southeast.

The table, below, identifies basic information for the wells, including borehole and well construction details. The driller's logs, provided by the project sponsor, indicate that both wells were drilled through the colluvium into shale bedrock to a total depth of 300 feet below ground surface (bgs). Both wells are equipped with 40-horsepower shaft turbine pumps that were rebuilt in the summer of 2007.

Summary of Construction Details for Wells 101 (East) and 102 (West)

Well Identification	Date of Installation	Open Borehole Interval (feet bgs)	Depth to Water-Bearing Zones (feet bgs)	Depth to Pump Intake (feet bgs)	Pump Capacity (gpm)	Average Daily Withdrawals (October 2005 to December 2006)*
Well 101	1969	38 – 300	75, 190	120	400 – 450	0.048
Well 102	1970	39 – 300	70, 90, 140	140	400 – 450	0.048

gpm – gallons per minute
 *As reported in the *Groundwater Supply Evaluation for Penn National Race Course* (Malarkey, February 2007).

Withdrawals are separately metered at each well, and groundwater is treated for iron and manganese (by sequestration) and disinfected (with sodium hypochlorite) at each pump house. Treated water is pumped to a 0.250-million-gallon capacity water storage tank, and distributed throughout the facility.

Wastewater from the facility is directed to a private wastewater treatment plant (WWTP) that has been operated by the project sponsor since 1972. The WWTP also receives waste streams from a nearby hotel and pizza shop. In anticipation of larger wastewater flows related to the facility's expansion, the project sponsor has constructed a new WWTP equipped with a pumping station to convey reclaimed, non-potable water back to the facility for reuse for track irrigation and toilet flushing. Water that is not reused is treated and discharged to an unnamed tributary to Swatara Creek.

Aquifer Testing. The project sponsor performed separate 72-hour, constant-rate aquifer tests, with prior Commission approval, on January 7-10, 2008, at an average rate of 351 gpm for Well 101 (East), and on December 5-8, 2007, at an average rate of 224 gpm for Well 102 (West). Both aquifer tests used a monitoring network comprised of ten residential wells, two shallow piezometers, and weirs in each of three unnamed tributaries, in addition to the two production wells. The two piezometers were installed to monitor the groundwater within the colluvial deposits at locations that coincide with updip projections of the uppermost water-bearing zones

identified in the well logs. One weir was installed within the Bow Creek Watershed and two were installed within an unnamed tributary to Swatara Creek Watershed. The constant-rate tests were preceded by stepped-rate tests.

After 72 hours of pumping Well 101 (East), measured drawdown in the production well was approximately 43 feet (65.2 feet bgs). The water level declined in 7 of the 11 observation wells and the eastern piezometer (P-1). However, distinct pumping-induced drawdown was only observed in 1 of the 11 observation wells (observation well 13, a residential well located approximately 1,200 feet northeast and along strike of the West Well, showed approximately 1.4 feet of drawdown during pumping).

After 72 hours of pumping Well 102 (West), measured drawdown in the production well was approximately 61 feet (110.1 bgs). The uppermost water-bearing zone at 70 feet bgs was dewatered after approximately 300 minutes of pumping and the second water-bearing zone at 90 feet bgs was uncovered within approximately 1,100 minutes of pumping. Slight changes were observed in a strike-preferential zone of influence during testing. Water level declined in 6 of the 11 observation wells. However, no distinct pumping-related drawdown was evident in any of the monitoring locations.

Surface water flow was monitored during testing of both wells and showed diurnal fluctuations and changes due to rain and snowmelt events. Flows measured at the weirs were reduced during pumping.

Commission staff has concluded that hydraulic communication exists between Wells 101 and 102.

Drawdown responses appear to have been masked by the reoccurring recharge events and the high storativity of the colluvial deposits. Some precipitation occurred during testing of both wells. A trace of rainfall occurred from 1,780 to 2,100 minutes into the testing of Well 101, and a rain event totaling 1.31 inches started 360 minutes into the recovery phase. During testing of Well 102, 2.5 inches of snow (water equivalent of 0.15 inches) occurred within 240 minutes of the start of the test, and a rain event totaling 0.50 inches started 360 minutes into recovery.

Further, the testing occurred at a time of high water levels in the aquifer and saturated conditions in the colluvium that potentially could have masked small pumping-induced impacts to surface water features and residential wells. Background monitoring from November to January indicated approximately 15.5 inches of liquid precipitation fell on-site and the water table elevation in the aquifer significantly increased from 2 to 20 feet, and an overall average of approximately 8 feet. The nature of the aquifer and its location downslope of a relatively large catchment area at the base of a mountain provides for a relatively rapid recharge response to rainfall and snowmelt.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (PADEP) Southcentral Region Office during review of this project. The withdrawals from the wells are regulated by PADEP as non-transient/non-community water supplies (ID No. 7220059, issued 1970). PADEP also has approved the WWTP (Water Quality

Management Permit No. 2205403, Amendment 07-1) for the operation of sewage facilities consisting of treatment plant and conveyance of reclaimed non-potable water for reuse, and permitted the discharge to the unnamed tributary to Swatara Creek (National Pollutant Discharge Elimination System [NPDES] Permit No. PA 0081264). The Pennsylvania Fish and Boat Commission (PFBC) participated in a field survey including electro-shocking of two unnamed tributaries of Swatara Creek to provide information on the nature and distribution of habitat present at the site. PADEP and PFBC staff have reviewed this docket for consistency with their requirements.

Findings

The project is subject to Commission approval and reporting requirements, as per Commission Regulations §806.4, §806.21, §806.23, and §806.30.

Commission staff reviewed the groundwater availability analysis, pumping test results, and supporting information submitted by the project sponsor. Results of the aquifer tests demonstrated relatively high instantaneous yields of Wells 101 and 102, considering the wells are drilled into the shales of the Hamburg or Martinsburg Formations. These formations typically are considered to be aquitards with correspondingly low well yields. Commission staff has concluded that the high yields from the production wells are related to the ability of the colluvium to store and transmit water to the underlying shale aquifer through fractures and along bedding planes (secondary porosity). Therefore, sustainability of the production wells is dependent on their hydraulic connection to the overlying colluvium and its level of saturation.

Although mapped, the actual thickness of the colluvial deposits is not fully known.

Recharge in the project area is strongly controlled by topography, and thus limited. The recharge areas for the wells overlap, and totals approximately 1.67 square miles (mi²) (1,069 acres). Using a 1-in-10-year groundwater recharge rate of 0.318 mgd/mi² for Great Valley Ordovician siliciclastics, Commission staff calculates that approximately 0.531 mgd (369 gpm) is available for all uses, including the 102 residences currently within the recharge area.

Commission staff recommends approval (30-day averages) of 0.400 mgd from Well 101 (East) (which is less than the requested quantity of 0.504 mgd), 0.165 mgd from Well 102 (West), and a total combined withdrawal limit of 0.400 mgd or 75 percent of the groundwater recharge during a 1-in-10-year drought. Should the project's groundwater demand be expected to exceed the approved amount, the project sponsor must apply for a modification to this docket.

Commission staff recommends that the maximum instantaneous rates of production from Well 101 not exceed 351 gpm and Well 102 not exceed 224 gpm, the rates at which the tests were performed.

The project is subject to Commission monitoring and reporting requirements, as per Commission Regulation §806.30. Commission staff recommends that the project sponsor maintain metering on Wells 101 and 102, and monitor withdrawals from each well daily. The

project sponsor should report the daily withdrawal data on-line to the Commission on a quarterly basis.

Commission staff recommends that the project sponsor install data loggers in each well and monitor water levels continuously during the first year of operation. Maximum drawdown should be limited to the existing pump intakes. Well 101 (East) should have a maximum drawdown limit of 120 feet bgs and Well 102 (West) should have a maximum drawdown limit of 140 feet bgs. Commission staff may require higher drawdown limits, if warranted, based on the results of the monitoring.

With the reductions in requested quantities for Well 101 and the combined withdrawal, the proposed withdrawals from Wells 101 and 102 should not cause any significant adverse impacts to the water resources of the basin. Monitoring results in both aquifer tests indicated only minor changes in streamflow and groundwater levels in a strike-preferential zone of influence. However, impacts to most observation points were minimal, or not discernable due to the short duration of the testing or location/construction of the monitoring points, or impacts were masked by reoccurring recharge events, relatively high water levels in the aquifer, and saturated colluvium.

Therefore, Commission staff recommends that the project sponsor conduct additional testing during well operation to confirm long-term water availability and boundary conditions present in the aquifer, and to ensure that the operation of the production wells does not adversely impact the local groundwater users and the aquifer, or affect the low flow of local streams. The project sponsor should submit a proposed plan for the operational testing and monitoring, including the elements described below and a schedule for implementation, to Commission staff for its review and approval prior to implementation. Monitoring should continue for a minimum of 3 consecutive years and through a 1-in-5-year drought, unless the objectives are met earlier and the length of study is reduced by the Commission. The operational testing should be conducted within the context of preparing a water development plan that will ensure the project's ability to meet its present and reasonably foreseeable water needs from available groundwater.

Groundwater Monitoring. The project sponsor should install a minimum of three monitoring wells. Two monitoring wells should be located along strike and within 1,000 feet of the production wells; one to the east of Well 101 and one to the west of Well 102. The third well should be located downgradient of the midpoint of the production wells. The monitoring wells should be constructed with the same casing depth and total depth as the production wells. Monitoring well locations and proposed construction should be submitted to Commission staff for review and approval prior to drilling.

Stream Monitoring. The project sponsor should evaluate the potential surface water reduction associated with the long-term operation of the production wells to ensure that base flow is not depleted so as to impair the ability of the WWTP to meet discharge requirements during periods of low flow or to be injurious to the aquatic resources. The project sponsor should install a minimum of three weirs; two or more weirs within the project watershed and at least one more weir located in a reference watershed. The reference watershed should be distant

from any potential impacts of the production wells, have a similar hydrogeologic setting, and be located along strike but have few, if any, large withdrawals.

Low head weirs should be installed on the unnamed tributary to Bow Creek and the unnamed tributary to Swatara Creek. The weirs should be installed downgradient of additional tributary confluences and upgradient from the facility's WWTP discharge location. The third weir should be installed in a similar location in the flow system of the reference watershed. The proposed weir locations should be submitted to Commission staff for review and approval prior to installation.

Water Development Plan. The project sponsor should, using monitoring data collected during the operational testing described above, operational records, and future demand analysis, further evaluate the sustainability of local water resources to ensure the project's ability to meet its present and reasonably foreseeable water needs from available groundwater. A mass balance hydrological formula that represents the total water withdrawn, consumed, and returned to the project's natural hydraulic system should be used to insure that the total use of groundwater does not degrade (quantity and/or quality) surface water or groundwater for other existing and potential water uses. The project sponsor should describe options for meeting future peak demands of the project through additional sources or storage and, if necessary, include sufficient data to support future groundwater withdrawals. The water resource development plan should be submitted within 3 years of the date of this approval.

The project sponsor should submit the groundwater and streamflow monitoring data from the operational testing to the Commission annually, along with an interpretive report prepared by a professional geologist licensed in the state of Pennsylvania.

Commission staff recommends that the term of this docket be coincident with the term of the docket approval for the project's consumptive water use, which is August 15, 2027.

The project is subject to the Commission's water conservation requirements contained in Commission Regulation §806.25.

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

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

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

Decision

1. The project's groundwater withdrawal (30-day averages) of 0.400 mgd from Well 101 (East) and 0.165 mgd from Well 102 (West), and a total system withdrawal limit (30-day average) of 0.400 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 monitoring and reporting requirements contained in Commission Regulation §806.30.
4. Within sixty (60) days from the date of this approval, the project sponsor shall certify that the meters installed on Wells 101 and 102 are accurate to within five (5) percent. The project sponsor shall keep daily records of the metered withdrawals. The required reporting data shall be submitted to the Commission quarterly, and as otherwise required. Monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter. The project sponsor shall notify the Commission, in writing, when each meter is installed.
5. The maximum instantaneous rate of production from Well 101 shall not exceed 351 gpm. The maximum instantaneous rate of production from Well 102 shall not exceed 224 gpm.
6. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §806.25. The project sponsor shall report its system loss to the Commission annually.
7. Within sixty (60) days of the date of this approval, the project sponsor shall submit its design and proposed construction schedule for the installation of data loggers for continuous monitoring of water level within each production well. Well 101 shall have a drawdown limit of 120 feet bgs and Well 102 shall have a drawdown limit of 140 feet bgs.
8. Within sixty (60) days of the date of this approval, the project sponsor shall submit its proposed location, design, and construction schedule for the installation of a minimum of three (3) monitoring wells for review and approval by Commission staff. Two monitoring wells shall be located along strike and within 1,000 feet of the production wells; one to the east of Well 101 and one to the west of Well 102. The third well shall be located downgradient of the midpoint of the production wells. The monitoring wells shall be constructed with the same casing depth and total depth as the production wells. The monitoring wells shall be drilled at the approved locations and according to the approved construction designs. Data loggers shall be installed and monitored according to the approved schedule in all of the monitoring wells.

9. Within sixty (60) days of the date of this approval, the project sponsor shall submit its proposed location, design, and construction schedule for the installation of a minimum of three (3) weirs for review and approval by Commission staff. The project sponsor shall install and monitor two or more weirs located within the project watershed and at least one more weir located in a reference watershed (similar hydrogeologic setting with few, if any, large withdrawals). Low head weirs shall be installed on the unnamed tributary to Bow Creek and the unnamed tributary to Swatara Creek. The weirs shall be installed downgradient of additional tributary confluences and upgradient from the facility's WWTP discharge location. The third low head weir shall be installed in the reference watershed at a comparable location within the flow system. The weirs shall be kept fully functional and free of debris. The weirs shall be installed at the approved locations and according to the approved construction designs.

10. Within sixty (60) days from the date of this approval, the project sponsor shall submit a plan for the testing and monitoring to be conducted during well operation to confirm long-term water availability and boundary conditions present in the aquifer, and to ensure that the operation of the production wells does not adversely impact the local groundwater users and the aquifer, or affect the low flow of local streams. The groundwater and surface water monitoring shall be implemented for at least three (3) years and through a 1-in-5-year drought.

11. Within three (3) years from the date of this approval, the project sponsor shall, using monitoring data collected above, operational records, and future demand analysis, evaluate the sustainability of local water resources to ensure the project's ability to meet its present and reasonably foreseeable water needs from available groundwater. The project sponsor shall describe options for meeting future peak demands of the project through additional sources or storage and, if necessary, include sufficient data to support future groundwater withdrawals.

12. 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.

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

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

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

16. 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.

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

18. 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.

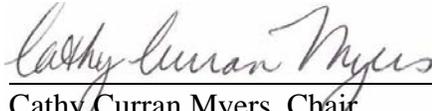
19. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

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

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

By the Commission:

Dated: March 13, 2008



 Cathy Curran Myers, Chair
 Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20080306

Approval Date: March 13, 2008

**BOTTLING GROUP, LLC,
d.b.a THE PEPSI BOTTLING GROUP – HARRISBURG**

Consumptive Water Use of up to 0.466 mgd (Peak Day),
for Beverage Manufacturing,
Lower Paxton Township, Dauphin County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10, of the Susquehanna River Basin Compact (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received an application for consumptive use of water on December 31, 2007.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water associated with the manufacturing of beverages for public consumption at a bottling and distribution facility.

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050305, Lower Paxton Township, Dauphin County, Pennsylvania.

Project Features. The project sponsor has requested approval for a maximum daily consumptive use of water of up to 0.466 million gallons per day (mgd). Based on daily water use data for the years 2005 through 2007 submitted by the project sponsor, Commission staff has determined the project's maximum 30-day average consumptive water use to be 0.090 mgd and maximum day use to be 0.112 mgd. Water is used at the facility for making bottled water products and evaporated from an evaporation condenser (chiller).

The Pepsi Bottling Group began distribution of beverages at the facility in Lower Paxton Township in February 1994. On April 5, 2006, The Pepsi Bottling Group added the manufacturing of bottled water to the distribution facility, where water is bottled into 16.9-ounce containers. The project sponsor intends to expand its beverage manufacturing capabilities within the next 15 years.

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

Water for the facility is purchased from the City of Harrisburg and is currently metered. The source of the water is the DeHart Reservoir, with the Susquehanna River serving as a backup supply source. Effluent is discharged to the City of Harrisburg's sanitary sewer system for treatment and is not metered.

Findings

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

All water incorporated into beverages and evaporated from the chiller is considered to be consumptively used. Commission staff recommends that consumptive use be calculated by using daily production records for the facility plus metering at the chiller. As an alternative, the project sponsor could propose to calculate daily water use as the difference between metered inflow to the facility and metered outflow, which would require metering of the effluent.

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

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

The project sponsor reports a current maximum daily consumptive use of 112,500 gallons per day (gpd) and projects a maximum daily consumptive use of 466,000 gpd for the year 2023. Considering its business plan to increase the manufacturing capacity, Commission staff recommends approval of the requested consumptive water use of up to 0.466 mgd (peak day).

The project's consumptive use of water is subject to mitigation requirements, as per Commission Regulation §806.22. To satisfy these requirements, the project sponsor proposes the use of public water supply storage provided by the City of Harrisburg as its method of mitigation for consumptive water uses.

The City of Harrisburg utilizes raw water storage in DeHart Reservoir as its primary source of water supply for the system. The City of Harrisburg's water allocation permit (No. WA 22-53B), issued by the Pennsylvania Department of Environmental Protection (PADEP), requires the City of Harrisburg to maintain a continuous conservation release downstream from Dehart Dam of 3.340 mgd. Commission staff has determined that, at the point of withdrawal, this conservation release exceeds the Commission's low flow criterion for Clarks

Creek. Therefore, Commission staff concurs that the use of the City of Harrisburg's water is an acceptable method of mitigation for the facility's consumptive water use, so long as DeHart Reservoir is being used exclusively by the City of Harrisburg as its water supply, and the conservation release is continuously maintained.

However, during periods of severe drought, or at other times when DeHart Reservoir is unable to provide the City of Harrisburg's entire supply, the City of Harrisburg uses its Susquehanna River intake as its alternate source of supply. According to the City of Harrisburg's water allocation permit, the Susquehanna River intake does not have a passby flow requirement. If the City of Harrisburg were to utilize the Susquehanna River intake during low flow conditions (as defined by the Commission) or during any period when the Commission is making a release from storage, or if it fails to maintain a conservation release from DeHart Reservoir, then the project sponsor's method of mitigation would not be acceptable, and a backup compliance method would be required. To satisfy this requirement, the project sponsor has agreed to pay the Commission for all water used consumptively during the calendar year in which any of the foregoing occurs.

The project sponsor has paid the appropriate application fee, in accordance with Commission Regulation §806.16, and in accordance with Commission Resolution No. 2006-08. The project sponsor has provided all proofs of notification, as required by Commission Regulation §806.15.

The project sponsor operated in violation of Commission regulations since May 2006, when its consumptive use exceeded the regulation threshold of 20,000 gpd. Commission staff notified the project sponsor of the need to comply with Commission regulations on November 29, 2007. The project sponsor subsequently submitted its application to the Commission, complied with application procedures, and cooperated with Commission staff during review of the project. The project sponsor has offered a \$13,446.79 settlement to the Commission for the noncompliance with Commission Regulation §806.4. Commission staff recommends acceptance of the project sponsor's proposed settlement.

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

Decision

1. Consumptive water use of up to 0.466 mgd (peak day) is approved pursuant to Article 3, Section 3.10, of the Compact.
2. The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision.
3. The project sponsor shall comply with all Commission regulations, including monitoring and reporting requirements, as per Commission Regulation §806.30.

4. Consumptive water use by the chiller shall be calculated based on metering. The project sponsor shall submit a metering plan to account for the total daily consumptive water use resulting from beverage manufacturing for approval by the Commission within thirty (30) days of approval of this docket. The project sponsor will be required to update the metering plan as expansion of the facility occurs.

5. The project sponsor shall keep daily records at the chiller and of the project's consumptive water use by beverage manufacturing, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity of water incorporated into the beverages manufactured at the facility plus the quantity evaporated by the chiller.

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

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

8. To satisfy the Commission's current mitigation requirements for consumptive water use set forth in Commission Regulation §806.22, and subject to the conditions listed below, the project sponsor's use of water from the City of Harrisburg's public water supply utilizing raw water storage in DeHart Reservoir shall be acceptable as a method of mitigation for the project's consumptive water use.

9. If the City of Harrisburg utilizes its Susquehanna River intake during low flow conditions (as defined by the Commission) or during any period when the Commission is making a release from storage, or if it fails to maintain a conservation release from DeHart Reservoir, the project sponsor's method of mitigation described above shall not be acceptable during that calendar year. In such case, the project sponsor shall make payments to the Commission in the amount of \$0.14 per 1,000 gallons of water for all water consumptively used by the project during that calendar year. The payment amount shall be calculated by applying this rate to the amount of water used consumptively by the project during the calendar year. The payment is due and payable within thirty (30) days after the close of the calendar year. The rate of payment, after appropriate notice to all consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

10. The project sponsor has offered a settlement by agreement, pursuant to Commission Regulation §808.18, in the amount of \$13,446.79 for its consumptive water use found to be in noncompliance with Commission Regulation §806.4, and is hereby accepted. Except where the full amount of same has been tendered to the Commission in advance hereof, this action shall be contingent upon and shall not be effective until payment of the settlement amount is made to the

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

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

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

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

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

15. This approval is effective until March 13, 2023. As specified in Commission Regulation §806.31(e), if the project sponsor submits a renewal application no later than September 13, 2022, the existing approval shall be deemed extended until such time as the Commission renders decision on the application.

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 13, 2008



 Cathy Curran Myers, Chair
 Pennsylvania Commissioner



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Docket No. 20040307-1

Approval Date: March 10, 2004

Modification Date: March 13, 2008

MARTIN LIMESTONE, INC. BURKHOLDER QUARRY

Consumptive Water Use of up to 0.150 mgd, and Groundwater Withdrawals (30-Day Averages) of 0.002 mgd from Well 2 and 0.002 mgd from Well 3, for Quarrying of Limestone and Processing of Aggregate, Earl Township, Lancaster County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10, of the Susquehanna River Basin Compact (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received the application for groundwater withdrawal on September 10, 2007, and amendments to the application on January 18, 2008.

Description

Purpose. The Commission originally approved Martin Limestone, Inc., Burkholder Quarry, on March 10, 2004, as Commission Docket No. 20040307 (Docket). As approved, the project sponsor was authorized to consumptively use up to 0.150 million gallons per day (mgd) of water for processes associated with the quarrying of limestone and processing of aggregate, subject to conditions enumerated in the Docket. The purpose of this modification is to request approval of an existing groundwater source, designated as Well 2, and to add a groundwater source, designated as Well 3, to withdraw 0.002 mgd of water from each well for use at the quarry. The project sponsor is not requesting any modification to the approved maximum daily consumptive water use for the project.

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

Project Features. The project sponsor has requested approval for groundwater withdrawals of 0.002 mgd (maximum 30-day averages) each, from existing Well 2 and new Well 3.

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

Well 2 began operation in 1973 and has a pumping capacity of 8 gallons per minute (gpm). Well 2 is metered and monitored daily, and has a reported average daily withdrawal of 0.002 mgd. Water is withdrawn from Well 2 for dust control at the secondary crushing plant.

Well 3 was drilled on October 18, 2006, to replace Well 1, which was described in the Docket but is no longer in use. Well 3 was constructed as an open-rock, six-inch-diameter well to a depth of 700 feet below ground surface, with steel casing extending from the ground surface to 20 feet bgs. The well yield is reported at 4 gpm. A meter has been installed on Well 3. Water from Well 3 will be used for dust control at the primary stone crushing plant.

Aquifer Testing. The project sponsor has requested a waiver of the aquifer testing requirement and Commission staff recommends approval of the request. Wells 2 and 3 will be operated at less than 0.100 mgd and are located more than 1,200 feet from the nearest well owned by others. Well 2 has been used since 1973, and Well 3 will replace another low-yielding well.

Findings

The project's consumptive water use and groundwater withdrawals are subject to Commission approval and reporting requirements as per Commission Regulations §806.4, §806.22, and §806.30.

Commission staff recommends approval of the requested groundwater withdrawals of 0.002 mgd from Well 2 and 0.002 mgd from Well 3.

Commission staff recommends waiving the requirement for the aquifer testing contained in Commission Regulation §806.12 for Wells 2 and 3. Commission staff finds that there is likely minimal impact related to pumping the wells at the requested daily rate of 0.002 mgd, with pump capacities of 8 gpm at Well 2 and 4 gpm at Well 3. In addition, the nearest well not owned by Martin Limestone, Inc. is located more than 1,200 feet away from the wells.

The project sponsor reports that it no longer uses Well 1, and Commission staff recommends that the docket be modified to eliminate this source of production water.

Commission staff recommends that this approval remain effective until March 10, 2029, the term of the prior Docket approval.

The project is subject to Commission monitoring and reporting requirements, as per Commission Regulation §806.30. The project sponsor should install appropriate metering on Well 3 and monitor withdrawals from each source daily. The project sponsor should report the withdrawal data from each source and continue to report the amount of consumptive use to the Commission quarterly.

The project sponsor has paid the appropriate application fee, in accordance with Commission Regulation §806.13, and in accordance with Commission Resolution No. 2006-08. The project sponsor requested a waiver of the notification requirements for adjacent property owners because the wells are low yielding, and quarry wells have been historically used without any reported interference to contiguous properties. Commission staff recommends that this waiver be granted. The project sponsor has provided all other proofs of notification as required by Commission Regulation §806.15.

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

Decision

1. Commission Docket No. 20040307, as approved March 10, 2004, is hereby modified to approve the project's groundwater withdrawals (30-day averages) of 0.002 mgd from Well 2 and 0.002 mgd from Well 3, pursuant to Article 3, Section 3.10, of the Compact.

2. The total consumptive water use shall continue to be limited to a maximum daily use of 0.150 mgd.

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

4. The project sponsor shall comply with all Commission regulations, including monitoring and reporting requirements contained in Commission Regulation §806.30.

5. Conditions "c," "d," "e," and "h" are hereby rescinded.

6. The project sponsor shall keep daily records of the withdrawals from the East Sediment Basin, the West Sediment Basin, Well 2, Well 3, and the total system withdrawal. The project sponsor shall maintain meters on Wells 2 and 3, accurate to within five (5) percent. The required reporting data shall be submitted to the Commission quarterly, and as otherwise required. Monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter. The project sponsor may propose alternative monitoring to the Commission for staff review and approval.

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

8. To satisfy the Commission's current mitigation requirements for consumptive water use set forth in Commission Regulation §806.22, the project sponsor shall continue to make quarterly payments to the Commission.

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

10. The constant-rate aquifer test requirement specified in Commission Regulation §806.12 is hereby waived for Wells 2 and 3.

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

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

13. All other conditions in Commission Docket No. 20040307 not inconsistent herewith shall remain effective.

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

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

16. 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.

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

18. 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.

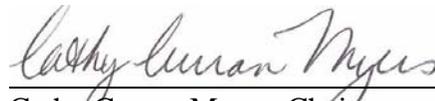
19. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

20. This approval is effective until March 10, 2029. The term of this docket modification is in accordance with the term of the prior Docket approval. As specified in Commission Regulation §806.31(e), if the project sponsor submits a renewal application no later than September 10, 2028, the existing approval shall be deemed extended until such time as the Commission renders decision on the application.

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

By the Commission:

Dated: March 13, 2008



Cathy Curran Myers, Chair
Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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

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

Docket No. 20080307

Approval Date: March 13, 2008

SPRINGWOOD, LLC (SPRINGWOOD GOLF CLUB)

Surface Water Withdrawal of up to 0.400 mgd, When Available,
from an Unnamed Tributary to Mill Creek,
and Consumptive Water Use of up to 0.400 mgd, for Golf Course Irrigation,
York Township, York County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10, of the Susquehanna River Basin Compact (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received the surface water withdrawal application on May 14, 2007, and additional information on December 17, 2007.

Description

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

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

Project Features. The project sponsor is requesting approval for consumptive use up to 0.400 million gallons per day (mgd) and maximum daily withdrawal of 0.400 mgd of water from an unnamed tributary to Mill Creek. The project sponsor reports its maximum average 30-day consumptive water use to be 0.200 mgd and peak day consumptive water use to be 0.350 mgd, but the irrigation system is designed to use up to 0.400 mgd, when available.

The golf course was constructed in 1997 and has been in operation since that time. The Commission previously approved Springwood Golf Club in 2002 as Docket No. 20020410. Keystone Custom Homes purchased Springwood, LLC in January 2007, and has submitted these applications for surface water withdrawal and consumptive water use.

The existing irrigation system uses water stored in two ponds. A third pond at the golf course can be used as backup storage for irrigation. A fourth pond is located on the golf course, but is not used for irrigation. The project sponsor reports that the three storage ponds have a total surface area of approximately 2 acres and a combined volume of approximately 2.8 million gallons when at full capacity. This storage capacity can provide for approximately 14 days of irrigation, based on an average use of 0.200 mgd.

Water for all of the ponds is primarily provided by withdrawal from an unnamed tributary to Mill Creek between the 10th and 17th tees of the golf course. The existing pumping capacity is 300 gallons per minute (gpm). A passby weir structure is currently located on the tributary to Mill Creek, and the project sponsor intends to reconstruct its intake at this location.

Two wells were formerly used at the golf course, but the project sponsor does not plan to use either well. Pumps were removed from these wells in May 2006.

Findings

The project's consumptive water use and surface water withdrawal are subject to Commission approval and reporting requirements as per Commission Regulations §806.4, §806.22, and §806.30.

All water evaporated from the storage ponds, as well as water withdrawn from the ponds and used for golf course irrigation, is considered to be used consumptively. Water evaporated from the ponds will be calculated by the project sponsor employing a methodology acceptable to the Commission. The irrigation system is equipped with a meter that measures the quantity of water withdrawn from the irrigation ponds, and an irrigation system computer monitors and controls the amount of water used for irrigation.

The project sponsor is required to electronically report the quantity of water consumptively used at the golf course to the Commission quarterly, as specified in Commission Regulation §806.30(b)(1).

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

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

The project sponsor has requested a consumptive water use approval of up to 0.400 mgd. Based on water use records and irrigation system design supplied by the project sponsor,

Commission staff is recommending approval of the requested amount. Should the project's future consumptive water use be expected to exceed 0.400 mgd, the project sponsor must apply for a modification to this docket.

The project's primary source of water for the storage ponds is the withdrawal from the tributary to Mill Creek, a warm-water fishery. The project sponsor has requested withdrawal of up to 0.400 mgd, at a maximum instantaneous pumping rate of 300 gpm. Commission staff is recommending approval of the requested quantity and rate. A meter should be installed on the surface water intake, in accordance with Commission Regulation §806.30, and the project sponsor should keep daily records of its withdrawal. These data should be electronically reported to the Commission quarterly, as specified in Commission Regulation §806.30(b)(1).

Commission staff has calculated the 7-day, 10-year low flow (Q7-10 flow) in this tributary at the existing weir to be 0.0257 cubic feet per second (cfs) or 12 gpm, and the average daily flow to be 1.593 cfs or 715 gpm. The proposed rate of withdrawal (300 gpm) is greater than 10 percent of the Q7-10 flow for the stream, thereby requiring a passby flow for the protection of aquatic resources and downstream users. Commission staff recommends that the project sponsor allow for a passby flow of not less than 20 percent average daily flow, which equals a passby flow of 0.319 cfs or 143 gpm. The project sponsor must cease all withdrawals when natural streamflow drops below 0.319 cfs.

Commission staff has determined that streamflow could drop below 0.319 cfs approximately 100 days in an average year. Therefore, staff recommends that the project sponsor submit a plan for acquiring and using water during drought conditions.

Commission staff recommends that the project sponsor modify its intake structure at the existing weir incorporating a passive passby flow design. The project sponsor should submit plans for any modifications to the operation of the passby system, and a proposed construction schedule within 60 days (and prior to commencing irrigation in 2008) for review and approval by Commission staff prior to any construction. During operation of the surface water withdrawal, the project sponsor must maintain the passby system, keeping it free of debris and fully functional. The Commission reserves the right to inspect the passby flow device and intake structure at any time.

Commission staff recommends that Commission Docket No. 20020410 be rescinded.

The project is subject to water conservation requirements, as per Commission Regulation §806.25(c).

The project sponsor has paid the appropriate application fee pursuant to Commission Regulation §806.16, and in accordance with Commission Resolution No. 2006-08. The project sponsor has provided all proofs of notification as required by Commission Regulation §806.15.

The project is physically feasible and does not adversely influence the present or future use and development of the water resources of the basin.

Decision

1. The project's surface water withdrawal from the unnamed tributary to Mill Creek of up to 0.400 mgd, when available, and the consumptive use of up to 0.400 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 monitoring and reporting requirements as per Commission Regulation §806.30.

4. Commission Docket No. 20020410, issued to Springwood Golf Club, is hereby rescinded.

5. The project sponsor shall keep daily records of the consumptive water use and shall provide the results to the Commission quarterly, and as otherwise required. Quarterly monitoring reports shall be submitted on-line within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity evaporated from the three storage ponds plus water used for irrigation. Commission staff shall review and approve the method of calculation of evaporative loss from the storage ponds.

6. Within sixty (60) days from the date of this approval, the project sponsor shall install and maintain metering on the intake on the unnamed tributary to Mill Creek, accurate to within five (5) percent. The project sponsor shall notify the Commission, in writing, when the meter is installed.

7. The project sponsor shall keep daily records of the surface water withdrawal from the unnamed tributary to Mill Creek and shall provide the results to the Commission quarterly, and as otherwise required. Quarterly monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter. The project sponsor may propose alternative monitoring to the Commission for staff review and approval.

8. The project sponsor shall allow a flow to pass in the unnamed tributary to Mill Creek directly below the intake at the existing weir of not less than 0.319 cfs (143 gpm). When the streamflow below the weir is less than this amount, the withdrawal shall be reduced to maintain 0.319 cfs (143 gpm) in the stream channel below the weir. When the natural flow is equal to or less than 0.319 cfs (143 gpm), no water may be withdrawn and the entire natural flow shall be allowed to pass the intake at the existing weir to maintain such natural flow in the channel below the weir as may prevail above.

9. The project sponsor shall modify or replace the stream intake structure to incorporate a passive passby flow device. The project sponsor shall submit its design and a proposed construction schedule for a modified or replacement intake structure 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, pump and meter installation

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.

10. Within sixty (60) days of the date of this approval, the project sponsor shall submit an operations plan to the Commission to describe plans for acquiring and using water when streamflow drops below 0.319 cfs (143 gpm), and withdrawal from the unnamed tributary to Mill Creek is not permitted.

11. To satisfy the Commission's current mitigation requirements for consumptive water use set forth in Commission Regulation §806.22, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of the water consumptively used by the project. The daily quantity of water consumptively used shall be the quantity of evaporative loss from three storage ponds plus the quantity pumped to the irrigation system. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

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

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

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

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

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

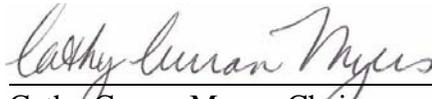
18. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

19. This approval is effective until March 13, 2023. As specified in Commission Regulation §806.31(e), if the project sponsor submits a renewal application no later than September 13, 2022, the existing approval shall be deemed extended until such time as the Commission renders decision on the application.

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 13, 2008



Cathy Curran Myers, Chair
Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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Docket No. 20080308

Approval Date: March 13, 2008

PORT DEPOSIT WATER & SEWER AUTHORITY

Surface Water Withdrawal (Peak Day) of up to 1.500 mgd
from the Susquehanna River, for Public Water Supply,
Town of Port Deposit, Cecil County, Maryland

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10, of the Susquehanna River Basin Compact (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and Susquehanna River Basin Commission (Commission) Regulation §806.4, relating to projects requiring review and approval. The Commission received the surface water withdrawal application on September 28, 2007, an amended application on October 10, 2007, and additional information on January 21, 2008.

Description

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

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050306, Town of Port Deposit, Cecil County, Maryland.

Project Features. The project sponsor has requested approval for a surface water withdrawal of up to 1.500 million gallons per day (mgd) from the Susquehanna River to accommodate planned upgrades to the Town of Port Deposit's (Town's) existing water treatment plant (WTP) and to expand the plant to provide potable water for the future residential/commercial development of the Bainbridge site.

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

The Susquehanna River is the community's sole source of water supply. Water is currently withdrawn from the river and metered at the Town's WTP, which is located within the 100-year floodplain of the Susquehanna River. The Town reports that it currently withdraws approximately 0.110 mgd on a daily average and 0.210 mgd on a daily maximum from the

Susquehanna River. The water is treated at the Town's WTP, which has a rated design capacity of 0.875 mgd. The distribution system is fully metered.

The Town is in the process of upgrading and expanding its existing WTP, increasing its treatment capacity, and expanding its service area to include development at the Bainbridge site. According to projections provided by the project sponsor, future average daily demand will increase to approximately 1.000 mgd due to build-out at two major proposed developments (Bainbridge and Risk) that will be included in its water distribution system.

Some 2,250 new residences, as well as commercial development, are proposed. Using Cecil County's water specifications of 220 gallons per day (gpd) per equivalent living unit (ELU) to compute the residential demand component, and water use ranging from 1,000 gpd per acre to 1,500 gpd per acre to estimate the commercial/industrial component, future maximum 30-day average demand is estimated at 1.100 mgd. Based on historical data for the existing WTP, the maximum 30-day average and maximum day quantities are estimated to be 1.100 mgd and 1.500 mgd, respectively.

An increase in withdrawal is necessary to accommodate the planned upgrades to the existing WTP and to expand its treatment capacity to 1.500 mgd. The Town also plans to utilize storage at the booster station storage tank, an existing ground level concrete storage tank at the booster pump station with a 0.500 million gallon (mg) capacity and a proposed, elevated storage water tower at the Bainbridge development site with a 1.000 mg capacity.

All effluent from the Town's system is treated at the Town's wastewater treatment plant, which discharges to the Susquehanna River immediately downstream of the Town and the WTP. The current plant has a Maryland Department of the Environment (MDE) rated design capacity of 0.150 mgd. A new 0.700 mgd plant will be constructed with the capability to be expanded to 1.000 mgd.

Coordination. The Town has operated its withdrawal under a Water Allocation/Appropriation Permit (No. CE197615065.02), issued in 1976 by MDE. The permit currently allocates 400,000 gpd as an annual average, and 500,000 gpd daily average in the maximum month of use. A renewal application is currently pending. The National Pollutant Discharge Elimination System (NPDES) discharge permit and construction permit for the new wastewater treatment plant are under review. MDE staff has reviewed this docket for consistency with its requirements.

Findings

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

Although the withdrawal of water from the Susquehanna River was in existence prior to November 11, 1995, the Town proposes to increase its withdrawal by more than 100,000 gpd as a consecutive 30-day average and, thus, is subject to Commission regulations.

The project sponsor has requested approval for a surface water withdrawal of up to 1.500 mgd (peak day). The projections for water use during the term of approval, based on Cecil County's water specifications, represent nearly a tenfold increase in existing water demand related to build-out at two major proposed developments (Bainbridge and Risk) that will be included in the Town's water distribution system. Based on review of development plans, anticipated residential and commercial/industrial demands, service area population projections, and water use specifications provided by the project sponsor, the proposed peak day withdrawal appears to be reasonable for the time frame of this approval. Commission staff recommends approval of the requested quantity.

Commission staff recommends that the project sponsor maintain metering, accurate to within 5 percent, at the intake to the WTP to measure the quantity of water withdrawn from the Susquehanna River, record the daily quantity of water withdrawn, and submit the required monitoring data to the Commission quarterly, as specified in Commission Regulation §806.30(b)(1).

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

A portion of the Town's service area extends beyond the Susquehanna River basin boundary. The service area is approximately 2.40 square miles, with approximately 2.14 square miles contained within the basin and approximately 0.27 square miles extending outside the basin near the Bainbridge site. The project sponsor has affirmed that there are currently no water users outside the Susquehanna River Basin. The General Development Plan for the Bainbridge Development Project indicates areas designated as a proposed Technology Center and other Civic and Community Use facilities outside the basin. Details are unavailable at the present time for the location, type of buildings to be constructed, and water demands for the structures, but the water use is not likely to exceed 20,000 gpd as a consecutive 30-day average, thus no diversion application has been filed with the Commission. If plans for Bainbridge are formulated that indicate that 20,000 gpd or more will be diverted, the project sponsor has agreed to submit, in a timely fashion, the appropriate applications to the Commission for modification of its approval to include the out-of-basin diversion prior to any construction.

Commission staff recommends the project sponsor not proceed with any interconnections, extensions of service lines, expansion of service areas, execution of bulk water sale agreements, or any similar project that may result in a diversion of the waters of the Susquehanna River Basin to areas outside the Susquehanna River Basin without prior approval of the Commission.

The proposed withdrawal from the Susquehanna River is less than 10 percent of the low flow rate that occurs for 7 consecutive days during a 10-year period (Q7-10) and, therefore, Commission staff determined that a protective passby flow requirement is not needed for the withdrawal from the Susquehanna River.

The withdrawal is subject to the Commission's water conservation requirements, as per Commission Regulation §806.25(a). The system currently is fully metered and water loss is reported to be less than 20 percent, which satisfies the regulation.

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

This project, though it will not significantly affect the water resources of the basin as a whole, should be included in the Commission's Comprehensive Plan pursuant to Article 12, Section 12.2(2), of the Compact, P.L. 91-575.

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

Decision

1. The project's surface water withdrawal of up to 1.500 mgd from the Susquehanna River 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 reporting requirements, as per Commission Regulation §806.30.

4. The project sponsor shall maintain metering, accurate to within five (5) percent, on the withdrawal from the Susquehanna River, in accordance with Commission Regulation §806.30.

5. The project sponsor shall keep daily records of the project's surface water withdrawal and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports shall be submitted on-line and are due within thirty (30) days after the close of the preceding quarter.

6. The maximum instantaneous rate of withdrawal at the river intake shall not exceed 2,000 gallons per minute (gpm).

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

8. Prior to any expansion of service areas beyond the boundaries depicted in the application, the Town shall apply for a modification to this docket.

9. If plans for Bainbridge are formulated that indicate that 20,000 gpd or more will be diverted outside of the basin, the project sponsor shall submit the appropriate applications to the Commission for its review. The project sponsor shall not initiate construction related to such out-of-basin diversion unless the same has been approved by the Commission as a modification to this approval prior thereto.

10. The project sponsor shall not proceed with any interconnections, extensions of service lines, expansion of service areas, execution of bulk water sale agreements, or any project that may result in a diversion of the waters of the Susquehanna River Basin without prior approval of the Commission.

11. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §806.25(a). The project sponsor shall report its unaccounted for water losses to the Commission annually.

12. This approval shall not become effective until the project sponsor certifies to the Commission that it has received a permit from MDE authorizing the construction of the water supply facilities related to this application.

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

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 project is subject to enforcement actions pursuant to Commission Regulation §808.

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

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

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

18. This approval is effective until March 13, 2023. As specified in Commission Regulation §806.31(e), the project sponsor shall submit a renewal application by September 13, 2022, and obtain Commission approval prior to continuing operation beyond March 13, 2023.

19. 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 13, 2008



Cathy Curran Myers, Chair
Pennsylvania Commissioner

RESOLUTION NO. 2008-01

A RESOLUTION of the Susquehanna River Basin Commission adopting a *Consumptive Use Mitigation Plan* and instructing staff to implement same.

WHEREAS, an important mission of the Susquehanna River Basin Commission (the “Commission”) is the management of the water resources of the Susquehanna River Basin (the “basin”) in the public interest; and

WHEREAS, pursuant to that mission, and acting under the authority of the Susquehanna River Basin Compact, Pub. L. 91-575, the Commission has promulgated certain regulations pertaining to the consumptive use of water in the basin (18 CFR §§806.4 & 806.22); and

WHEREAS, the purpose of the said regulations and associated management efforts is to prevent adverse impacts caused by consumptive use of water during periods of low flow and preserve natural flows to the greatest extent possible; and

WHEREAS, the projected need for consumptive use mitigation by the year 2025 is 390.3 million gallons per day (mgd), an increase of 273.6 mgd over present day need; and

WHEREAS, the average 7-day, 10-year (Q7-10) low flow criterion used by the Commission in the past to administer its consumptive use regulations does not adequately protect riparian resources and is not adjustable to seasonal changes in flow requirements; and

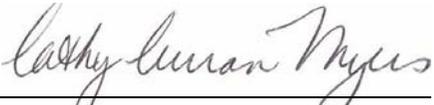
WHEREAS, there is a need to establish low flow that will better protect aquatic resources and downstream water users; and

WHEREAS, the Commission staff, after several years of intense effort, has developed a *Consumptive Use Mitigation Plan* that will employ a multi-faceted strategy to achieve effective mitigation of ever-increasing amounts of consumptive use in the basin.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Commission hereby adopts a document entitled, *Consumptive Use Mitigation Plan*, dated March 13, 2008.
2. The staff is further instructed to implement the said plan and to arrange for its eventual inclusion in the Commission’s Comprehensive Plan for Management and Development of the Water Resources of the Susquehanna River Basin, which is currently undergoing revision.
3. This Resolution shall be effective immediately.

Date: March 13, 2008



 Cathleen C. Myers, Chair

RESOLUTION NO. 2008-02

A RESOLUTION of the Susquehanna River Basin Commission adopting a Water Resources Program for 2008.

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 a statement of the projects and programs proposed to be undertaken by the Commission during such six-year period; and

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

NOW THEREFORE BE IT RESOLVED THAT:

1. The accompanying document titled, “2008 Water Resources Program, Susquehanna River Basin Commission” is hereby adopted by the Commission in accordance with Section 14.3 of the Compact.

2. The 2008 Water Resources Program shall be updated as the need appears, and therefore the Executive Director is hereby authorized to add programs and projects as may be submitted by the member jurisdictions through its Commission representatives during the ensuing one year period.

3. The staff is instructed to widely distribute its 2008 Water Resources Program to legislators, policy makers and the public as a clear statement of Susquehanna River Basin needs and priorities, and as a mechanism for coordinating the efforts of water managers at all levels.

4. This Resolution shall be effective immediately.

Date: March 13, 2008


Cathleen C. Myers, Chair