

Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed



July 22, 2003

TO ALL CONCERNED:

At the June 12, 2003 meeting, the draft minutes of the April 10, 2003 Commission meeting were approved as written. Please attach this notice to your copy of the April 10, 2003 minutes.



- DRAFT -

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

**MINUTES OF THE
SUSQUEHANNA RIVER BASIN COMMISSION**

June 12, 2003
#2003-05&06

The meeting was held at the Radisson Hotel, 125 Denison Parkway East, Corning, N.Y. Chairman John Hicks called the meeting to order at 8:37 a.m.

ROLL CALL

Commissioners Present

Mr. John T. Hicks, Director, Region 8, N.Y. Dept. of Environmental Conservation

Mr. William A. Gast, Division of Water Use Planning, Pa. Dept. of Environmental Protection

Dr. Robert M. Summers, Dir., Water Management Administration, Md. Dept. of the Environment

Ms. Stacey E. Brown, Team Leader, U.S. Army Corps of Engineers, Baltimore District

**Alternate Commissioners
and Advisors Present**

Mr. Scott J. Foti, Regional Flood Control Eng., N.Y. DEC, Region 8

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

Staff Present

Mr. Paul O. Swartz, Executive Director

Mr. Thomas W. Beauduy, Deputy Director

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

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

Mr. Duane A. Friends, Chief Admin. Officer

Mr. Richard A. Cairo, Counsel/Secretary

Ms. Deborah J. Dickey, Executive Administrator

Ms. Susan S. Obleski, Director of
Communications

Mr. Michael G. Brownell, Water Resources
Scientist

INTRODUCTION/WELCOME

Chairman Hicks introduced the members of the Commission and the Executive Director. He also introduced a former member of the Commission from Pennsylvania, Dr. Hugh Archer, who was present in the audience.

MINUTES OF THE APRIL 10, 2003 COMMISSION MEETING

On a motion by Commissioner Summers, seconded by Commissioner Gast, the minutes of the regular business meeting of April 10, 2003, were unanimously adopted as written.

HYDROLOGIC CONDITIONS REPORT

SRBC Water Management Division Chief Glen DeWillie reported on continuing wet conditions in the Susquehanna River Basin. Overall for the month of May, the basin experienced a 1.5-inch precipitation surplus. As would be expected, streamflows and ground-water levels have responded, producing normal or above normal conditions in virtually all of the six subbasins. An even better indicator of the recovery occurring since last year's drought is the level of basin reservoirs. Nearly every reservoir is now spilling or near to spilling, a clear indication that the drought is now over. In terms of water supply, the basin is in very good condition heading into the summer months.

ACTION ITEMS

a. Water Resources Program Additions

The General Counsel noted that the Commission had adopted its Annual Water Resources Program (Program) in February 2003. The Water Resources Program is adopted with the understanding that it can be amended at any time. With that in mind, the General Counsel presented the following four additions to the federal portion of the Legislative Initiatives section of the Program for the Commission's consideration:

1. Appropriation of at least \$1.35 billion for the Clean Water State Revolving Loan Fund (CWSRF) for FY-2004.
2. Under Section 106 funding, in FY-2004, maintain the FY-2003 funding level (\$192.5 million) and, if possible, increase funding. Section 106 is the states' primary tool for protecting watersheds and public health.
3. Under Section 319 funding, in FY-2004, maintain the FY-2003 funding level (\$238 million) and, if possible, increase funding to support TMDL development, watershed restoration, and better targeting of Farm Bill funding to impaired waters. Section 319 funding should also be available to address stormwater problems.

4. Reauthorization of the Abandoned Mine Reclamation Fund under the Surface Mining Control and Reclamation Act of 1977. All monies collected should be allocated to the states for their intended purposes.

Commissioner Summers noted particularly the importance of appropriating funds to the CWSRF. He moved adoption of the amendments proposed by the General Counsel. This motion was seconded by Commissioner Gast and unanimously adopted by the Commission.

b. Maurice K. Goddard Award

After a brief introduction by Chairman Hicks reviewing the life and accomplishments of Dr. Maurice K. Goddard in the field of conservation, the Commission presented its Maurice K. Goddard award to Ms. Jennifer Green Fais, Senior Environmental Planner for the Southern Tier Central Regional Planning and Development Board. Ms. Fais has been active in water resources management and related SRBC issues for many years both as a planner and as a private citizen. This award is given to outstanding environmental professionals.

c. Adoption of FY-2005 Budget

Chief Administrative Officer Duane Friends presented the proposed FY-2005 budget covering the period July 1, 2004 to June 30, 2005. The total budget figure for FY-2005 is \$3,825,000. The amounts requested for support of the budget from each member jurisdiction are as follows: New York - \$285,000; Pennsylvania - \$750,000; Maryland - \$380,000; United States - \$600,000. Grants, project review fees and other miscellaneous revenues make up the balance of funding. The budget covers a staff of 35 persons and 4 interns.

Projected expenditures in some of the major program categories include \$430,000 for Public Education and Outreach, \$585,000 for Watershed Assessment and Monitoring; \$725,000 for Project Review and \$185,000 for GIS upgrades. With approval by the Commission, this budget proposal will be submitted to the member jurisdictions for their consideration.

Commissioner Gast complimented the Chief Administrative Officer for his efforts to hold the budget in line during these tough fiscal times. The Executive Director also expressed his appreciation to the commissioners for their efforts to obtain the requested amounts from their respective jurisdictions to support the Commission's budget. These efforts are especially praiseworthy given the difficulty in obtaining funding for their own agencies.

By resolution (Exhibit A) Commissioner Gast moved the adoption of the budget. It was seconded by Commissioner Summers and unanimously adopted by the Commission.

d. Authorization and Ratification of Application to the Pa. Economic Development Financing Authority (PEDFA)

Mr. Friends reported that the staff had submitted an application to the Pa. Economic Development Financing Authority (PEDFA) for the refinancing of the Commission's payment obligation to the federal government on the Curwensville Water Storage Project. This

application goes to the PEDFA Board for approval on July 9, 2003 and, if approved, the funds to complete the refinance should be available on August 6, 2003, very near to the time when payment to the government is due. Overall, the refinance will net the Commission approximately \$40,000 per year in savings.

Mr. Friends asked that the Commission authorize and ratify the submission of the refinancing application to PEDFA. On a motion by Commissioner Gast, seconded by Commissioner Summers, the Commission authorized and ratified the submission of the application.

e. Grant Approval

SRBC Watershed Assessment and Protection Chief Dave Heicher requested that the Commission ratify the signing of the FY-2003 Section 106 Water Pollution Control Grant. Under this grant, the Commission conducts a wide range of water quality related activities, including interstate monitoring, 305(b) assessments, large river monitoring, GIS/data management, migratory fish restoration and public participation. The grant application scored 10 out of 10 on the SRBC grant evaluation scale. Under the terms of the grant, U.S. EPA will provide \$486,800 and the SRBC will contribute \$47,847.

On a motion by Commissioner Summers, seconded by Commissioner Gast, the Commission unanimously ratified the grant signing.

f. Election of Officers

Each year, the Commission elects new officers to serve for the next following fiscal year. These offices generally rotate among the members of the Commission. On a motion by Commissioner Summers, seconded by Commissioner Gast, the member from the Commonwealth of Pennsylvania was unanimously elected Chair of the Commission and the member from the State of Maryland was unanimously elected Vice-Chairman of the Commission.

g. Honors – John T. Hicks and Col. Charles J. Fiala, Jr.

Executive Director Paul Swartz announced that New York member John T. Hicks and federal alternate member Col. Charles J. Fiala, Jr. would be leaving the service of the Commission. Ms. Stacey Brown of the Corps' Baltimore District accepted a portrait of the Susquehanna River/Rockville Bridge on behalf of Col. Fiala who could not be present at the meeting.

The Executive Director went on to explain that the New York/Pa. Regional Directors had also honored John Hicks with a dinner on Tuesday evening June 10, 2003 at which time a New York State legislative proclamation was presented to him. Congressman Amo Houghton of New York had also sent a letter honoring Chairman Hicks, which the Director then presented.

Commissioner Summers commented on how fond the Chairman is of the State of Maryland and presented him with a tie and lapel pin patterned after the state flag, along with a State of Maryland bumper sticker.

Former Pennsylvania Commissioner Hugh Archer praised the Chairman's high ideals and his dedication to the cause of water resources management. He presented him with a beautiful stained glass art piece and wished him the very best for the future.

The Executive Director pointed out that Chairman Hicks has a unique perspective, having spent many years of service in both the private and public sectors. He then presented a Susquehanna River portrait showing the Rockville Bridge crossing near Harrisburg, Pa.

The Chairman thanked everyone and singled out two members of the SRBC staff as having been especially helpful to him – Deb Dickey, who kept his meeting materials in good order, and Susan Obleski, who always provided just the right words to say at so many Commission events. He also cited New York Alternate Commissioner Scott Foti as someone who had provided a great deal of assistance and wise counsel to him.

He concluded by noting that Executive Director Swartz had been a great friend and advisor, and that the SRBC staff contains some of the most professional people with whom he had ever worked.

PRESENTATIONS

Upper Susquehanna Coalition – EPA Watershed Initiative Grant

Mr. Mark Watts, Chairman and Mr. Jim Curatolo, Coordinator, Upper Susquehanna Coalition (USC), reported on the Watershed Initiative Grant that the organization had received from the U.S. Environmental Protection Agency (EPA). The EPA had been looking for a successful watershed-based organization that could take the reins of a major program effort.

The major components of the program cover a wide-range of water resources management topics including:

- A stream restoration element forming a restoration team to assess streams, set priorities and implement restoration actions.
- A wetland restoration project designed to improve wildlife habitat, attenuate runoff and encourage infiltration.
- A road ditch element to evaluate and mitigate erosion and sedimentation from road ditches.
- A vernal pools protection program.

- An educational program for highway superintendents to help them do simple surveying and take steps to minimize erosion problems associated with road construction and maintenance.
- Workshops for municipal officials on such topics as erosion and sedimentation.
- Cooperative efforts with farmers to encourage riparian buffer zones.
- Use of university student intern programs.

Both Chairman Hicks and Commissioner Summers thanked the USC for its efforts. These watershed initiative activities are contributing to the improvement of not just the Upper Susquehanna Subbasin, but also the entire basin and the Chesapeake Bay.

Shad Restoration

New York Alternate Member Scott Foti opened this presentation by pointing out that, after so many years of being blocked from the Susquehanna River, the installation of fish passage facilities at five dams on the lower Susquehanna River will soon clear the way for the return of American shad to the Upper Susquehanna and Chemung Subbasins. In anticipation of this event, shad hatchlings are already being released into the Susquehanna and Chemung Rivers, where they will become imprinted, migrate downstream to the ocean and return in about 5 years as mature adults ready to spawn. He then introduced Mr. David Lemon, Fisheries Biologist with the New York Dept. of Environmental Conservation, and Mr. David Bryson of the U.S. Fish and Wildlife Service.

Mr. Lemon spoke generally about the long-term effort to re-open the Susquehanna River to shad and other migratory fishes, including the construction of fish passageways in the lower river, shad egg collection, the rearing, marking and stocking programs for juvenile shad, and the conduct of special studies on topics, such as out-migration and turbine mortality. Much of this work had originated with the Susquehanna River Anadromous Fish Restoration Committee (SRAFRC), comprised of representatives of all four SRBC member jurisdictions and SRBC. That committee has established long-term goals and milestones for the restoration program.

Mr. David Bryson of the U.S. Fish and Wildlife Service spoke about the design of a fish passage facility at the Chase-Hibbard Dam on the Chemung River in downtown Elmira. This facility would open up most of the Chemung Subbasin to shad migration and spawning. However, it is expected to take 15 to 20 years for sizeable numbers of American shad to reach the New York portion of the basin.

ACTION ITEMS (Cont'd)

h. Public Hearing–Project Review Items

1. City of Aberdeen Docket of December 12, 2002

The staff requested that the Commission reconsider the inclusion of emergency use provisions in the City of Aberdeen docket of December 12, 2002. These provisions were added as special conditions to that docket at the request of the State of Maryland and in response to the discovery of perchlorate contamination in the City's wells.

The Deer Creek Watershed Association (Association) has mounted a legal challenge to this docket on several procedural and substantive grounds, including one count that claims that inclusion of emergency provisions is inappropriate due to the existence of Commission Regulation §803.27 covering emergencies. The Watershed Association also claims that it did not have sufficient notice and opportunity to comment on the emergency use provisions due to their addition just prior to approval of the docket.

To insure that all interested parties had an opportunity to review and comment on the emergency use provisions, and to hear additional testimony on the propriety of including those provisions in the docket rather than relying on Commission Regulation 803.27, the Commission held a special meeting/public hearing on May 22, 2003 at the HEAT Center in Aberdeen, Maryland. Given the testimony received at the hearing and upon further consideration of the appropriateness of including emergency use provisions in the docket, the staff recommended that the emergency use provisions be deleted from the City of Aberdeen Docket of December 12, 2003.

Commissioner Summers commented that, as demand for water increases this summer, there is a high likelihood that there is going to be a need for emergency water use by the City of Aberdeen due to the public health threat posed by the contaminated City wells. The State had therefore asked that the emergency use provisions be included in the docket approval; however, the state's concerns would also be satisfied if the emergency needs of the City can be reliably met through Section §803.27 of the Commission's regulations.

Mr. Mat Pajerowski, MDE Water Rights Division Chief, noted that the City's chief concern remains its ability to use Deer Creek in an emergency situation. The City feels that emergency use provisions in the docket gives greater assurance that it will be able to obtain the water it needs in an emergency.

Commissioner Gast noted that Pennsylvania would defer to Maryland's preference on this issue; however, it appeared that deleting the emergency provisions from the docket and relying on Regulation §803.27 appeared to be the better option for two reasons: 1) it provides greater flexibility to the Commission and the City to tailor the terms of the approval to meet each unique emergency situation; and 2) courts are more likely to support a decision of the Commission rendered in an actual emergency situation.

Chairman Hicks noted that New York's position is similar to Pennsylvania's. New York would also support Maryland's preference but, based on the evidence presented at the public hearing in Aberdeen on May 22, deletion of the emergency use provisions seemed to be the best option. Removing the emergency use provisions does not mean that the Commission feels that they are not warranted; it only means that the Commission believes that the procedures found in Regulation §803.27 are more appropriate.

Commissioner Summers moved the revised docket deleting the emergency use provisions (Exhibit B1). This motion was seconded by Commissioner Gast and unanimously adopted by the Commission.

2. Passby Flow Standards

Mr. DeWillie presented a resolution (Exhibit B2) endorsing passby flow standards developed in consultation with the SRBC Water Resources Management Advisory Committee (WRMAC). The standards themselves are contained in a Commission document dated November 8, 2002.

Whenever a project that is withdrawing or consuming water is evaluated, the Commission staff, and the staffs of member jurisdictions, need to evaluate the impacts of such uses on nearby streams. Conditions are then added to any permit or approval on a case-by-case basis to protect these streams from those impacts, including a minimum passby requirement. The standards developed by WRMAC will help to bring about a basinwide consistency in the way such projects are evaluated and in the conditions added to approvals.

New York, Maryland and Pennsylvania expressed general support for the standards, noting the differences in their own approach to the problem and citing the value of these standards in providing another mechanism for coordination among the member jurisdictions.

On a motion by Commissioner Gast, seconded by Commissioner Summers, the Commission unanimously adopted the resolution endorsing the passby standards.

3. Public Hearing – Project Review

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

Mr. DeWillie first provided some background information on the Commission's review authority, water use regulations and procedures. The main purpose of these regulations is to avoid adverse environmental impacts and conflicts among users, particularly during periods of drought and low flow. Cumulative impacts are also considered. He explained the methods available for compliance with the consumptive use regulation, including discontinuance of use, provision of storage water, and payment into the SRBC Water Management Fund to enable purchase of water storage for release during low flow periods. Unless otherwise noted, projects described have chosen payment as their compliance method.

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

The dockets recommended for action included the following 15 projects:¹

- Genegantslet Golf Club (Exhibit B3)
- Chemung Golf Course, Inc. (Exhibit B4)
- Bradford Forest – Tioga Operations (Exhibit B5)
- Applewood Golf Course (Exhibit B6)
- DLM Foods, L.L.C. modification (Exhibit B7)
- DLM Foods, L.L.C. (Exhibit B8)
- Merck & Co., Inc. – Cherokee Plant (Exhibit B9)
- Egg Harbor Spring, Inc. (Exhibit B10)
- Tower City Borough Authority (Exhibit B11)
- H.B. Reese Candy Co., A Div. of Hershey Foods Corp. (Exhibit B12)
- Defense Distribution Depot Susquehanna, Pa. – Riverview Golf Club (Exhibit B13)
- New Holland Borough Authority (Exhibit B14)
- Prospect Aggregates, Inc. (Exhibit B15)
- Wyeth Laboratories, Inc. (Exhibit B16)
- Glen Gery Corporation (Exhibit B17)
- Quebecor World Atglen, Inc. (Exhibit B18)

Of the original 17 projects scheduled for action, the staff recommended the tabling of two projects, Elk Mountain Ski Resort, Inc. due to an unresolved passby flow issue, and Masonic Homes, due to an ongoing dialogue on grandfathered amounts. Mr. DeWillie then presented specific information on the remaining 15 dockets. All dockets and any accompanying written comments from the public were provided to the Commission in advance of this meeting. One correction was noted for Docket No. 19910709 – DLM Foods, L.L.C. The word “or” was added to the portion of the sentence reading “all water incorporated into product ‘or’ evaporated.”

Chairman Hicks noted that the kind of review conducted by the Commission for each docket is important, because it gives reassurance to other users that their supply will not be threatened. Also, those who are in business need assurance that their supply and their investment will be protected. These procedures will provide that assurance.

On a motion by Commissioner Gast, seconded by Commissioner Summers, the Commission unanimously agreed to table Elk Mountain Ski Resort, Inc. and Masonic Homes and to adopt the staff recommendations for all of the remaining 15 dockets (Exhibits B3-B18).

4. Balco Development, Inc. – Rule to Show Cause

The General Counsel reported that on May 22, 2003, the Commission had sent a notice to Balco Development, Inc. (dba Windsor Heights Golf Course) by certified mail to show cause why a penalty and other enforcement action should not be taken against Balco for failure to comply with Commission regulations. This is the procedure that the Commission is directed to

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

follow under Section §805.20 of its regulations. He called upon Mr. DeWillie to describe the violations and noted that there were two representatives of Balco, Inc. present at the meeting to offer an explanation.

Mr. DeWillie pointed out that the vast majority of golf course applicants in the Commission's Compliance Incentive Programs had complied with all regulatory requirements. However, despite 16 contacts with Balco Development, Inc., the only information that the Commission had been able to obtain from the applicant is an incomplete application. He went through an itemized time line detailing each one of the contacts starting in August 1999.

He then reviewed the violations against the SRBC penalty matrix in terms of previous violations, intent, adverse environmental impacts, cooperation and economic benefit. There had been no previous violations. The intention of the applicant in violating Commission regulations was clearly willful given the number of contacts by the Commission that were simply ignored. The staff has not yet been able to confirm any environmental harm, but it is clear that in the categories of cooperation and economic benefit, the violations were severe because of the lack of response and the substantial economic benefit gained by the applicant through the continued use of water.

Taking into consideration all categories, Mr. DeWillie calculated the overall violation as ranking in the moderate category, providing a penalty ranging anywhere from \$251 to \$750 per day. Given three years in violation and adding \$7,000 in back charges for consumptive water use, this rendered a penalty amount of \$275,000. Staff recognizes the severity of this kind of penalty on the golf course operation and therefore would recommend a penalty amount of \$97,000, which is strictly centered on the three years of non-compliance and the back charges.

Mr. Aaron Kramer, Balco Vice President, indicated that new stockholders acquired Balco Development and the course in 2002, and they were not aware of the SRBC requirements. Many internal changes have occurred at the company, which have hindered efforts to meet the Commission's requirements. The company does, however, wish to comply with Commission regulations. They did bring as much of the missing information with them today as they could gather.

The Executive Director asked Mr. Kramer if any portion of Mr. DeWillie's statement was not accurate. Mr. Kramer indicated that the statement was accurate with the exception of Mr. DeWillie's estimated annual use. Annual use was more on the order of 11 million gallons instead of the 15 mentioned by Mr. DeWillie.

Commissioner Gast wondered if it would be possible for the Commission and staff to immediately determine if sufficient information had been submitted at today's meeting. Chairman Hicks indicated that, as far as he was concerned, it did not necessarily have to be complete, but it has to be substantive and show that the company is moving in the right direction. The Commission took a short recess to examine the materials submitted and consider a course of action.

The Commission reconvened and Commissioner Gast noted that, while it is never pleasant to have to impose penalties, the only way to protect all users of water is through the project application process. The only way to have a sound application process is to have applicants who cooperate and provide information to the Commission in a timely manner. While there has been a change of ownership of Balco Development, Inc., there has nevertheless been over the last year and a half a lack of cooperation by the current owners in providing application information, despite repeated requests by SRBC staff. He therefore made the following five-part motion:

1. That pursuant to Section 15.17 of the Compact and its implementing regulations, the Commission levies a civil penalty upon Balco Development, Inc. dba Windsor Heights Golf Course, in the amount of \$35,000 for the violations of Commission regulations described by staff; and
2. That the Commission reserves the right to assess additional penalties in the event it is determined that Balco Development, Inc.'s non-compliant water use has caused environmental harm; and
3. That Balco Development, Inc., shall have up to 30 days from the date of this action to submit all other documents and information required to complete its application to the Commission, or said application shall be deemed denied by the Commission; and
4. That Balco Development, Inc. shall pay the penalty amount assessed above as follows:
 - (a) Within 30 days from the date of this action it shall pay the sum of \$10,000 to the Commission; and
 - (b) In the event it fails to complete its application and cooperate with the Commission, such that its application is deemed denied as provided above, then the balance of such penalty shall be due and payable within 15 days following such denial; and
 - (c) In the event it completes its application requirements and otherwise cooperates with the Commission, then the balance of such penalty shall be due and payable on or before the date the Commission takes action on its docket.
5. That, in the event Balco Development, Inc. fails to complete its application as provided above and the application is denied, any continued withdrawal or consumptive use of water in excess of the regulatory threshold amounts set forth in Commission Regulations 18 CFR Sections §803.42–803.44 shall be punishable by a civil penalty of not less than \$1,000 per day, which amounts shall be in addition to the penalties assessed by this action.

Commissioner Gast then advised Mr. Kramer that the Executive Director has the authority to negotiate and recommend a settlement in-lieu-of penalty to be approved at the time the Commission acts on Balco's application. He therefore recommended that Balco make every effort to fully cooperate with the Commission's staff in completing the application process so

that it might be possible for the Commission to consider a settlement that would reduce the total amount of the civil penalty imposed at today's meeting.

Commissioner Summers seconded the motion and commented that the amount of the penalty is not as important as the end result, which is to bring all water users into compliance with the Commission's regulations.

Chairman Hicks repeated that this action protects the interests of all those users who have dutifully complied with the Commission's regulations. He asked Mr. Kramer if he had anything to add in response to the Commission's action. Mr. Kramer, speaking as an officer of Balco Development, Inc., said that he felt the action was very fair. He would attempt to have Balco comply in less than thirty days. With that, the Commission unanimously adopted the motion offered by Commissioner Gast.

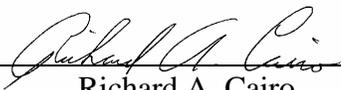
ADJOURNMENT

There being no further business before the Commission, Chairman Hicks adjourned the meeting at approximately 12:35 p.m.

NEXT MEETING

The next regular meeting of the Commission is tentatively scheduled for August 14, 2003 in Clarks Summit, Pa.

Date Adopted



Richard A. Cairo
General Counsel/Secretary to the Commission

RESOLUTION NO. 2003-04

A RESOLUTION by the Susquehanna River Basin Commission to adopt a proposed Current Expense Budget for the fiscal year beginning July 1, 2004, and ending June 30, 2005, and to apportion among the Commission's member jurisdictions a proposed amount required for the support of the budget.

NOW THEREFORE BE IT RESOLVED THAT:

1. A proposed Current Expense Budget for the fiscal year beginning July 1, 2004, in the amount of \$3,825,000 is hereby approved and adopted for submission to the member jurisdictions for their review and approval.

2. Pursuant to Section 14.3 of the Compact, there is hereby requested from each member jurisdiction the following apportioned amounts that are required, together with other funds as may be available to the Commission, for the support of the budget, as proposed, for the fiscal year beginning July 1, 2004.

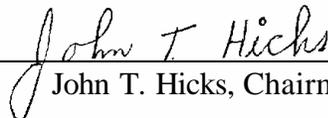
<u>Member Jurisdictions</u>	<u>Apportionment</u>
New York	\$285,000
Pennsylvania	\$750,000
Maryland	\$380,000
United States	\$600,000

3. The Commission hereby expressly declares that the apportioned amounts requested in Paragraph 2 hereof represent the maximum amounts anticipated to be appropriated by the respective member jurisdictions for fiscal year beginning July 1, 2004 in direct support of the Current Expense Budget, as proposed.

4. The Executive Director is authorized and directed to transmit certified copies of the proposed budget to the principal budget officers of the respective member jurisdictions together with a certified statement of the amount hereby apportioned to each member jurisdiction in accordance with the requirement of the Compact.

5. This Resolution shall take effect immediately.

Date: June 12, 2003



John T. Hicks, Chairman

Docket No. 20021210
Approval Date: December 12, 2002
Modification Date: June 12, 2003

THE CITY OF ABERDEEN

Withdrawal of Up to 3.0 mgd from Deer Creek, When Available,
and Consumptive Water Use Through an Out-of-Basin Diversion
of Up to 3.0 mgd, for Water Supply to Aberdeen Proving Ground,
Harford County, Maryland

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, §803.42, relating to the diversion of water from the basin, and §803.44, relating to surface-water withdrawals.

Description

Purpose. The Commission originally approved the project on December 12, 2002 as Docket No. 20021210 (docket). As approved, the project authorizes the City of Aberdeen (City) to withdraw up to 3.0 mgd of water from Deer Creek, when available, and the consumptive use of up to 3.0 mgd of water from Deer Creek as an out-of-basin diversion to supply water for operations associated with the Aberdeen area of the Aberdeen Proving Ground (APG), a U.S. Army installation, subject to conditions enumerated in the docket. This docket modification rescinds certain provisions contained in the docket authorizing an emergency use of APG's Deer Creek supply to serve the City on an interim basis.

Public Meetings and Hearings. The Commission received extensive correspondence and comment from various parties concerning the project. In response to these concerns, the Commission and the Maryland Department of the Environment held a joint public information hearing concerning the project on March 6, 2002 in the City of Aberdeen, Maryland, and the Commission convened a public hearing on December 12, 2002, in conjunction with the meeting at which it approved the docket.

In response to concerns raised over the emergency use provisions contained in the docket, a special Commission meeting and public hearing was held on May 22, 2003 in Harford County, Maryland, to allow the public and interested parties to submit additional comment on the issue of emergency use of water by the City.

Findings

The emergency use provisions contained in the docket as Conditions (g), (h) and (i), were intended to provide the authority to transfer Deer Creek water from the APG system to the City public water supply system in the event of a supply emergency in the City system. The conditions under which such transfers were authorized are set forth below:

g. In the event of an emergency in the operation of the City's water supply system, the City shall be authorized to transfer water approved hereunder from the APG system to the City's system, subject to the following conditions:

- 1. An emergency shall exist either: (a) upon issuance of an order or other directive by MDE to the City requiring it to cease or limit withdrawals from the City's well field to such an extent that the City cannot meet its daily demand as a result of contamination; or (2) for periods of less than seventy-two (72) hours in duration, where mechanical or other unforeseen circumstance beyond the control of the City prevent it from meeting its daily demand from the withdrawals from its well field.*
- 2. Notice shall be provided to the Commission within 24 hours of the commencement of an emergency transfer, identifying the nature of the emergency, its anticipated duration, and the anticipated amount of water the City proposes to transfer from the APG system.*
- 3. The City shall have an approved joint use agreement with the Army authorizing such transfer, or alternatively the City shall obtain other written authorization from the Army before transferring water from the APG system to the City during an emergency. A copy of such authorization shall be submitted to the Commission.*
- 4. The City shall implement mandatory use restrictions in both the City system and the APG system during the term of the emergency consistent with drought emergency water use restrictions contained in the Maryland Drought Management Plan.*
- 5. The City must fully utilize all water supply available under its existing 0.5 mgd supply agreement with Harford County, and any additional quantity subsequently contracted for with the County for the City system, during the term of the emergency transfer.*
- 6. Any emergency transfer from the APG system shall be limited in duration to a period not to exceed six (6) months, unless extended by the Commission at its discretion upon presentation by the City of a mitigation plan to address the contamination, giving rise to the emergency, and the plan is acceptable to MDE.*

h. During an emergency under condition (g) above, and to the extent that the amount of the withdrawal approved hereunder is insufficient to meet the demands in both the City system and the APG system, the City may request an emergency approval,

pursuant to Commission Regulation §803.27, to withdraw up to an additional 1 mgd from the Deer Creek (Darlington) Intake, the approval of which shall not be unreasonably withheld by the Commission.

i. That portion of the withdrawal historically used by APG or used for emergency purposes is exempt from consumptive water use compensation requirements contained in Commission Regulation §803.42.

After consideration of the comments received at the May 22, 2003 public hearing and additional information submitted for the record by interested parties, staff recommends that the emergency use provisions set forth above be removed from the docket on the basis that Commission Regulation §803.27, which authorizes the issuance of emergency approvals to protect public health, safety and welfare, provides the City with an adequate administrative mechanism for requesting approval to transfer APG system water to the City's public water supply system in the event of an emergency.

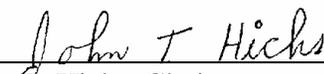
Decision

Commission Docket No. 20021210, as approved December 12, 2002, is hereby amended as follows:

- a. Conditions (g), (h) and (i) are hereby rescinded.
- b. In the event of a supply emergency in the City of Aberdeen's public water supply system, the City may submit a request for an emergency certificate authorizing use of Deer Creek water for the City system pursuant to Commission Regulation 803.27, which shall be given prompt consideration by the Commission and for which approval shall not be unreasonably withheld.
- c. All other conditions in Commission Docket No. 20021210 not inconsistent herewith shall remain effective.
- d. Based on Commission Regulation §803.30(a), this approval is effective until December 12, 2014. The duration of this docket modification is in accordance with the term of the prior docket approval. The project sponsor shall submit a renewal application by June 12, 2014 and obtain Commission approval prior to continuing operation beyond December 12, 2014.

By the Commission:

Dated: June 12, 2003



 John T. Hicks, Chairman
 New York Commissioner

RESOLUTION NO. 2003-05

A RESOLUTION of the Susquehanna River Basin Commission commending the Commission staff and members of the SRBC Water Resources Management Advisory Committee on the recently-developed passby flow standards, endorsing their use for Commission project review, and encouraging their use by the Commission's member jurisdictions.

WHEREAS, the Commission administers consumptive use and ground water/surface-water withdrawal regulations (18 CFR §§ 803.42, 43 & 44) allowing the Commission to limit withdrawals to the amount of water that can be withdrawn without causing adverse lowering of stream flow levels; and

WHEREAS, the purposes of those regulations, as set forth in 18 CFR §803.2(b) include protection of public health, safety and welfare, stream quality control, economic development, protection of fisheries and aquatic habitat, and the avoidance of conflicts among water users; and

WHEREAS, because of an increasing project review application load and the increasing complexity of analyzing such applications for possible impacts on other users and the environment, the staff has developed passby flow standards that can be provided to project sponsors at the outset of the review process; and

WHEREAS, the SRBC Water Resources Management Advisory Committee (WRMAC) has carefully reviewed these passby flow standards and found them to be generally acceptable for purposes of project review.

NOW THEREFORE BE IT RESOLVED THAT:

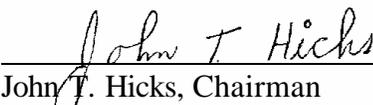
1. The Commission hereby commends staff and WRMAC on the development of passby flow standards dated November 8, 2002, and endorses their use by the Commission for projects subject to the Commission's consumptive use and ground water and surface water withdrawal regulations, except where a member jurisdiction requests more protective standards.

2. The Commission further encourages the staff to make such modifications and refinements as may be appropriate using the same peer review procedures followed in the development of these standards.

3. The Commission endorses use of the said passby flow standards by its member jurisdictions or such other procedures as they deem appropriate that provide comparable protection of the water resources of the basin.

4. This Resolution shall be effective immediately.

Dated: June 12, 2003



John T. Hicks, Chairman

Docket No. 20030601
Approval Date: June 12, 2003

GENEGANTSLET GOLF CLUB

Surface-Water Withdrawal of Up to 0.390 mgd from the Chenango River, and a
Consumptive Water Use of Up to 0.390 mgd, for Golf Course Irrigation,
Town of Greene, Chenango County, New York

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, §803.42, relating to the consumptive use of water, and §803.44, relating to surface-water withdrawals. The Commission received the application for the consumptive use of water on January 22, 2001, and the application for the surface-water withdrawal on April 24, 2003.

Description

Purpose. The purpose of the application is to request approval for the withdrawal of water from the Chenango River and the consumptive use of that water for the irrigation of an existing 18-hole golf course.

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

Project Features. The project sponsor has requested approval for a maximum daily withdrawal of up to 0.390 million gallons per day (mgd) of water from the Chenango River, and a consumptive use of water of up to 0.390 mgd. The project sponsor calculates the project's maximum average 30-day surface-water withdrawal and consumptive water use to be 0.106 mgd and peak-day consumptive water use to be 0.210 mgd.

The primary source of water is an existing withdrawal from the Chenango River. Although the withdrawal predates Commission Regulation §803.44, relating to surface-water withdrawals, the project sponsor anticipates increasing its withdrawal by more than 0.100 mgd above its withdrawal prior to November 11, 1995, within the next two years. Due to this anticipated increase, the withdrawal is subject to the regulation.

The project was constructed as a 9-hole golf course in 1955, and expanded to 18 holes in 1965. All greens and tees were irrigated by 1966. The project expanded its irrigation system in 1991 to include approaches and landing areas.

Currently, the project sponsor withdraws water directly from the Chenango River to meet irrigation needs. The withdrawal began in 1966, and has not changed significantly since that time. The irrigation system is not equipped with a meter.

The project sponsor plans to upgrade the irrigation system to fully irrigate the golf course by 2005. The proposed irrigation system would pump water from the Chenango River to a storage pond (Pond 9), and then withdraw water from the pond using a new pumping station to supply the irrigation system. Pond 9 is currently 1.6 acres in size, was in existence prior to 1971, and no expansion is planned.

Findings

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

All water used for golf course irrigation is considered to be used consumptively. If, during the planned modifications to the golf course, the area of the storage pond is expanded beyond its present configuration of 1.6 acres, water evaporated from expansion will be considered to be used consumptively, and will be calculated by the project sponsor employing a methodology acceptable to the Commission.

Water is withdrawn from the Chenango River and pumped directly to the irrigation system. Neither the intake on the river, nor the irrigation system, has a meter that measures the quantity of water used for irrigation. Commission staff recommends that the project sponsor install appropriate metering and monitor daily irrigation water use.

The project sponsor requested approval for a surface-water withdrawal and consumptive water use of up to 0.390 mgd. Based on an analysis of data supplied by the project sponsor regarding the proposed irrigation system, Commission staff is recommending approval of the requested amount. The project sponsor must provide the Commission with the design for the new irrigation system for review by Commission staff, when it is available. Should the project's future consumptive water use exceed or be expected to exceed 0.390 mgd, the project sponsor must apply for a modification to this docket at that time.

The project sponsor operates a surface-water intake on the Chenango River. The Chenango River is classified as Class B warm-water fishery (WWF). Commission staff has calculated the 7-day 10-year low flow (Q7-10 flow) for the Chenango River to be 68.6 cfs (30,791 gpm) at the point of withdrawal. A maximum withdrawal rate of 600 gpm can be achieved with the current system, if operated at full capacity. Further, the project sponsor's requested maximum day withdrawal of 0.390 mgd, if withdrawn over 2.5 hours, would result in a surface-water withdrawal rate of approximately 2,600 gpm. This rate of withdrawal is less than 10 percent (3,079 gpm) of the Q7-10 for the Chenango River at the point of taking.

Therefore, no additional surface-water withdrawal limitations currently are required to protect the Chenango River.

The project sponsor has agreed to the Commission staff's calculated pre-1971 consumptive water use of 0.027 mgd for golf course irrigation and, for purposes of this docket, this quantity of water used for golf course irrigation is considered "grandfathered" and is exempt from water compensation requirements.

The project's consumptive use of water for irrigation, in excess of the grandfathered quantity, is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water. The payment will be based on the daily quantity of water consumptively used for golf course irrigation, minus the pre-1971 consumptive use of 0.027 mgd. If the daily grandfathered quantity exceeds the project's calculated daily consumptive water use, that day's consumptive water use is considered to be zero.

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

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

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

Compliance Incentive Program

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

Decision

The project's withdrawal from the Chenango River of up to 0.390 mgd, and the consumptive use of water of up to 0.390 mgd are approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

surface-water withdrawal reporting requirements, as per Commission Regulation §803.44.

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

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

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

e. The maximum instantaneous rate of withdrawal from the Chenango River shall not exceed 2,600 gpm.

f. The project sponsor shall submit its irrigation system design and a proposed construction schedule for modifications to the golf course, when available, for review and approval by Commission staff prior to any construction. If the project sponsor enlarges the storage pond, paragraphs (c) and (h) shall be modified so that the daily quantity of water consumptively used shall be the quantity of evaporative loss from the storage pond enlargement plus the quantity pumped to the irrigation system. Following approval, the project sponsor shall certify to the Commission that construction has been completed in accordance with the approved design. The project sponsor shall install appropriate metering, as directed by Commission staff. Commission staff shall review and approve the method of calculation of evaporative loss from the pond.

g. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the quantity pumped to the irrigation system. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.027 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

i. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used in excess of the grandfathered quantity of 0.027 mgd during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (h) above.

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

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

l. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90)-day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

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

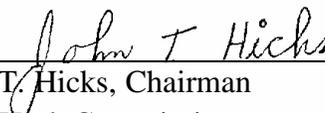
n. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

o. This approval is effective until June 12, 2028. The project sponsor shall submit a renewal application by December 12, 2027, and obtain Commission approval prior to continuing operation beyond June 12, 2028.

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

By the Commission:

Dated: June 12, 2003



John T. Hicks, Chairman
New York Commissioner

Docket No. 20030602
Approval Date: June 12, 2003

CHEMUNG GOLF COURSE, INC.

Consumptive Water Use of up to 0.090 mgd, for Golf Course Irrigation,
Town of Chemung, 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, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application for the consumptive use of water on February 1, 2001.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water for the irrigation of an existing 18-hole golf course.

Location. The project is located in the Chemung Subbasin, HUC 02050105, Dry Brook Watershed, Town of Chemung, Chemung County, New York

Project Features. The project sponsor has requested approval for a maximum daily consumptive use of water of up to 0.090 million gallons per day (mgd). The project sponsor calculates the project's current maximum average 30-day consumptive water use to be 0.053 mgd, and current peak-day consumptive water use to be 0.078 mgd.

The project was constructed as a 9-hole golf course in 1960. The existing well and irrigation system for greens and tees was installed in 1965. The project was expanded to an 18-hole course in 1980, and includes irrigation for all greens and tees.

The project sponsor pumps water from the well to a storage pond (Pond 14) that was constructed in 1963. Water is withdrawn from Pond 14 to meet the irrigation needs of the golf course. The irrigation system is not equipped with a meter.

Findings

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

All water used for golf course irrigation is considered to be used consumptively. The storage pond (Pond 14) predates the Commission's consumptive water use regulation, and therefore, evaporative losses from Pond 14 are exempt.

The irrigation system currently is not equipped with a meter to measure the quantity of water withdrawn from the pond and used for irrigation. Commission staff recommends that the project sponsor install appropriate metering and monitor the amount of water pumped to the irrigation system.

The primary source of water is an existing withdrawal from an on-site well. According to the project sponsor, the well was drilled in 1965 to a depth of approximately 220 feet, and is equipped with a 1.5 horsepower pump. The well is capable of producing approximately 25 gallons per minute (gpm). The withdrawal predates Commission Regulation §803.43, relating to ground-water withdrawals, the project sponsor has not increased its withdrawal by more than 0.100 mgd since July 13, 1978, and, therefore, is not subject to the regulation.

The project sponsor has requested approval for a consumptive water use of up to 0.078 mgd. Based on an analysis of the records system supplied by the project sponsor, Commission staff is recommending approval of up to 0.090 mgd, which represents an increase of approximately 15 percent of the requested amount, to allow for future project growth and possible estimating errors made by the project sponsor in determining its current water use. Should the project's future consumptive water use exceed or be expected to exceed 0.090 mgd, the project sponsor must apply for a modification to this docket at that time.

The project sponsor has agreed to the Commission staff's calculated pre-1971 consumptive water use of 0.029 mgd for the project and, for purposes of this docket, this quantity of water is considered "grandfathered" and is exempt from water compensation requirements.

The project's consumptive use of water for irrigation, in excess of the grandfathered quantity, is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water. The payment will be based on the daily quantity of water consumptively used for golf course irrigation, minus the pre-1971 consumptive use of 0.029 mgd. If the daily grandfathered quantity exceeds the project's calculated daily consumptive water use, that day's consumptive water use is considered to be zero.

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

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

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

Compliance Incentive Program

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

Decision

The project's consumptive water use of up to 0.090 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

- a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42.
- b. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain a meter, accurate to within five (5) percent, on the irrigation system to measure the quantity of water pumped from the pond to the irrigation system.
- c. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity pumped to the irrigation system. The project sponsor shall maintain metering on the irrigation system, accurate to within five (5) percent.
- d. The maximum instantaneous rate of production from the well shall not exceed 25 gpm.
- e. Within sixty (60) days from the date of this approval, the project sponsor shall install and maintain metering on the on-site well, accurate to within five (5) percent, to measure its ground-water withdrawal. The project sponsor shall keep daily records of the project's ground-water withdrawal and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The project sponsor may propose alternative monitoring to the Commission for staff review and approval. If the ground-water withdrawal exceeds the threshold specified in Commission Regulation §803.43, the project sponsor shall submit the appropriate application for review and approval by the Commission.
- f. To satisfy the Commission's current compensation requirements for consumptive

water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the quantity pumped to the irrigation system. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.029 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

h. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used in excess of the grandfathered quantity of 0.029 mgd during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (g) above.

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

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

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

finances and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90)-day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

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

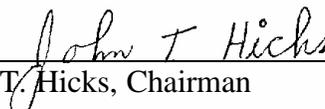
m. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

n. This approval is effective until June 12, 2028. The project sponsor shall submit a renewal application by December 12, 2027, and obtain Commission approval prior to continuing operation beyond June 12, 2028.

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

By the Commission:

Dated: June 12, 2003



 John T. Hicks, Chairman
 New York Commissioner

Docket No. 20030603
Approval Date: June 12, 2003

BRADFORD FOREST—TIOGA OPERATIONS

Surface-Water Withdrawal of Up to 0.450 mgd from the Tioga River, and a
Consumptive Water Use of Up to 0.450 mgd, for Wet Decking Operations,
Lawrence Township, Tioga County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, §803.42, relating to the consumptive use of water, and §803.44, relating to surface-water withdrawals. The Commission received the applications for the consumptive use of water and surface-water withdrawal on March 31, 2003.

Description

Purpose. The purpose of the application is to request approval for the withdrawal of water from the Tioga River and the consumptive use of that water for wet decking logs at a lumber mill.

Location. The project is located in the Chemung River Subbasin, HUC 02050104, Tioga River Watershed, Lawrence Township, Tioga County, Pennsylvania.

Project Features. The project sponsor has requested approval for a maximum daily withdrawal of up to 0.450 million gallons per day (mgd) of water from the Tioga River, and a consumptive use of up to 0.450 mgd.

The proposed primary source of water will be a withdrawal from the Tioga River.

The project is an existing lumber operation specializing in the rough milling of “green” hardwood logs. The mill was recently purchased by the project sponsor and is not currently equipped with a wet decking operation.

The wet decking operation will have a maximum surface-water withdrawal rate of 300 gallons per minute (gpm). The water will be pumped directly to spray nozzles located in the log lay-down area. Spray water runoff will be discharged through the existing stormwater system.

Findings

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

All water withdrawn from the Tioga River and not discharged from the wet decking operation through the stormwater system will be considered to be used consumptively. Commission staff recommends that the project sponsor install appropriate metering on the surface-water withdrawal and the wet decking discharge. Further, Commission staff recommends that the project sponsor submit a design of the proposed metering system for review and approval by Commission staff prior to commencing wet decking operations. The design must enable the project sponsor to separate the discharge from the wet decking operation from the stormwater runoff.

The project sponsor requested approval for a surface-water withdrawal and consumptive water use of up to 0.450 mgd, which is equal to the proposed system capacity over a 24-hour period. Based on an analysis of data supplied by the project sponsor and discussions about the proposed wet decking system, Commission staff is recommending approval of the requested amount. Should the project's future consumptive water use or surface-water withdrawal exceed or be expected to exceed 0.450 mgd, the project sponsor must apply for a modification to this docket at that time.

The project sponsor plans to operate a surface-water intake on the Tioga River. The Tioga River is classified as a warm-water fishery (WWF). Commission staff has calculated the 7-day 10-year low flow (Q7-10 flow) for the Tioga River to be 27.8 cfs (12,476 gpm) at the point of withdrawal. Provided that the instantaneous rate of withdrawal is less than 10 percent (1,247 gpm) of the Q7-10 for the Tioga River at the point of taking, no passby flow is required to protect aquatic resources and habitat. Further, Commission staff recommends that the project sponsor limit the future instantaneous rate of surface water withdrawal to less than 1,200 gpm at all times, unless prior approval is obtained from the Commission.

The project's consumptive use of water for wet decking is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water. The payment will be based on the daily quantity of water pumped from the Tioga River, minus the amount of runoff discharged through the stormwater system from the wet decking operation.

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

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

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

Decision

The project's withdrawal from the Tioga River of up to 0.450 mgd, and the consumptive use of water of up to 0.450 mgd are approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

b. Within sixty (60) days from the date of this approval and prior to commencing wet decking operations, the project sponsor shall submit a design of the proposed metering system on the surface-water withdrawal and the wet decking discharge for review and approval by Commission staff. Following approval, the project sponsor shall complete meter installation and shall certify to the Commission that installation has been completed in accordance with the approved design. The project sponsor shall maintain meters, accurate to within five (5) percent, to measure the quantity of water consumed by the wet decking operation.

c. 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 are due within thirty (30) days after the close of the preceding quarter.

d. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity withdrawn from the Tioga River, minus the quantity discharged from the wet decking operation through the stormwater system.

e. The maximum instantaneous rate of withdrawal from the Tioga River shall not exceed 1,200 gpm.

f. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project. The daily quantity of water consumptively used shall be the quantity withdrawn from the Tioga River, minus the quantity discharged from the wet decking operation through the storm water 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.

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

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

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

j. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90)-day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

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

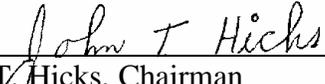
l. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

m. This approval is effective until June 12, 2028. The project sponsor shall submit a renewal application by December 12, 2027, and obtain Commission approval prior to continuing operation beyond June 12, 2028.

n. 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: June 12, 2003



John T. Hicks, Chairman
New York Commissioner

Docket No. 20011004
Approval Date: October 11, 2001
Modification Date: June 12, 2003

APPLEWOOD GOLF COURSE

Consumptive Water Use of Up to 0.099 mgd, for Golf Course Irrigation,
Exeter Township, Luzerne County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The original Commission approval for consumptive water use was issued on October 11, 2001, as Docket No. 20011004. The current modification request was received on March 21, 2003.

Description

Purpose. The purpose of the application is to request approval for an increase in the consumptive use of water for the irrigation of greens, tees, and fairways at a 9-hole golf course.

Location. The project is located in the Middle Susquehanna Subbasin, HUC 02050106, Susquehanna River Watershed, Exeter Township, Luzerne County, Pennsylvania.

Project Features. The project sponsor has requested approval for an increase in the consumptive use of water from 0.070 million gallons per day (mgd) to a maximum daily use of 0.099 mgd. The primary source of water is an existing withdrawal from Lewis Creek.

The project was constructed in 1994, and has been in continuous operation since that time. The project sponsor is using three off-stream ponds that have a total surface area of approximately 4.5 acres to provide for water storage on site. Pond 3 receives water from Lewis Creek. The storage ponds also capture surface runoff from adjacent upland areas. Water is pumped from Pond 1 to the golf course's irrigation system, which is equipped with a flow meter. The water is withdrawn from Pond 1 using a pumping station with a maximum operating capacity of 650 gallons per minute (gpm).

Based on irrigation data for the year 2002 submitted by the project sponsor, Commission staff calculates the project's maximum average 30-day consumptive water use to be 0.064 mgd, and current peak-day consumptive water use to be 0.090 mgd.

Findings

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

All water evaporated from the storage ponds, as well as all water 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 pumped to the irrigation system.

The project's primary source of water is an existing withdrawal from Lewis Creek. The project's surface-water withdrawal has been in operation since 1994. The withdrawal predates Commission Regulation §803.44, relating to surface-water withdrawals, and has not increased more than 0.100 mgd since November 11, 1995, the effective date of the regulation. Therefore, Commission staff finds that this withdrawal is not subject to the regulation as a result of this modification.

The project sponsor has requested a consumptive water use approval of up to 0.099 mgd. Based on an analysis of irrigation records supplied by the project sponsor, Commission staff is recommending approval of the requested quantity, which represents an increase of approximately 10 percent above the current peak-day use of 0.090 mgd. Should the project's future consumptive water use exceed or be expected to exceed 0.099 mgd, the project sponsor must apply for a modification to this docket at that time.

The project's consumptive use of water is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor uses its own storage during low flow periods. Commission staff has determined that the quantity of storage is sufficient to supply the golf course during drought conditions. In order for this storage to be an acceptable method of compliance with Commission Regulation §803.42, the project sponsor must cease withdrawals from Lewis Creek and be limited to using water stored in the on-site ponds during periods of low flow or upon notice by the Commission.

The storage ponds collectively store an estimated 9.9 million gallons of water when at full capacity. This volume should provide approximately 155 days of irrigation, based on the maximum 30-day average use of 0.064 mgd. The project sponsor will need to maintain sufficient water storage in order to meet the project's demand for irrigation water. Commission staff recommends that the project sponsor validate and submit on-site storage documentation to Commission staff every five years.

Lewis Creek is a cold-water fishery (CWF) (25 Pa. Code Chapter 93). The original Commission approval (Docket No. 20011004, dated October 11, 2001) required that the project sponsor maintain a passby flow of not less than 25 percent of annual average daily flow (ADF), which equals 0.177 cubic feet per second (cfs) (79.43 gpm), and to cease all withdrawals when natural stream flow is less than 0.177 cfs. Commission staff recommends that this requirement in the original docket approval be maintained.

The Commission previously approved a consumptive water use of 0.070 mgd for golf course irrigation. During the 2002 irrigation system, the project sponsor exceeded the approved maximum daily consumptive water use on 21 days, consuming a total of 187,698 gallons. When notified of the exceedences of its approved quantity of consumptive water use, the project sponsor submitted a modification request.

While the project's recent consumptive water use has been in noncompliance with Commission regulation, there have been no adverse impacts associated with the consumptive use and the project sponsor has cooperated with Commission staff during its review. The previously-approved quantity of consumptive water use was based on the project sponsor's estimated peak-day irrigation demands, not on metered data. The project sponsor installed a new meter on the irrigation system in 2002, recorded the project's daily use for the 2002 irrigation season, and has accurately established the project's peak-day irrigation demand. Due to these circumstances, Commission staff recommends that the project sponsor not be subject to penalty for its prior noncompliance.

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

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

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

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

Decision

The consumptive water use of up to 0.099 mgd is approved pursuant to Article 3, Section 3.10 of the Compact, subject to the following conditions:

- a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42.
- b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity of evaporative loss from the storage ponds plus the quantity pumped to the irrigation system. The project sponsor shall maintain metering on the irrigation system, accurate to within five (5) percent. Commission staff

shall review and approve the method of calculation of evaporative loss from the ponds.

c. The project sponsor shall allow a flow to pass in Lewis Creek directly below the intake of not less than 0.177 cfs (79.43 gpm). When the streamflow below the intake is less than this amount, the withdrawal shall be reduced to maintain 0.177 cfs (79.43 gpm) in the stream channel below the intake. When the natural flow is equal to or less than 0.177 cfs (79.43 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.

d. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, and upon notice from the Commission during periods of low flow, the project sponsor shall cease withdrawals from the stream and shall use water stored in the on-site ponds. The project sponsor shall provide the Commission with documentation every five (5) years certifying that sufficient water storage exists in its on-site storage ponds.

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

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

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

h. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90)-day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it

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

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

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

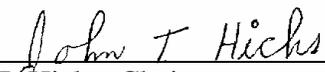
k. All other conditions in Commission Docket No. 20011004 not inconsistent herewith shall remain effective.

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

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

By the Commission:

Dated: June 12, 2003



John T. Hicks, Chairman
New York Commissioner

Docket No. 19910709
Approval Date: July 11, 1991
Modification Date: June 12, 2003

DLM FOODS, L.L.C.

Consumptive Water Use of up to 0.800 mgd,
for Pet Food Processing and Production
South Centre Township, Columbia County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The original Commission approval for consumptive water use was issued on July 11, 1991, as Docket No. 19910709. The current modification request was received on August 2, 2002.

Description

Purpose. The purpose of the application is to request approval for an increase in the consumptive use of water for pet food processing and production.

Location. The project is located in the Middle Susquehanna Subbasin, HUC 02050107, Middle Susquehanna River Watershed, South Centre Township, Columbia County, Pennsylvania.

Project Features. The project sponsor has requested approval for an increase in the consumptive water use from 0.336 million gallons per day (mgd), previously approved in Docket No. 19910709 (as Heinz Pet Products) in July 1991, to a maximum of 0.800 mgd for pet food processing and production. The primary water sources are two wells, Wells PW-5, PW-6, a connection with the United Water of Pennsylvania—Bloomsburg Operation, previously approved in Docket No. 19910709, and well PW-7 approved in Docket 20030605 on June 12, 2003. Water is used at the facility for processing, incorporation into products, noncontact process cooling, boiler makeup, building heating and cooling, evaporation from treatment lagoons, and sanitary purposes. Currently, the maximum average 30-day consumptive water use is approximately 0.369 mgd, based on data provided by the project sponsor. Commission staff estimates the project's current peak-day consumptive water use to be approximately 0.690 mgd.

Findings

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

All water incorporated into product or evaporated during processing, is considered to be used consumptively. The water treatment system has a meter that measures the quantity of water discharged from the system to the Susquehanna River.

Staff recommends that the applicant submit a metering plan and accounting procedure that will allow for daily monitoring of consumptive water use at the facility. The plan must account for water that is withdrawn and not discharged on the same day it is used in the facility. Should the proposed metering plan and accounting procedure, consistently result in negative values, the Commission reserves the right to modify the metering plan and accounting procedure. Any alternative monitoring/accounting procedure will be reviewed before approval by Commission staff. Commission staff will direct the project sponsor by written notice of any required change in the accounting procedure.

The project sponsor requested approval for a consumptive water use of up to 0.800 mgd. Based on an analysis of records supplied by the project sponsor, Commission staff is recommending approval of up to 0.800 mgd, which is 15 percent above the current peak-day use of 0.690 mgd. This will allow for an anticipated increase in water usage over the duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.800 mgd, the project sponsor must apply for a modification to this docket at that time.

Water was being consumptively used at the facility before January 23, 1971, the effective date of Commission Regulation §803.42. As documented in the previous approval the pre-1971 consumptive water use of 60,000 gallons per day (gpd) remains unchanged and, for purposes of this docket, this quantity of water is considered "grandfathered", and is exempt from water compensation requirements.

During 2002, the project sponsor exceeded the previously-approved amount of 0.336 mgd on 49 occurrences. When the project sponsor determined that exceedences of the daily consumptive use were occurring, Commission staff was notified, and a modification request submitted.

While the project's recent consumptive use has been in noncompliance with Commission Regulations, there have been no adverse impacts associated with the consumptive use, and the project sponsor has cooperated with Commission staff during its review. The project sponsor has paid the consumptive use fees for the water used in excess of the prior approval amount. Commission staff recommends acceptance of this payment for its prior noncompliance.

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

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

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

Based on Commission Regulation §803.30(a), the prior docket approval is effective until July 11, 2021. Commission staff recommends the duration of this docket modification be consistent with the term of the prior docket approval.

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

Decision

The consumptive water use of up to 0.800 mgd is approved pursuant to Article 3, Section 3.10 of the Compact, subject to the following conditions:

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

b. The project sponsor shall develop a metering plan to allow for daily monitoring of consumptive water use at the facility. The metering plan shall be submitted within sixty (60) days for Commission staff's review and approval. The metering plan shall be implemented within sixty (60) days following staff's approval.

c. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity supplied to the facility from the public water supplier and the wells, minus the metered outflow from the facility. The project sponsor shall maintain metering on the wells and the wastewater outfall, accurate to within five (5) percent. Should the proposed accounting procedure, utilizing daily metered inflow minus daily metered outflow, consistently result in negative values, the Commission reserves the right to modify the accounting procedure. Any alternative monitoring/accounting procedure shall be reviewed and approved by Commission staff. The project sponsor shall be directed by written notice of any required change in the accounting procedure.

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

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

e. The project sponsor has offered a settlement by agreement, pursuant to Commission Regulation §805.27, for its consumptive water use found to be in noncompliance with Commission Regulation §803.42, and is hereby accepted. Except where the full amount of same has been tendered to the Commission in advance hereof, this action shall be contingent upon, and shall not be effective until payment of the settlement amount is made to the Commission or arrangements for such payment have been made that are acceptable to the Executive Director of the Commission. Failure to make such payment or payment arrangement with the Commission within forty-five (45) days hereof shall render this approval null and void.

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

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

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

i. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90)-day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. Nothing herein shall preclude the Commission

from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

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

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

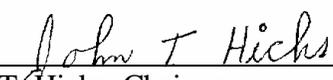
l. All other conditions in Commission Docket No. 19910709 not inconsistent herewith shall remain effective.

m. Based on Commission Regulation §803.30(a), this approval is effective until July 11, 2021. The duration of this docket modification is in accordance with the term of the prior docket approval. The project sponsor shall submit a renewal application by January 11, 2021, and obtain Commission approval prior to continuing operation beyond July 11, 2021.

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

By the Commission:

Dated: June 12, 2003



John T. Hicks, Chairman
New York Commissioner

Docket No. 20030605
Approval Date: June 12, 2003

DLM FOODS, L.L.C.

Ground-Water Withdrawal (30-Day Average) of 0.216 mgd from Well PW-7,
for Pet Food Processing and Production,
South Centre Township, Columbia County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.43, relating to ground-water withdrawals. The Commission received an application on August 2, 2002, and a revised application on November 1, 2002.

Description

Purpose. The purpose of the application is to request approval for the withdrawal of ground water for the processing and production of pet food products.

Location. The project is located in the Middle Susquehanna Subbasin, HUC 02050107, Middle Susquehanna River Watershed, South Centre Township, Columbia County, Pennsylvania.

Project Features. DLM Foods, L.L.C. (DLM), formerly Heinz Pet Products, has requested approval for the withdrawal (30-day average) of 0.216 million gallons per day (mgd) from Well PW-7. DLM has an approval from the Commission for a combined withdrawal of 0.930 mgd (30-day average) from Wells PW-5 and PW-6, and a consumptive water use of up to 0.800 mgd (Commission Docket No. 19910709, as modified on June 12, 2003). The DLM production facility also has a connection with the United Water of Pennsylvania—Bloomsburg Operation, and uses 0.550 mgd from the public water supply system.

Water is currently supplied to the facility from two wells, Wells PW-5 and PW-6, and the public water supply system, and is used for processing, incorporation into products, noncontact process cooling, boiler makeup, building heating and cooling, and sanitary purposes.

DLM proposes to use Well PW-7 as an additional source for its production facility.

Well PW-7 was drilled in Silurian- and Devonian-aged carbonates of the Keyser Formation and constructed as an 8-inch-diameter open rock well in December 2001. The well is cased to a depth of 38 feet below ground surface (bgs) and completed to a depth of 500 feet bgs.

Well PW-7 is located approximately 1,200 feet north-northwest of the Susquehanna River on a low terrace, approximately 40 feet above the level of the river. The well penetrates approximately 30 feet of alluvium overlying the carbonate bedrock.

The DLM facility has an existing average daily demand of 0.526 million gallons, and an existing maximum daily withdrawal of 1 mgd. The maximum daily withdrawal is projected to remain stable at 1 million gallons through 2028. The system is metered for public water inflow, inflow to the plant, and treated outflow to the Susquehanna River.

Pumping Test. A 72-hour, variable-rate pumping test was conducted for Well PW-7 April 30-May 3, 2001. Although Commission staff reviewed the pumping test protocol, the testing, as conducted, was not the constant-rate pumping test proposed and approved. The pumping rate varied from 215 gallons per minute (gpm) to 150 gpm during pumping, which exceeded the accepted standard of 5 percent variance from the target flow rate. Commission staff calculated the average pumping rate during the 72-hour pumping test to be approximately 155 gpm. The maximum drawdown during the test was 151 feet below ground surface (bgs). The water level appeared to recover to within 90 percent of the pretest water level between 1,000 and 1,100 minutes after the conclusion of pumping, based on the data provided by the project sponsor.

During the testing, Commission staff required a weir to be emplaced in the streambed of the unnamed stream northeast of the site that is a tributary to the Susquehanna River. Water levels were monitored in an abandoned quarry and in eight wells. Pumping Well PW-7 caused drawdown in four of the wells along strike, including more than 77 feet in Well RW-1 (located 825 feet northeast of Well PW7), and interference in DLM's Wells PW-5 and PW-6. Several rain events during the pumping test obscured definitive surface-water impacts; however, water levels apparently declined at a constant rate in the unnamed stream during the pumping and recovery phases of the testing, and declined 0.42 feet in the quarry, apparently unrelated to the testing.

Findings

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

Analysis of the data gathered during drilling and testing indicates that Well PW-7 taps a relatively deep, semiconfined karst aquifer. Water-bearing horizons, described as 'fracture zones', were encountered at approximately 80 to 105 feet, 190 to 235 feet, 370 to 410 feet, and 460 to 500 feet bgs.

Although the pumping test for Well PW-7, required by Commission Regulation §803.43(b) and conducted in 2001, was not consistent with the approved pumping test plan, Commission staff recommend its acceptance with the following recommendations.

Based on the results of the pumping test and supporting information submitted by the project sponsor which address operational impacts, Commission staff recommends that the maximum instantaneous rate of production from Well PW-7 not exceed 155 gpm, the average pumping rate used during the variable-rate pumping test, and that the pumping water level not exceed 175 feet bgs. Commission staff recommends that the project sponsor install appropriate metering on Well PW-7 to monitor the use of the well, and install appropriate instrumentation to control the pumping water level in the well.

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

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

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

Decision

The project's ground-water withdrawal of 0.216 mgd (30-day average) from Well PW-7, is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

- a. The project sponsor shall comply with all Commission regulations, including ground-water withdrawal reporting requirements, as per Commission Regulation §803.43.
- b. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain a meter, accurate to within five (5) percent, on Well PW-7. The project sponsor shall keep daily records of the metered withdrawal and weekly water levels from Well PW-7. The required reporting data shall be submitted to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding calendar quarter.
- c. The maximum instantaneous rate of production from Well PW-7 shall not exceed 155 gpm and the pumping water level shall not exceed 175 feet bgs.
- d. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §804.20(b).

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

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

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

h. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90)-day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

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

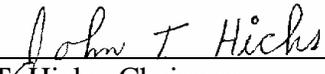
j. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

k. This approval is effective until June 12, 2028. The project sponsor shall submit a renewal application by December 12, 2027, and obtain Commission approval prior to continuing operation beyond June 12, 2028.

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

By the Commission:

Dated: June 12, 2003



John T. Hicks, Chairman
New York Commissioner

Docket No. 19950701
Approval Date: July 12, 1995
Modification Date: June 12, 2003

MERCK & CO., INC.—CHEROKEE PLANT

Surface-Water Withdrawal of Up to 31.392 mgd, from the North Branch Susquehanna River,
and a Consumptive Water Use of Up to 0.464 mgd,
for the Production of Pharmaceutical Products and Food Additives,
Riverside Borough, Northumberland County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, §803.42, relating to the consumptive use of water, and §803.44, relating to surface-water withdrawals. The original Commission approval for consumptive water use was issued on July 12, 1995, as Docket No. 19950701. The current modification request and the application for the surface-water withdrawal were received on January 21, 2003.

Description

Purpose. The purpose of the application is to request approval for an increase of the surface-water withdrawal and consumptive use of water for the production of pharmaceutical products and food additives.

Location. The project is located in the Middle Susquehanna Subbasin, HUC 02050107, Susquehanna River Watershed, Riverside Borough, Northumberland County, Pennsylvania.

Project Features. The project sponsor has requested approval for a maximum daily withdrawal of up to 31.392 million gallons per day (mgd) from the North Branch Susquehanna River and an increase in consumptive water use from 0.180 mgd to a maximum of 0.464 mgd for the production of pharmaceutical products and food additives. The facility was constructed in the 1950s and has been in continuous operation since that time.

The project's sole source of potable and production water is the Susquehanna River. Water is withdrawn directly from the river, and is used either treated or untreated for one or more of the following: fire protection; cooling water; production water and potable water for on-site and off-site use. The project sponsor calculates its current maximum 30-day average consumptive water use to be approximately 0.168 mgd.

Water is consumptively used at the facility by evaporative cooling units, steam losses throughout the plant, incorporation into products, and various other processes. According to the project sponsor, consumptive water use currently is 0.226 mgd on a peak day.

Although the withdrawal from the Susquehanna River was initiated before the effective date of Commission Regulation §803.44, relating to surface-water withdrawals, the project sponsor has increased the withdrawal by more than 100,000 gallons per day since November 1995, and, therefore, is subject to the regulation.

Wastewater from the facility is treated at an on-site treatment plant and discharged to the Susquehanna River.

Findings

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

All water withdrawn from the Susquehanna River and not returned through the wastewater treatment plant discharge is considered to be used consumptively. The project sponsor currently meters four evaporative cooling units and other consumptive uses are estimated. Therefore, Commission staff recommends that the project sponsor install appropriate metering to allow for an accurate measurement of the surface-water withdrawal and the wastewater discharge from the on-site treatment plant to calculate the total consumptive water use at the facility.

To meet the standards of the regulation regarding the reporting of the actual quantity of consumptive use while acknowledging the inherent complexity of a pharmaceutical facility that has operated for more than 60 years, Commission staff recommends the project sponsor submit a metering plan to the Commission for review and approval within 60 days of the date of this approval. The plan should account for all water withdrawn from the river and the total consumptive water use at the facility, as well as account for water received via intermediate products from facilities off the property and water entering the waste treatment facility through the ground-water remediation system or stormwater flows. The project sponsor should propose a methodology based on metering, rather than estimation. The plan may contain flexibility to address future changes to product lines to meet changing market demands.

The project sponsor requested approval for a consumptive water use of up to 0.464 mgd. Based on an analysis of records supplied by the project sponsor, and considering the project sponsor's previous reliance on estimating, rather than calculating, quantities of consumptive use, Commission staff is recommending approval of 0.464 mgd, which nearly doubles the current peak-day use of 0.226 mgd. This will allow for expected increases related to the new monitoring plan, as well as an anticipated increase in water usage over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.464 mgd, the project sponsor must apply for a modification to this docket at that time.

Commission staff determined the pre-1971 consumptive water use by the project sponsor to be 0.0515 mgd in its prior approval and, for purposes of this docket, this quantity of water is considered “grandfathered” and is exempt from water compensation requirements.

The project’s surface-water withdrawal was in operation prior to 1995, but increased by more than 100,000 gallons per day, and is subject to the regulation. The requested maximum daily withdrawal of 31.392 mgd is less than 10 percent of the 7-day, 10-year low flow (Q7-10 flow) of 655 mgd for the Susquehanna River at Danville. Therefore, no passby flow requirement is required to protect aquatic resources and downstream users.

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

Commission staff became aware of the project’s increased consumptive water use and contacted the project sponsor, who subsequently submitted an application to modify the existing consumptive water use approval. While the project’s recent consumptive water use has been in noncompliance with Commission regulations, there have been no adverse impacts associated with the consumptive use and the project sponsor has cooperated with Commission staff during its review.

The project sponsor has paid the consumptive water use fees for the water used. Commission staff recommends acceptance of these payments as settlement to compensate for its prior noncompliance.

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

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

Based on Commission Regulation §803.30(a), the prior docket approval is effective until July 12, 2020. Commission staff recommends the duration of this docket modification be consistent with the term of the prior docket approval.

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

Decision

The withdrawal from the Susquehanna River of up to 31.392 mgd and the consumptive water use of up to 0.464 mgd are approved pursuant to Article 3, Section 3.10 of the Compact, subject to the following conditions:

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

b. 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 and the total consumptive water use at the facility, as well as account for water received via intermediate products from facilities off the property and water entering the waste treatment facility through the ground-water remediation system or stormwater flows. The project sponsor shall propose a methodology to account for their consumptive water use based on metering, rather than estimation. Following approval, the project sponsor shall execute the plan and complete any installation of meters in accordance with the approved schedule, and shall certify to the Commission that the monitoring plan has been implemented. The project sponsor shall maintain any meters, accurate to within five (5) percent.

c. 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 are due within thirty (30) days after the close of the preceding quarter.

d. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the difference between the daily quantity of all water withdrawn from the Susquehanna River and not returned through the wastewater treatment plant discharge, as calculated in accordance with the approved plan described under Condition "b," above. The project sponsor shall maintain proposed metering on the river intake and wastewater outfall, accurate to within five (5) percent.

e. The maximum instantaneous rate of withdrawal from the Susquehanna River shall not exceed 21,800 gpm.

f. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the quantity of water withdrawn from the Susquehanna River minus the quantity discharged from the wastewater treatment system. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.0515 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero.

Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

g. The project sponsor has offered a settlement by agreement, pursuant to Commission Regulation §805.27, for its consumptive water use found to be in noncompliance with Commission Regulation §803.42, and is hereby accepted. Except where the full amount of same has been tendered to the Commission in advance hereof, this action shall be contingent upon, and shall not be effective until payment of the settlement amount is made to the Commission or arrangements for such payment have been made that are acceptable to the Executive Director of the Commission. Failure to make such payment or payment arrangement with the Commission within forty-five (45) days hereof shall render this approval null and void.

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

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

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

k. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90)-day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

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

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

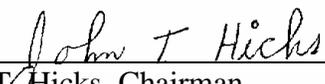
n. All other conditions in Commission Docket No. 19950701 not inconsistent herewith shall remain effective.

o. Based on Commission Regulation §803.30(a), this approval is effective until July 12, 2020. The duration of this docket modification is in accordance with the term of the prior docket approval. The project sponsor shall submit a renewal application by January 12, 2020, and obtain Commission approval prior to continuing operation beyond July 12, 2020.

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

By the Commission:

Dated: June 12, 2003



John T. Hicks, Chairman
New York Commissioner

Docket No. 20030606
Approval Date: June 12, 2003

EGG HARBOR SPRING, INC.

Consumptive Water Use of Up to 0.0432 mgd, for Bulk Water Sales,
Porter Township, Schuylkill County, Pennsylvania

Review Authority

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

Description

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

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

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.060 million gallons per day (mgd). Based on data provided by the project sponsor, Commission staff calculates the project's maximum average 30-day consumptive water use to be 0.026 mgd, and current peak-day consumptive water use to be 0.042 mgd.

The source of water is two springs. Water from the springs is collected in a stone filtration bed and drained by gravity through a PVC pipe to the water treatment facility.

The project was constructed in 1996 to supply bulk spring water, and has been in continuous operation since that time. The system has been metered since the initiation of the project.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (Pa. DEP) Northcentral Region Office during review of the project. The spring passed SWIP (surface-water influence protocol) monitoring, did not require a passby flow, and was permitted as a ground-water source on September 30, 1996 (Pa. DEP Permit No. 3546438).

Findings

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

All water pumped to tanker trucks at the loading station is considered to be consumptively used. The project sponsor has agreed to continue to meter the quantity of water pumped to tanker trucks at the loading station.

The project sponsor requested approval for a consumptive water use of up to 0.060 mgd. Based on Pa. DEP Permit No. 3546438, the current system is limited by the maximum disinfection capacity of 30 gallons per minute (gpm), or 0.0432 mgd. Commission staff is recommending approval of up to the existing system capacity, identified in the aforementioned Pa. DEP permit, of 0.0432 mgd. Should the project wish to increase the consumptive water use, the project sponsor must obtain approval from Pa. DEP and apply to the Commission for a modification to this docket.

The project's consumptive use of water is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water. The payment will be based on the daily quantity of water removed from the treatment system.

Egg Harbor Spring is located in the headwaters area of an unnamed tributary to the Wiconisco Creek, which is classified as a warm-water fishery (WWF) (25 Pa. Code Chapter 93). Commission staff has determined that the subbasin in which Egg Harbor Spring is located has an annual average daily flow (ADF) of 0.079 mgd (55 gallons per minute (gpm)) and a 7-day, 10-year low flow (Q7-10) of 1.4 gpm. However, there are no measurement devices currently being utilized to measure natural spring flow. Commission staff recommends that a flow measurement device be installed and that the project sponsor measure and record daily flows from the spring subbasin.

Staff recommends that the project sponsor allow a passby flow of 20 percent of the annual ADF (11 gpm) leaving the spring subbasin at times when water is being withdrawn from the spring. Commission staff further recommends that the rate of withdrawal be regulated at the point of taking to meet the passby requirements.

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

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

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

Compliance Incentive Program

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

Decision

The project's consumptive water use of up to 0.0432 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

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

c. The project sponsor shall install a weir or other functionally equivalent device at the site to measure the natural flow of the spring subbasin, and record daily flows from the spring subbasin. The project sponsor shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter.

d. The project sponsor shall allow a flow to leave the spring subbasin (a passby flow) of not less than twenty (20) percent of annual average daily flow (ADF), which equals 11 gallons per minute (gpm) at all times when water is being withdrawn from the spring. The project sponsor shall install a device to regulate the amount of withdrawal from the spring to meet the passby flow requirement.

e. The project sponsor shall submit its design and a proposed construction schedule for the flow-measurement and control devices within ninety (90) days from the date of this approval for review and approval by Commission staff prior to any construction or installation. Following approval, the project sponsor shall complete construction/installation in accordance with the approved schedule and shall certify to the Commission that construction/installation has been

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

f. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project. The daily quantity of water consumptively used shall be the quantity pumped to the tanker trucks at the loading station. Payments shall be made quarterly and shall be calculated by applying this rate to the daily amount of water consumptively used by the project during the preceding calendar quarter. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

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

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

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

k. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90)-day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

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

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

n. This approval is effective until June 12, 2028. The project sponsor shall submit a renewal application by December 12, 2027, and obtain Commission approval prior to continuing operation beyond June 12, 2028.

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

By the Commission:

Dated: June 12, 2003



 John T. Hicks, Chairman
 New York Commissioner

Docket No. 20030607
Approval Date: June 12, 2003

TOWER CITY BOROUGH AUTHORITY (TCBA)

Ground-Water Withdrawal (30-Day Average) of 0.1 mgd from Well 7,
and a Total System Withdrawal Limit (30-Day Average) of 0.250 mgd,
for Public Water Supply,
Porter Township, Schuylkill County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.43, relating to ground-water withdrawals. The Commission received the application on August 5, 2002.

Description

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

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

Project Features. The project sponsor has requested approval for the withdrawal of 0.1 million gallons per day (mgd) (30-day average) from Well 7. The well will be used as an additional source for the public water supply system that currently relies on Wells 1, 3, 5, and 6. Well 1 was drilled in 1964, and Well 3 was drilled in 1979; however Well 3 yields less than the regulatory threshold. The Commission previously approved the withdrawals from Wells 5 and 6, Commission Docket No. 19920301. Well 7 was drilled in July and August 2001 to supplement the existing water sources.

Well 7 was constructed as a 10-inch-diameter open-rock borehole from a depth of 60 to a depth of 300 feet and an 8-inch-diameter open-rock borehole from a depth of 300 to 500 feet. The well has 60 feet of 10-inch steel casing, and it was drilled to a total depth of 500 feet. The well penetrates predominantly red siltstone of the Mississippian-aged Mauch Chunk Formation. Well 7 is located approximately 2,300 feet southeast of the intersection of Pa. State Route 325 and Gold Mine Road.

The Tower City borough Authority (TCBA) public water supply system, which serves both Tower City Borough and portions of Porter Township, has an existing average daily demand of 0.227 mgd, and an existing maximum daily demand of 0.426 mgd. The average and maximum daily demands are projected to grow to 0.250 and 0.467 mgd, respectively, by 2028.

Pumping Test. A 49-hour constant-rate pumping test of Well 7 was conducted September 25-27, 2001. The testing was not preapproved by Commission staff. Pumping at an average rate of 150 gallons per minute (0.216 mgd) lowered the water level in Well 7 from a pretest level of 11.91 feet to 61.19 feet. At the end of the test, total measured drawdown was 49.28 feet, although actual drawdown was probably somewhat greater due to an uncorrected, pretest trend of rising water levels.

Nineteen private wells at residences and commercial establishments were monitored with irregularly spaced, manual water-level measurements during the aquifer test period. TCBA Well 6, located approximately 500 feet to the east of Well 7, also was monitored during the aquifer test, with a small number of manual water-level measurements (7 measurements over 10 days). Flow in a small perennial drainageway immediately northeast of Well 7 was monitored using a flume. Other than this flume, there was no monitoring of surface-water stage or flow at any of the other nearby small intermittent and perennial streams or wetlands.

Water pumped from Well 7 was discharged to a then dry drainageway, approximately 25 feet southwest of Well 7. Significant rainfall (1.65 inches recorded at Harrisburg on September 24-25, 2001) occurred immediately before and during the early stages of the pumping test, causing recharge and a rise in water levels at most of the observation wells, at the pumping well, and at the streamflow monitoring point (flume). This rising water level trend began before the pumping period at Well 7, and continued into the pumping period at most of the test observation points.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (Pa. DEP), Northeast Regional Office, Water Supply Management Program. Pa. DEP approved the project's withdrawal of ground water after its review of the Public Water Supply Permit Application for Well 7. Pa. DEP staff has reviewed this docket for consistency with its Water Supply Construction Permit No. 5402502, issued for Well 7.

Findings

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

Extrapolation of the time-drawdown trend from the pumping test of Well 7 indicates that continuous pumping for more than 100 days at the 150 gpm test pumping rate could result in the dewatering of a significant water-bearing zone located at a depth of 65 to 75 feet. Therefore, in order to avoid dewatering of this uppermost water-bearing zone, the maximum pumping rate proposed for Well 7 is 100 gpm. Commission staff recommends a maximum instantaneous pumping rate of 100 gpm, and an average (30-day) daily withdrawal of 0.1 mgd (approximately 70 gpm) for Well 7; and a total system withdrawal limit of 0.250 mgd (30-day average).

Drawdown of 1.37 feet was recorded at TCBA Well 6 during the pumping test, although this drawdown was based on only a small number of water-level measurements. Actual total drawdown at TCBA Well 6 was likely greater than 1.37 feet, considering the fact that drawdown at TCBA Well 6 was not corrected for a rising water-level trend that was pervasive in the site area at the beginning of the pumping test.

Several feet of water level decline occurred at two wells on an adjacent property, located approximately 1700 feet northeast of Well 7, along bedding strike. The actual amount of drawdown, if any, at the wells from the pumping of Well 7 is unclear, due to prolonged pumping of the easternmost well, during the pumping period of Well 7, and the rise in water levels due to the areawide recharge that occurred during the pumping test.

Well 7 is located approximately 700 feet southeast of an unnamed tributary to Wiconisco Creek, which is classified as a cold-water fishery (CWF) (25 Pa. Code Chapter 93). Well 7 also is approximately 400 feet from a reservoir on the southeast side of this tributary stream, which was previously used as a source by TCBA. Several small northwest-flowing tributaries drain the mountain slope in the area of Well 7 and empty into this old reservoir, which, in turn, discharges to the unnamed tributary to Wiconisco Creek. There are wetlands in the area of Well 7 associated with these small tributary drainageways, the old reservoir, and the unnamed tributary to Wiconisco Creek.

The monitoring data collected during the pumping test were too limited (one surface-water flow monitoring point) to allow an assessment of impact to the several small streams or the wetlands. The significant rainfall, which occurred immediately before and during the first day of the pumping test, further complicated the determination of potential adverse impact to surface-water resources from the pumping of Well 7.

Considering the basic site geologic setting within a sequence of southeast-dipping beds that outcrop (beneath a blanket of colluvium) downslope of Well 7, and the probable stratigraphic control of the water-bearing zones in Well 7, there is potential for induced infiltration of surface water from the nearby small tributaries and wetlands located downslope, updip, and along strike from Well 7.

Because there is potential for induced surface-water infiltration, impact to wetlands, and possible impact to wells on the adjacent property, and because these potential impacts cannot be adequately assessed due to the limited monitoring data collected during the test, and due to rain event interference and other conditions during the test, Commission staff recommends that the project sponsor conduct shallow and deep ground-water monitoring during one year of well operation. The project sponsor should prepare a monitoring plan for Commission staff's review and approval. Data collected from the monitoring plan should be sufficient for Commission staff to determine any adverse impacts to existing uses of surface water or ground water.

At the end of the 1-year monitoring period, Commission staff will determine whether the ground-water withdrawal causes substantial adverse impact to the wetlands or to wells on the adjacent property. Should the monitoring data prove to be inconclusive, Commission staff recommends that the Commission require additional monitoring, as necessary.

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

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

Adverse impacts to certain nearby private wells and to flow in nearby unnamed tributaries to Wiconisco Creek and to wetlands along these stream corridors are possible, though the degree of any such impact cannot be assessed due to the limited data generated by the pumping test and due to conditions during the test.

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

Decision

The project's ground-water withdrawal of 0.100 mgd (30-day average) from Well 7 and a total system withdrawal limit of 0.250 mgd (30-day average) are approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions

- a. The project sponsor shall comply with all Commission regulations, including ground-water withdrawal reporting requirements, as per Commission Regulation §803.43.
- b. The project sponsor shall keep weekly records of the metered withdrawal from Well 7 and weekly water levels from Well 7. The required reporting data shall be submitted to the Commission annually, and as otherwise required. Annual monitoring reports are due within sixty (60) days after the close of the preceding year. The project sponsor shall install a meter, accurate to within five (5) percent, on Well 7 prior to its use as a water supply source.
- c. The maximum instantaneous rate of production from Well 7 shall not exceed 100 gpm.
- d. The project sponsor shall develop a ground-water monitoring plan to generate data for the site sufficient to demonstrate that the water withdrawals do not impact surface-water or existing ground-water users. The ground-water monitoring plan shall be submitted within sixty (60) days for Commission staff's review and approval. The results of this plan shall be submitted to the Commission within one (1) year from the date of this approval, or as otherwise directed by Commission staff.
- e. The project sponsor shall comply with water conservation requirements, as per Commission Regulation §804.20(a).

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

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

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

i. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90)-day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

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

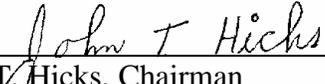
k. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

l. This approval is effective until June 12, 2028. The project sponsor shall submit a renewal application by December 12, 2027, and obtain Commission approval prior to continuing operation beyond June 12, 2028.

m. 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: June 12, 2003



John T. Hicks, Chairman
New York Commissioner

Docket No. 20011206
Approval Date: December 13, 2001
Modification Date: June 12, 2003

H. B. REESE CANDY CO.
A Division of Hershey Foods Corporation

Ground-Water Withdrawal (30-Day Average) of 2.16 mgd and
Consumptive Water Use of up to 0.126 mgd
for the Manufacture of Confectionary Products,
Derry Township, Dauphin County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, §803.42, relating to the consumptive use of water, and §803.43, relating to ground-water withdrawals. The original Commission approval for ground-water withdrawal and consumptive water use was issued on December 13, 2001, as Docket No. 20011206. The current modification request was received by the Commission on March 12, 2003.

Description

Purpose. The purpose of the application is to request approval for an increase in the consumptive use of water for evaporative cooling and product incorporation at the H. B. Reese Candy Co. (H. B. Reese).

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

Project Features. The project sponsor has requested approval for an increase in the consumptive water use from 0.052 million gallons per day (mgd) up to 0.126 mgd. This modification will not cause the project sponsor to exceed the originally-approved ground-water withdrawal of 2.16 mgd (30-day average) in Docket No. 20011206. The project sponsor began operations at the present location in 1957.

Water is supplied to the facility through a withdrawal from the Swatara Quarry in Derry Township and also by a public water purveyor, Pennsylvania-American Water Company – Hershey District (PAWC). The withdrawal from the quarry provides the facility's cooling water

for product, plant machinery, and plant air conditioning. The sanitary water needs of the facility, boiler feed water, and process water for inclusion in candy products are provided by PAWC. Currently, water supplied by PAWC averages 33,300 gallons per day (gpd) on a yearly basis, and is metered at one location as it enters the facility.

The ground-water withdrawal from Swatara Quarry is not metered. Daily ground-water withdrawal estimates are based on the rated capacity of the pumps and their running times. The project sponsor maintains three identical pumps, two of which operate continuously at a rate of 600 gallons per minute, for an average daily withdrawal of 1.73 mgd.

The quarry water is used exclusively for noncontact cooling within the plant. During peak summer months when cooling requirements are greatest, about 5 percent of the quarry withdrawal is used for makeup water to the plant's two chiller cooling tower systems, the parking lot and roof cooling towers. The larger parking lot cooling towers, installed in 1977, are used to cool 2,000 tons of compressor capacity, while the smaller roof cooling tower, installed in 1994, is used to cool 240 tons of compressor capacity. Both chiller cooling tower systems are used for cooling products and for building air conditioning. The remaining 95 percent of the total quarry withdrawal is circulated through a heat exchanger that cools compressed air used to run plant machinery. This once-through cooling water is discharged back into the quarry after use.

The year 2002 was the first full year in which actual metered data were available for monitoring individual consumptive water uses at the plant. Based on this metered usage, the plant's peak 30 consecutive day average consumptive water use was determined to be 0.062 mgd, which occurred from July 18 through August 16, 2002. Peak-day consumptive water use reached 0.084 mgd on July 18, 2002.

All of the wastewater generated from the facility is collected in a wet well, metered, and transported through a force main to the Hershey Foods Corporation pretreatment plant. After pretreatment, the wastewater is discharged to the Derry Township Municipal Authority's sanitary sewer system for final treatment at the Authority's sewage treatment plant.

Findings

The project is subject to Commission approval and reporting requirements, as per Commission Regulations §803.43 and §803.42, relating to ground-water withdrawals and the consumptive use of water.

All water supplied by the public supplier that is used for boiler makeup and for process water included in products is considered to be entirely consumptively used. Additionally, all water supplied from Swatara Quarry that is evaporated by the two chiller cooling towers is considered to be entirely consumptively used. However, consumptive water use of quarry water resulting from once-through cooling of compressed air through the heat exchanger is nominal, and is considered to be zero.

The requested increase in consumptive water use will not cause the project sponsor to exceed the originally-approved ground-water withdrawal from Swatara Quarry of 2.16 mgd (30-day average) in Docket No. 20011206. The project sponsor has installed meters to monitor makeup to and blowdown from both chiller cooling tower systems to more accurately assess the quantity of water being evaporated at the facility. Because 95 percent or more of the ground-water withdrawn is returned to the quarry, and the loss will be metered, the project sponsor requested that the Commission waive its requirements to meter the ground-water withdrawal. The Commission granted this request with the previous approval (Docket No. 20011206). Therefore, the project sponsor is not required to install meters on the quarry withdrawal, provided that accurate metering of the consumptive water use from the quarry withdrawal is installed and maintained. The project sponsor should continue to record and report pumping rates, duration of pumping, and calculated pumped quantities of water withdrawn from the quarry daily. Water discharged into the quarry from the facility is not subject to a NPDES discharge permit because the quarry is not a surface-water body.

Over the past year, the project sponsor has had difficulty maintaining the meters in proper operating condition in both chiller cooling tower systems. During summer 2002, meters were continuously operating at their maximum flow ranges for several months and failed. In the interim period, evaporation from the chiller cooling towers has been calculated by a formula utilizing circulating water flow in the cooling systems and temperature differentials over the cooling towers. The project sponsor has agreed to correct metering problems, install new meters, and initiate monitoring in both chiller cooling tower systems by the beginning of the peak cooling season.

By July 1, 2003, the project sponsor has agreed to submit a meter installation plan listing the specifications for the proposed new meters to be installed and the installation schedule. The objective will be to install the new meters during periods of scheduled plant shutdowns to avoid losses in plant production. The priority for new meter installation will be as follows: (1) the makeup water line to the parking lot cooling tower, (2) the makeup water line to the roof cooling tower, (3) the blowdown from the parking lot cooling tower and (4) the blowdown from the roof cooling tower.

The facility obtains its water for sanitary water use, boiler feed water, and process water for inclusion in candy products from a public supplier. This water is metered on a monthly basis at one location as it enters the facility. Wastewater generated by the facility is collected in a wet well and measured on a continuous chart recorder (monitored monthly) before being transported to Hershey Foods Corporation for pretreatment.

The pre-1971 consumptive water use for the project was determined to be 0.0075 mgd in Docket No. 20011206, and this quantity of water is considered "grandfathered" and is exempt from compliance compensation requirements.

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

The project sponsor is currently using a spreadsheet accounting procedure, approved in Docket No. 20011206, whereby the makeup water minus blowdown to the two chiller cooling towers is recorded on a daily basis and summed. The quantity of water incorporated into products is calculated using production rates and product recipes and averaged about 4,000 gpd during 2002. In the current spreadsheet accounting procedure, the daily evaporation from the chiller cooling tower systems is summed with the calculated daily water incorporated into products to determine the facility's total consumptive water use.

In the Commission's prior approval, the project sponsor concluded, and Commission staff concurred, that daily boiler makeup water was of a nominal amount, particularly compared with cooling tower evaporative losses. However, cooling tower evaporation varies greatly by season, and prior boiler makeup use was not documented with metered data. Commission staff requested that the project sponsor document the amount of boiler makeup water currently used by the facility. Boiler makeup water is now metered, and that data indicate total boiler makeup averages 890 gpd annually. Additionally, current estimates, based, in part, on metered data, indicate that during peak winter months, boiler makeup water only reaches 3 percent of total daily consumptive water use at the facility. The project sponsor considers this amount to be nominal and recommends that boiler feed makeup water not be included in the spreadsheet accounting procedure. Therefore, the project sponsor recommends that the current spreadsheet accounting procedure continue to be used to determine daily consumptive water use. Staff concurs with these recommendations.

The consumptive water use approval in Docket No. 20011206 was based on calculations using design specifications for the chiller cooling towers and production and recipe requirements for water incorporated into products. At the time of the approval on December 13, 2001, metered data were not available for any of the plant's consumptive water uses.

During the hot, dry summer of 2002, cooling requirements at the facility reached record levels in both magnitude and duration that had not previously been experienced, based on electrical demands. In order to meet these peak cooling requirements, the facility's two chiller cooling tower systems ran at maximum levels for two consecutive months. Continuous cooling operations at these maximum levels for extended periods caused all meters measuring cooling tower evaporation to fail.

The project sponsor is now requesting a consumptive water use approval of up to 0.126 mgd, based on an expected 50 percent increase in future chiller cooling tower makeup requirements. During the 2002 cooling season, peak-day consumptive water use reached 0.084 mgd on July 18, 2002. Commission staff recommends approval of the project sponsor's request for an increase in consumptive water use from 0.052 mgd to 0.126 mgd. Should the project's future consumptive water use exceed 0.126 mgd, the project sponsor must apply for a modification to this docket at that time.

When the project sponsor determined that meters monitoring cooling tower evaporation had failed and exceedences of daily consumptive water use were occurring during peak summer periods, Commission staff was notified, and a modification request submitted. While the

project's recent consumptive water use has been in noncompliance with Commission regulations, there have been no adverse impacts associated with the consumptive use, and the project sponsor has cooperated with Commission staff during its review. The project sponsor has paid the consumptive water use fees for the water used in excess of the prior approval amount, based on calculated values for cooling tower evaporation utilizing circulating water flow in the cooling systems and temperature differentials over the cooling towers. Commission staff recommends acceptance of this payment for its prior noncompliance. Further, the project sponsor has agreed to submit a plan by July 1, 2003 listing the specifications for the proposed new meters to be installed and the schedule for meter installation.

The Commission previously approved a ground-water withdrawal of up to 2.16 mgd (30-day average) from Swatara Quarry for manufacturing use at the facility (Docket No. 20011206). Water withdrawals from the quarry are within the amount of the approval. Commission staff recommends that all conditions in Commission Docket No. 20011206 that are not inconsistent with this docket modification should remain effective.

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

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

The prior docket approval is effective until December 13, 2026. Commission staff recommends the duration of this docket modification be consistent with the term of the prior docket approval.

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

Decision

The project's consumptive water use of up to 0.126 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

b. The project sponsor shall continue to keep daily records of the project's consumptive water use, and shall provide the results to the Commission quarterly, and as otherwise requested. Quarterly monitoring data are due within thirty (30) days after the close of the preceding quarter. The project sponsor shall compute the project's daily consumptive water use calculated by using the project sponsor's existing spreadsheet accounting procedure. This spreadsheet calculates

consumptive water use by summing metered daily evaporation in the plant's two chiller cooling tower systems, with calculated daily water incorporated into products. By July 1, 2003, the project sponsor shall submit a meter installation plan listing the specifications for the proposed new meters and the schedule for meter installation. All proposed meters shall be accurate to within five (5) percent, to determine the consumptive water use in the chiller cooling towers and for boiler makeup.

c. All other conditions in Commission Docket No. 20011206 not inconsistent herewith shall remain effective.

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

e. The project sponsor is not required to install meters on the ground-water withdrawal from Swatara Quarry provided that accurate metering of the consumptive water use from the quarry withdrawal is installed and maintained. The project sponsor shall continue to calculate, record, and report the daily quantity of water withdrawn from Swatara Quarry based on pumping rates and the daily duration of pumping. All required monitoring data shall be provided to the Commission quarterly. Quarterly monitoring data are due within thirty (30) days after the close of the preceding quarter.

f. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall continue to make quarterly payments to the Commission in the amount of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the "grandfathered" quantity. The daily quantity of water consumptively used shall be the quantity of water evaporated by the chiller cooling towers plus calculated water incorporated in products. Payments shall be made quarterly, and shall be calculated by applying this rate to the amount of water used consumptively by the project, less the grandfathered quantity of 0.0075 mgd, during the preceding calendar quarter. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to all consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

g. The project sponsor has offered a settlement by agreement, pursuant to Commission Regulation §805.27, for its consumptive water use found to be in noncompliance with Commission Regulation §803.42, and is hereby accepted. Except where the full amount of same has been tendered to the Commission in advance hereof, this action shall be contingent upon, and shall not be effective until payment of the settlement amount is made to the Commission or arrangements for such payment have been made that are acceptable to the Executive Director of the Commission. Failure to make such payment or payment arrangement with the Commission within forty-five (45) days hereof shall render this approval null and void.

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

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

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

k. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify or revoke its approval of same, and may impose fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90) day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

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

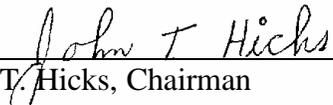
m. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

n. Based on Commission Regulation §803.30(a), this approval is effective until December 13, 2026. The duration of this docket modification is in accordance with the term of the prior docket approval. The project sponsor shall submit a renewal application by June 13, 2026, and obtain Commission approval prior to continuing operation beyond December 13, 2026.

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

By the Commission:

Dated: June 12, 2003



John T. Hicks, Chairman
New York Commissioner

Docket No. 20020823
Approval Date: August 15, 2002
Modification Date: June 12, 2003

**DEFENSE DISTRIBUTION DEPOT SUSQUEHANNA
PENNSYLVANIA (DDSP)—RIVERVIEW GOLF CLUB**

Consumptive Water Use of Up to 0.145 mgd, for Golf Course Irrigation,
Fairview Township, York County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The original Commission approval for the consumptive use of water was issued on August 15, 2002, as Docket No. 20020823. The current modification request was received on February 4, 2003.

Description

Purpose. The purpose of the application is to request approval for a withdrawal from the Susquehanna River as an alternate water supply for the irrigation of greens, tees, and fairways at an existing 9-hole golf course.

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

Project Features. The project sponsor has an existing approval for the consumptive use of water of up to 0.145 million gallons per day (mgd). All water used for irrigation is metered by the irrigation system. The sole source of water for the irrigation system currently is provided by the Pennsylvania American Water Company—Capital West Division. The project sponsor has requested approval for a withdrawal of up to 0.090 mgd from the Susquehanna River as an additional water source.

The proposed withdrawal is less than 0.100 mgd of water, as a maximum 30-day average, and, therefore, is not subject to Commission Regulation §803.44, relating to surface-water withdrawal. The approved consumptive use amount of 0.145 mgd will not increase as a result of this modification.

Findings

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

The irrigation system has a meter that measures the quantity of water pumped through the irrigation system. Commission staff recommends that the project sponsor install appropriate metering to allow for the measurement of the water withdrawn from the Susquehanna River.

The project will withdraw less than 0.100 mgd (30-day average) from the Susquehanna River, and therefore, is not subject to Commission Regulation §803.44, relating to surface-water withdrawals.

The Commission previously approved a consumptive water use of up to 0.145 mgd for golf course irrigation (Docket No. 20020823).

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

The project sponsor is exempt from application fee requirements, pursuant to Regulation §803.28 and in accordance with Commission Resolution 98-19, as amended by Commission Resolution 2000-06. The project sponsor has provided all proofs of notification, as required by Commission Regulation §803.25.

Based on Commission Regulation §803.30(a), the prior docket approval is effective until August 15, 2027. Commission staff recommends the duration of this docket modification be consistent with the term of the prior docket approval.

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

Decision

The consumptive water use of up to 0.145 mgd is approved pursuant to Article 3, Section 3.10 of the Compact, subject to the following conditions:

a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42. The required reporting data shall be submitted to the Commission quarterly. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter.

b. Within sixty (60) days from the date of this approval, the project sponsor shall install and maintain metering on the withdrawal from the Susquehanna River, accurate to within five (5) percent, and keep daily records of the project's surface-water withdrawal. The project sponsor shall report the data to the Commission quarterly, and as otherwise required. Quarterly

monitoring reports are due within thirty (30) days after the close of the preceding quarter. The project sponsor may propose alternative monitoring to the Commission for staff review and approval. The Commission reserves the right to inspect all measurement equipment and audit all measurement records. If the surface-water withdrawal exceeds the threshold specified in Commission Regulation §803.44, the project sponsor shall submit the appropriate application for review and approval by the Commission.

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

d. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project. For payment purposes, the daily quantity of water consumptively used shall be the quantity pumped to the irrigation system. Payments shall be made quarterly and shall be calculated by applying this rate to the amount of water consumptively used by the project during the preceding calendar quarter. Quarterly payments are due and payable within 30 days after the close of the preceding quarter. The rate of payment, after appropriate notice to all consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

e. The project sponsor is exempt from application fee requirements, pursuant to Commission Regulation §803.28 and in accordance with Commission Resolution 98-19, as amended by Commission Resolution 2000-06.

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

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

h. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have

thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90)-day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

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

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

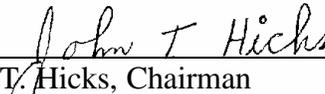
k. All other conditions in Commission Docket No. 20020823 not inconsistent herewith shall remain effective.

l. Based on Commission Regulation §803.30(a), this approval is effective until August 15, 2027. The duration of this docket modification is in accordance with the term of the prior docket approval. The project sponsor shall submit a renewal application by February 15, 2027, and obtain Commission approval prior to continuing operation beyond August 15, 2027.

m. If the project is discontinued for such a 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: June 12, 2003



 John T. Hicks, Chairman
 New York Commissioner

Docket No. 20030609
Approval Date: June 12, 2003

NEW HOLLAND BOROUGH AUTHORITY

Ground-Water Withdrawal (30-Day Average) of 0.720 mgd from Well 4,
and a Total System Withdrawal Limit (30-Day Average) of 1.65 mgd,
for Public Water Supply,
New Holland Borough, Lancaster County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.43, relating to ground-water withdrawals. The Commission received the application on August 9, 2002.

Description

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

Location. The project is located in the Lower Susquehanna River Subbasin, HUC 02050306, Mill Creek Watershed, New Holland Borough, Lancaster County, Pennsylvania.

Project Features. The project sponsor has requested approval for the withdrawal (30-day average) of 0.720 million gallons per day (mgd) of water from Well 4. The New Holland Borough Authority (NHBA) proposes to use the well to supply water for future development; it also will serve as a backup well for the NHBA's water system.

The NHBA currently utilizes a surface-water reservoir and three existing wells to supply water to a municipal water supply system. The NHBA received Commission approval for Well 2 in May 1983 (Docket No. 19830501), for Well 3 in March 1995 (Docket No. 19950307), and for the surface-water withdrawal and reservoir in May 1990 (Docket No. 19900511). Well 1 was put in service in 1966 and predates the effective date of Commission Regulation §803.43, relating to ground-water withdrawals.

NHBA Well 4 is located in the New Holland Community Park. Well 4 is drilled in the Zooks Corner Formation, a Cambrian-aged dolomite, and was constructed as an 8-inch-diameter,

open rock well in July 2002. The well is cased to a depth of 200 feet below ground surface (bgs), and has a completed depth of 540 feet bgs.

The total average daily demand for the NHBA water system is estimated to be 1.2 mgd, based on 2000 data. The average daily demand is projected to increase to 1.65 mgd through 2010. The project sponsor also serves water to Earl Township.

Pumping Test. A 72-hour constant-rate pumping test for Well 4 was conducted May 28-31, 2002. The pumping test protocol was reviewed and approved by Commission staff. Pumping at an average rate of 650 gallons per minute (gpm), total drawdown at the end of the test was 114 feet in Well 4. Drawdown in observation wells located within 153 feet (golf course well) and 178 feet (swimming pool well) were 0 feet and 32 feet, respectively, at the end of the 72-hour test. Stream water level in Mill Creek was continuously monitored during the testing, and the water level was not affected by pumping of Well 4.

Coordination. The project sponsor has requested approval of a Public Water Supply Permit from the Pennsylvania Department of Environmental Protection (Pa. DEP). Commission staff has coordinated with the Pa. DEP's Southcentral Region Office during review of the project, and Pa. DEP staff has reviewed this docket for consistency with its requirements.

Findings

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

Pumping test results, including the directional dependence of drawdown in the monitoring wells, indicates that Well 4 draws water from an anisotropic aquifer of high permeability.

Commission staff recommends approval of an instantaneous withdrawal rate of 500 gpm, and a 30-day average withdrawal rate of 0.720 mgd from Well 4, provided that the total system withdrawal is limited to 1.65 mgd. The project sponsor concurs that a 30-day average withdrawal rate from all sources of 1.65 mgd will be adequate to supply the projected increase in maximum daily demand during the term of this approval.

Commission staff recommends that the project sponsor install appropriate metering on Well 4 to monitor and record the ground-water withdrawal.

Commission staff reviewed the ground-water availability analysis and supporting information submitted by the project sponsor. Commission staff has concluded that the ground-water withdrawal potentially may impact the local surface and ground water. Commission staff recommends that the project sponsor conduct ground-water monitoring during well operation. The project sponsor should prepare a monitoring plan for Commission staff review and approval. Data collected from the monitoring plan should be sufficient for Commission staff to determine any adverse impacts to existing uses of surface water or ground water.

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

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

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

Decision

The project's ground-water withdrawal of 0.720 mgd (30-day average) from Well 4 and a total system withdrawal limit (30-day average) of 1.65 mgd are approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions

- a. The project sponsor shall comply with all Commission regulations, including ground-water withdrawal reporting requirements, as per Commission Regulation §803.43.
- b. The project sponsor shall keep daily records of the metered withdrawal from Well 4 and weekly water levels from Well 4. The required reporting data shall be submitted to the Commission annually, and as otherwise required. Annual monitoring reports are due within sixty (60) days after the close of the preceding year. The project sponsor shall install a meter, accurate to within five (5) percent, on Well 4 prior to its use as a water supply source.
- c. The maximum instantaneous rate of production from Well 4 shall not exceed 500 gpm.
- d. The project sponsor shall develop a ground-water monitoring plan to generate data for the site sufficient to demonstrate that the water withdrawals do not impact surface-water or existing ground-water users. The ground-water monitoring plan shall be submitted within sixty (60) days for Commission staff's review and approval. The results of this plan shall be submitted to the Commission within one (1) year from the date of this approval, or as otherwise directed by Commission staff.
- e. The project sponsor shall comply with water conservation requirements, as per Commission Regulation §804.20(a).
- f. If the Commission determines that the operation of the project's ground-water withdrawal from Well 4 adversely affects any existing ground-water or surface-water withdrawal, the project sponsor shall be required to provide, at its expense, an alternate water supply or other mitigating measure.

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

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

i. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90)-day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

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

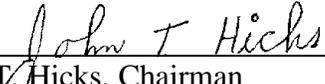
k. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

l. This approval is effective until June 12, 2028. The project sponsor shall submit a renewal application by December 12, 2027, and obtain Commission approval prior to continuing operation beyond June 12, 2028.

m. 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: June 12, 2003



John T. Hicks, Chairman
New York Commissioner

Docket No. 20030610
Approval Date: June 12, 2003

PROSPECT AGGREGATES, INC.
LANDISVILLE QUARRY

Consumptive Water Use of Up to 0.081 mgd,
for Processing of Aggregate and Production of Concrete,
West Hempfield Township, Lancaster County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on June 28, 2001.

Description

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

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050306, Chiques Creek Watershed, West Hempfield Township, Lancaster County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.081 million gallons per day (mgd). Quarry operations began at the current location in the late 1800s. The project sponsor purchased the facility and has been operating there since 1997.

The project sponsor excavates limestone and dolomite from an active open quarry pit on the property for the production of aggregate and concrete. The project's original quarry pit is no longer active and has been allowed to fill with water, and is used as a storage pond. The project sponsor calculates that the inactive quarry pit has a surface area of approximately 5 acres and holds approximately 59 million gallons of water. Overflow from the inactive quarry pit is released into an unnamed tributary to Chiques Creek.

The project sponsor utilizes water stored in two adjacent interconnected settling ponds for its material processing. Water is pumped from the settling ponds to the primary crusher at the processing plant, where it is mixed with the excavated aggregate to transport the material through the system and separate the various aggregate sizes. The water removes the unsuitable

silts and clays from the aggregate. The sediment-laden water discharges to the old quarry pit where the silts and clays settle out. "Clean" water from the settling ponds is reused in the processing system.

Commission staff calculates the total surface area of the two settling ponds to be approximately 0.18 acres. The settling ponds have been used for processing since approximately 1994. The settling ponds are maintained at adequate operating levels by water returning from the processing operation by the capture of surface runoff from the quarry and from the processing plant, and water pumped from the inactive quarry pit to the settling ponds. The withdrawal of water from the inactive quarry pit is not metered.

The project sponsor also operates two on-site wells (Wells 1 and 2). The wells are utilized at less than 100,000 gallons per day (gpd) on a 30-day average and, thus, this withdrawal is less than the threshold specified in Commission Regulation §803.43, relating to ground-water withdrawals.

Water withdrawn from Well 1 is supplied to the processing plant to operate dust suppression equipment at the primary crusher. Well 1 has been in operation since 1994, and has a pump capacity of 19 gallons per minute (gpm). The ground-water withdrawal from Well 1 is not metered.

Well 2 supplies water for the project's concrete plant. The water withdrawn from the well is used for the manufacture of concrete and equipment washing. Well 2 has been in operation since 1994, and has a pump capacity of approximately 25 gpm. The ground-water withdrawal from Well 2 is not metered. If the well is not operational, the project sponsor can pump water to the concrete plant from the inactive quarry pit.

Water also is withdrawn from the inactive quarry pit to control fugitive emissions (dust) on the property. Water trucks with a capacity of 5,000 gallons are equipped with sprayers that spray water on haul roads in order to control dust. The withdrawal is not metered; however, the project sponsor maintains a log documenting the daily number of truckloads of water withdrawn from the inactive quarry.

Based on daily water use data for the years 2001 and 2002 submitted by the project sponsor, Commission staff estimates the project's maximum average 30-day consumptive water use to be 0.043 mgd, and current peak-day consumptive water use to be approximately 0.074 mgd.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (Pa. DEP) Bureau of Mining and Reclamation during review of the project. Pa. DEP approved the project's withdrawal of ground water during its review of the quarry operation. Pa. DEP Bureau of Mining and Reclamation staff has reviewed this docket for consistency with its Noncoal Surface Mining Permit No. 8275SMI

Findings

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

All water incorporated into and used for the manufacture of concrete, as well as all water used for emission control, equipment washing, trucked off site or retained in aggregate, is considered to be used consumptively. Commission staff recommends that the project's total daily consumptive water use be calculated by summing the daily consumptive water use from these categories. The inactive quarry pit predates the Commission's consumptive water use regulation and the settling ponds are nominal in size; therefore, the project sponsor is not required to provide compensation for evaporative loss from these sources.

The total quantity of water supplied to the processing plant from the settling ponds and from Well 1, minus the quantity of wash water discharged from the processing plant (density compensated), is the quantity of water retained in the aggregate product. Commission staff recommends that the project sponsor install meters to measure the daily quantity of water entering and leaving the processing plant.

Well 2 supplies the water used for the manufacture of concrete. This includes water incorporated into concrete and water used for equipment washing. If the well is not functional, water for the concrete plant is supplied from the inactive quarry pit. Commission staff finds that all water withdrawn from Well 2, and all water withdrawn from the inactive quarry pit used for the manufacture of concrete, is entirely consumptively used. Commission staff recommends that the project sponsor install appropriate metering to measure the total quantity of water used for the manufacture of concrete.

The project sponsor withdraws water from the inactive quarry pit to control fugitive emissions on the property. Commission staff recommends that the quantity of water withdrawn from the inactive quarry pit for fugitive emission control should be calculated based on the capacity of the trucks and the number of truckloads of water. The project sponsor maintains a log of the daily number of truckloads of water withdrawn. All water used for dust control is considered to be consumptive.

Water was being consumptively used at the facility before January 23, 1971, the effective date of Commission Regulation §803.42. Based on the described historical activities at the facility and information submitted by the project sponsor in the form of an affidavit, Commission staff has determined a pre-1971 water use of 5,500 gpd and, for purposes of this docket, this quantity of water is considered "grandfathered" and is exempt from water compensation requirements.

The project's consumptive use of water in excess of the grandfathered quantity is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water. The payment will be based on the daily quantity of water used for general quarry operations, minus the pre-1971 consumptive use of 1,500 gpd.

If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero.

The project sponsor has requested a consumptive water use approval of up to 0.081 mgd. Based on an analysis of water use records supplied by the project sponsor, Commission staff is recommending approval of the requested amount, which represents an increase of approximately 10 percent above the current estimated peak-day use of 0.074 mgd. This will allow for an anticipated increase in water usage over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.081 mgd, the project sponsor must apply for a modification to this docket at that time.

The project's ground-water withdrawal has been in operation since 1994. Commission staff finds that the wells currently are utilized at less than 100,000 gpd on a 30-day average and, thus, the withdrawal is not subject to review and approval under Commission Regulation §803.43. If the combined ground-water withdrawal from the wells exceeds or is expected to exceed 100,000 gpd on a 30-day average (3,000,000 gallons in any consecutive 30-day period), the project sponsor must submit a ground-water withdrawal application to the Commission.

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

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

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

Compliance Incentive Program

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

Decision

The project's consumptive use of water of up to 0.081 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

b. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain meters, accurate to within five (5) percent, on the withdrawal from and discharge to the settling ponds to measure the quantity of water entering and leaving the processing plant. The project sponsor may propose alternative monitoring to quantify daily consumptive water use to the Commission for staff review and approval.

c. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain meters, accurate to within five (5) percent, on Wells 1, 2 and the pumps located at the old quarry pit that transfer water to the concrete plant and the wash plant. The project sponsor may propose alternative monitoring to quantify daily consumptive water use to the Commission for staff review and approval.

d. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity of water retained in the aggregate product, used for the manufacture of concrete, including water incorporated into concrete, used for equipment washing, trucked off site, and used for fugitive emission control. The quantity of water retained in the product shall be calculated as the difference between the quantity of water supplied to the processing plant and the quantity of wash water discharged from the processing plant (density compensated), as provided for in condition (b). The quantity of water used for fugitive emission control shall be calculated based on the capacity of the trucks and the number of truckloads of water.

e. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the quantity retained in the aggregate product, used for the manufacture of concrete, including water incorporated into concrete, used for equipment washing, trucked off site, and used for fugitive emission control. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.0055 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

g. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water consumptively used by the project beginning January 1, 2001. The project sponsor shall

provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used in excess of the grandfathered quantity of 0.0055 mgd during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (e) above.

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

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

j. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90)-day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

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

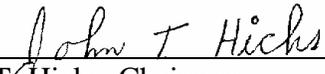
l. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

m. This approval is effective until June 12, 2028. The project sponsor shall submit a renewal application by December 12, 2027, and obtain Commission approval prior to continuing operation beyond June 12, 2028.

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

By the Commission:

Dated: June 12, 2003



John T. Hicks, Chairman
New York Commissioner

Docket No. 20030611
Approval Date: June 12, 2003

WYETH PHARMACEUTICALS

Consumptive Water Use of Up to 0.500 mgd,
for Manufacture of Pharmaceutical and Biological Products,
East Donegal Township, Lancaster County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on October 31, 2001.

Description

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

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

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.500 million gallons per day (mgd). The manufacture of biological products began at the current location in the 1880s. The project sponsor purchased the facility and has been operating there since 1943.

The primary source of water for the facility is the East Donegal Township Municipal Authority (EDTMA) public water supply system. The water supplied by EDTMA enters the facility through one incoming water line, 10 inches in diameter, and is metered prior to being distributed to the numerous buildings located at the facility. The water is used for processing, noncontact process cooling, boiler make-up, equipment cleaning, and sanitary purposes. Water also is incorporated into various products.

The project sponsor also operates one on-site well (Well 1) that provides noncontact cooling water for the facility. Well 1 was drilled in 2002, and ground water currently is withdrawn from the well utilizing a temporary pump with a capacity of approximately 120 gallons per minute (gpm). The ground-water withdrawal is metered. Based on daily ground-water withdrawal records for 2002 provided by the project sponsor, the well is utilized at

less than 100,000 gallons per day (gpd) on a 30-day average and, thus, this withdrawal is less than the threshold specified in Commission Regulation §803.43, relating to ground-water withdrawals.

Water supplied to the facility's eight cooling towers and to the facility's three central boilers is metered separately. Blowdown water from the cooling towers and boilers is not metered.

Based on metered water use data for the years 2001 and 2002 submitted by the project sponsor, Commission staff calculates the project's maximum average 30-day consumptive water use to be approximately 0.150 mgd, and current peak-day consumptive water use to be approximately 0.481 mgd.

Most of the wastewater generated at the facility, including process wastewater, blowdown from the boilers, and wastewater from sanitary uses, is conveyed to a pumping station, and discharged through a metered line to an on-site wastewater treatment plant. The treated effluent is metered at the treatment plant's outfall (Outfall 100), discharged and combined with the facility's inorganic wastewater that does not require treatment. The inorganic wastewater includes water softener regeneration water, blowdown from the facility's cooling towers, and water from the distillation equipment and deionizing unit. The project's combined effluent is measured by a flume at Outfall 004, and discharged through a gravity line to the Susquehanna River. Sludge generated at the wastewater treatment plant is hauled off site for disposal.

Findings

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

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

The project sponsor obtains water from a public water supplier and from an on-site well. The water from each source is metered, and each meter currently is read daily. The project sponsor measures and records all of the effluent discharged from the facility through Outfall 004 on a daily basis. Commission staff recommends, and the project sponsor concurs, that the project's total consumptive water use be calculated as the total metered water supplied to the facility from the public water supplier and the well, minus the metered outflow from the facility. If the measured daily outflow from the facility exceeds the daily sum of the water withdrawn from Well 1 and the water supplied by the EDTMA, that day's consumptive water use is considered to be zero.

Sometimes water used is not discharged on the same day it is used in the facility. Should the proposed accounting procedure, utilizing daily metered inflow minus daily metered outflow, consistently result in negative values, the Commission reserves the right to modify the

accounting procedure. Any alternative monitoring/accounting procedure will be reviewed and approved by Commission staff. Commission staff will direct the project sponsor by written notice of any required change in the accounting procedure.

The project sponsor has requested a consumptive water use approval of up to 0.500 mgd. Based on an analysis of metered water use records supplied by the project sponsor, Commission staff is recommending approval of the requested amount, which represents an increase of approximately 4 percent above the current peak-day use of 0.481 mgd. This will allow for an anticipated increase in water usage over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.500 mgd, the project sponsor must apply for a modification to this docket at that time.

The project sponsor was consumptively using water at the facility before January 23, 1971, the effective date of Commission Regulation §803.42. However, the project sponsor has limited knowledge of the pre-1971 consumptive water use and has requested no "grandfathered" quantity.

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

The project's ground-water withdrawal has been in operation since 2002. Commission staff finds that the well currently is utilized at less than 100,000 gpd on a 30-day average and, thus, the withdrawal is not subject to review and approval under Commission Regulation §803.43. If the ground-water withdrawal exceeds or is expected to exceed 100,000 gpd on a 30-day average (3,000,000 gallons in any consecutive 30-day period), the project sponsor must submit a ground-water withdrawal application to the Commission. Commission staff recommends that the project sponsor maintain appropriate metering on Well 1, and provide to the Commission documentation of the well's usage.

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

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

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

Compliance Incentive Program

Commission staff has determined that the project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor would not

be subject to penalties for water consumed in violation of Commission Regulation §803.42 prior to January 1, 2001. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all consumptive water used by the project beginning January 1, 2001.

Decision

The project's consumptive water use of up to 0.500 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity supplied to the facility from the public water supplier and the well, minus the metered outflow from the facility. The project sponsor shall maintain existing meters or measuring devices on the public water supply, the well, and the wastewater outfall (Outfall 004), accurate to within five (5) percent. Should the proposed accounting procedure, utilizing daily metered inflow minus daily metered outflow, consistently result in negative values, the Commission reserves the right to modify the accounting procedure. Any alternative monitoring/accounting procedure shall be reviewed and approved by Commission staff. The project sponsor shall be directed by written notice of any required change in the accounting procedure.

c. The maximum instantaneous rate of production from Well 1 shall not exceed 120 gpm.

d. The project sponsor shall maintain metering on Well 1, accurate to within five (5) percent, and keep daily records of the project's ground-water withdrawal. The project sponsor shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. If the ground-water withdrawal exceeds the threshold specified in Commission Regulation §803.43, the project sponsor shall submit the appropriate application for review and approval by the Commission.

e. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project. The daily quantity of water consumptively used shall be the daily metered inflow to the facility from Well 1 and public water supply, minus daily metered outflow from the facility. 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.

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

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

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

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

j. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90)-day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

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

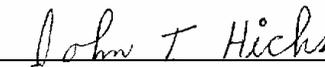
l. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

m. This approval is effective until June 12, 2028. The project sponsor shall submit a renewal application by December 12, 2027, and obtain Commission approval prior to continuing operation beyond June 12, 2028.

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

By the Commission:

Dated: June 12, 2003



John T. Hicks, Chairman
New York Commissioner

Docket No. 20030612
Approval Date: June 12, 2003

GLEN-GERY CORPORATION

Consumptive Water Use of Up to 0.037 mgd,
for the Manufacture of Brick Products,
Spring Garden Township, York County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on October 19, 2001.

Description

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

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

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.037 million gallons per day (mgd). Manufacturing at the facility involves the blending of clay with water, the drying and firing of this mixture in a dryer and kiln, the cooling of sample saws and hydraulic machinery with water, and the washing of vehicles. Glen-Gery Corporation began operations at the facility in 1930.

Water is supplied to the facility by the York Water Company (YWC) public water supply system and also from one well, the Lorraine Well. In 2001, water supplied by YWC averaged 0.046 mgd during maximum 30-day periods. However, during the summer 2002, the project sponsor implemented a number of permanent water conservation measures within the facility that reduced the maximum 30-day average water requirement supplied by YWC to 0.021 mgd. The most significant water-conserving measure implemented was the recycling of cooling water for the hydraulic equipment used to package and prepare the brick for shipping.

Water supplied by YWC is metered as it enters the facility at two locations, and is used for processing product, cooling sample saws and hydraulic machinery with water, washing vehicles, and sanitary purposes. A 2-inch metered water line (YWC Meter A) supplies water to

the main plant. Additionally, a 0.75-inch metered water line (YWC Meter B) supplies water for sanitary use by the facility's business office employees.

Water supplied by the Lorraine Well flows through a 1.5-inch meter that is currently not monitored. However, the project sponsor estimates a withdrawal and use of only 1,000 gallons per month from the well. Water from the Lorraine Well is used for quenching brick (contact cooling) on the Lorraine line. The quenching water is recycled through a filter system and stored for reuse. Lorraine brick is not manufactured during the summer months.

Noncontact cooling water for the hydraulic equipment used to package and prepare brick for shipping is recycled and stored for reuse in a 5,000-gallon storage tank. Other on-site storage includes three 500-gallon supply tanks for the three pugmills and a 250-gallon supply tank for jacketed cooling of the sample saws.

Based on monthly-metered water use data submitted by the project sponsor after permanent water-conservation measures were implemented within the plant, Commission staff calculates the project's maximum average 30-day consumptive water use to be 0.016 mgd. Current peak-day consumptive water use is estimated to be 0.018 mgd.

All of the wastewater from the facility is discharged through two outfalls and enters the Spring Garden Township Sewer Authority (SPTSA) sanitary sewer system. Effluent from sanitary use by business office employees enters one of the outfalls, and is estimated based on metered office water use. Also, effluent from the main plant originates entirely from sanitary uses. This effluent is measured by four Signet 3-4500 flow totalizer meters before being used in four separate plant lavatory and shower facilities and discharged to a second outfall.

Findings

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

All of the process water evaporated by the dryers and kilns, and all makeup water used for washing vehicles, to cool the sample saw and hydraulic machinery, and for quenching brick is considered to be entirely consumptively used. Nonconsumptive water uses at the plant include sanitary use by employees in lavatories and showers. Water used in the business office is entirely for sanitary uses, and Commission staff has determined that it is of a nominal amount. Therefore, business office use will not be accounted for in determining the facility's consumptive water use.

The main plant obtains the majority of its water from a public supplier. This water is metered at Meter A, and currently is monitored and recorded on a monthly basis. The project sponsor has agreed to monitor and record Meter A water use daily. Additionally, the plant withdraws a small amount of water (about 40 gallons per day) from the Lorraine brick line well. Well withdrawals flow through a 1.5-inch meter that is currently not monitored. The project sponsor has agreed to monitor and record Lorraine well withdrawals daily. Wastewater generated within the plant is comprised entirely of sanitary use that is metered quarterly at four locations before it enters the plant's lavatories and shower facilities. This water is then

discharged from the lavatories and shower facilities through plant drains, and leaves the plant through Sewer Outfall A. The project sponsor has agreed to monitor the plant's sanitary use daily at the four separate lavatory and shower facility locations.

The project sponsor proposes to determine the amount of the facility's consumptive water use by reading, recording, and summing water withdrawn from the Lorraine well and water supplied to the plant through YWC Meter A daily, and subtracting the plant effluent (sanitary use), as measured by the four Signet 3-4500 flow meters, summed daily. If the measured daily sanitary use exceeds the sum of the water withdrawn from the Lorraine Well and water supplied through YWC Meter A, that day's consumptive water use is considered to be zero. Commission staff concurs with this proposed procedure.

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

The project sponsor was consumptively using water at the brick plant before January 23, 1971, the effective date of Commission Regulation §803.42, relating to consumptive water use. The project sponsor does not have meter records from that time. However, the project sponsor has provided brick production data from that time and for the current period, along with metered consumptive water use before permanent water conservation measures were implemented within the plant. Based on these data, the project sponsor has estimated the pre-1971 consumptive water use to be 0.0122 mgd. Commission staff concurs with this finding. The quantity of pre-Compact consumptive water use, 0.0122 mgd, is considered "grandfathered" and is exempt from water compensation requirements.

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

During the term of this approval, the project sponsor anticipates adding a new brick manufacturing line and a wet scrubber to reduce air emissions within the facility. The new brick manufacturing line and wet scrubber will add an additional 0.019 mgd of consumptive water use to the facility's current maximum daily consumptive water use. Therefore, the project sponsor has requested an approval of up to 0.037 mgd. Should the project's future consumptive water use exceed or be expected to exceed 0.037 mgd, the project sponsor must apply for a modification to this docket at that time.

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

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

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

Compliance Incentive Program

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

Decision

The project's consumptive water use of up to 0.037 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

- a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42.
- b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly data are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the daily quantity of inflow to the plant minus the daily quantity of outflow from the plant. This quantity shall be calculated by subtracting the plant effluent, as measured by the four Signet 3-4500 flow meters measuring the plant's sanitary use, summed daily, from the sum of the metered Lorraine Well withdrawals and water supplied to the plant through YWC Meter A daily. The project sponsor, in cooperation with YWC, shall maintain Meter A, accurate to within five (5) percent, and the project sponsor shall maintain the four Signet flow meters measuring the plant's sanitary use, accurate to within five (5) percent.
- c. Should the approved accounting procedure, utilizing daily metered plant inflow minus daily metered plant outflow, consistently result in negative values, the Commission reserves the right to modify the accounting procedure. Any alternative monitoring/accounting procedure proposed by the project sponsor to correct persistent negative consumptive water use calculations must be reviewed and approved by Commission staff. Commission staff will direct the project sponsor by written notice of any required change in the accounting procedure.
- d. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly

payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project. The daily quantity of water consumptively used shall be the daily quantity of inflow to the plant minus the daily quantity of outflow from the plant. Payments shall be made quarterly and shall be calculated by applying this rate to the consumptive water used by the project, less the grandfathered quantity of 0.0122 mgd, during the preceding calendar quarter. If the daily grandfathered amount exceeds the project's calculated daily water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

f. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used, in excess of the grandfathered quantity of 0.0122 mgd, during the period from January 1, 2001, until the effective date of this approval. This payment shall be included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (d) above. Consumptive water use occurring prior to the date of this approval shall be determined based on the plant's metered sanitary water use subtracted from the plant's metered water supplied by the public water purveyor plus estimated well withdrawals.

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

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

i. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90)-day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

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

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

l. This approval is effective until June 12, 2028. The project sponsor shall submit a renewal application by December 12, 2027, and obtain Commission approval prior to continuing operation beyond June 12, 2028.

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

By the Commission:

Dated: June 12, 2003



 John T. Hicks, Chairman
 New York Commissioner

Docket No. 20030613
Approval Date: June 12, 2003

QUEBECOR WORLD ATGLEN, INC.

Consumptive Water Use of Up to 0.200 mgd,
for a Commercial Printing Facility,
West Sadsbury Township, Chester County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on September 28, 2001.

Description

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

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050306, Octoraro Creek Watershed, West Sadsbury Township, Chester County, Pennsylvania.

Project Features. The project sponsor originally requested approval for the consumptive use of water of up to 0.091 million gallons per day (mgd), and subsequently, modified its request to 0.200 mgd. Commercial printing operations began at the facility in October 1970.

Water is supplied to the facility by the Pennsylvania-American Water Company—Coatesville District (PAWC) public water supply system. The water is measured by two meters as it enters the facility and is used for processing, noncontact process cooling, boiler makeup, building heating and cooling, and sanitary purposes. Based on metered water use data for the years 2001 and 2002 submitted by the project sponsor, Commission staff calculates the project's maximum average 30-day consumptive water use to be approximately 0.084 mgd. The project sponsor estimates the project's current peak-day consumptive water use to be approximately 0.180 mgd.

Most of the process wastewater generated at the facility is treated at an on-site pretreatment plant. The project sponsor reports that, on average, approximately 85 percent of the treated process wastewater is recycled for use by the facility's boilers. Sludge produced during the treatment process is transported off site for disposal. Effluent discharged from the

pretreatment plant combines with the wastewater from sanitary uses at the facility, and with the blowdown from the facility's four cooling towers and five boilers. The combined wastewater is conveyed via two outfalls to a pump station and is metered as it is discharged to the PAWC sanitary sewer system. The pump station, owned and operated by PAWC, is located on the project's property, and currently receives wastewater only from the project sponsor's facility.

Process wastewater generated by the facility's offset press operations cannot be treated at the on-site pretreatment plant or discharged to the PAWC sanitary sewer system due to the presence of inks. The wastewater from the offset printing operation is transported to an off-site location for disposal.

Findings

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

All water used for boiler makeup, evaporated by the facility's cooling towers, and evaporated from various printing processes is considered to be used consumptively. Additionally, all water hauled to off-site locations, including process wastewater from the offset press room and water contained in the sludge produced at the facility's pretreatment plant, is considered to be entirely consumptively used.

The project sponsor obtains water from a public supplier. The water is measured by two meters as it enters the facility, and each meter currently is read on a daily basis. The effluent from the facility is conveyed to the PAWC pump station, and is metered as it is discharged to the sanitary sewer system. The project sponsor currently obtains daily records from PAWC of its wastewater discharges. The difference between the metered public water supplied to the facility and the metered outflow is the quantity of consumptive water use at the facility. Commission staff recommends that the project sponsor record both the metered inflow to the facility and outflow from the facility on a daily basis to determine the project's daily consumptive water use.

Commission staff and the project sponsor have agreed to a pre-1971 consumptive water use of 4,800 gallons per day (gpd) for the project and, for purposes of this docket, this quantity of water is considered "grandfathered" and is exempt from water compensation requirements.

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

The project sponsor has requested a consumptive water use approval of up to 0.200 mgd. Based on an analysis of the limited water use records supplied by the project sponsor, Commission staff is recommending approval of the requested amount, which represents an increase of approximately 11 percent above the current estimated peak-day use of 0.180 mgd. This will allow for an anticipated increase in water usage over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.200 mgd, the project sponsor must apply for a modification to this docket at that time.

The project sponsor's facility is physically located entirely within the Susquehanna River Basin, and the facility uses water from the PAWC for its entire supply. PAWC utilizes sources in both the Delaware and Susquehanna River Basins to supply its Coatesville District customers. Depending on the time of the year, the project may utilize water from one or both basins, and the percentage of water from each basin is variable. However, the primary source supplying the project is Octoraro Creek in the Susquehanna River Basin. Therefore, all water supplied to the facility is presumed to be Susquehanna basin water.

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

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

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

Compliance Incentive Program

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

Decision

The project's consumptive water use of up to 0.200 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall provide the daily results 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 calculated by subtracting the total quantity of metered wastewater discharged by the facility to the sanitary sewer system from the total quantity of water supplied to the facility by PAWC. The project sponsor shall maintain existing meters or measuring devices to monitor water entering the facility and the wastewater leaving the facility, accurate to within five (5) percent.

c. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the total quantity of water supplied to the facility by PAWC minus the quantity of metered wastewater discharged by the facility to the sanitary sewer system. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.0048 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

e. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used in excess of the grandfathered quantity of 0.0048 mgd during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (c) above.

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

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

h. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Failure to comply within thirty (30) days, or within the alternate period identified in the notice, shall result in a ninety (90)-day suspension of approval of this docket. If the project sponsor fails to address the noncompliance to the satisfaction of the Commission within the suspension period, this approval may be revoked. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

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

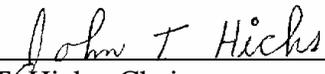
j. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

k. This approval is effective until June 12, 2028. The project sponsor shall submit a renewal application by December 12, 2027, and obtain Commission approval prior to continuing operation beyond June 12, 2028.

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

By the Commission:

Dated: June 12, 2003



 John T. Hicks, Chairman
 New York Commissioner