

Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed



July 27, 2004

TO ALL CONCERNED:

At the June 9, 2004 meeting, the draft minutes of the March 10, 2004 Commission meeting were approved as written. Please attach this notice to your copy of the March 10, 2004 minutes.

- DRAFT -

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

**MINUTES OF THE
SUSQUEHANNA RIVER BASIN COMMISSION**

June 9, 2004
#2004-02

The meeting was held at the Holiday Inn, Cortland, N.Y. Chairman William A. Gast called the meeting to order at 8:30 a.m.

ROLL CALL

Commissioners Present

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

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

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

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

**Alternate Commissioners
and Advisors Present**

Mr. Wes Coleman, U.S. Army Corps of Engineers, Baltimore District

Mr. Scott J. Foti, N.Y. DEC, Region 8

Staff Present

Mr. Paul O. Swartz, Executive Director

Mr. Thomas W. Beauduy, Deputy Director

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

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

Mr. Duane A. Friends, Chief Admin. Officer

Mr. Richard A. Cairo, Counsel/Secretary

Ms. Deborah J. Dickey, Executive Administrator

Ms. Susan S. Obleski, Director of
Communications

INTRODUCTION/WELCOME

Chairman Gast introduced the members of the Commission and the Executive Director.

PRESENTATIONS

1. Hydrologic Conditions Report

Mr. Michael Brownell, Acting Chief of the Water Resources Management Division, reported that all hydrologic indicators such as precipitation, streamflow and groundwater levels are at or above normal in most of the Susquehanna River Basin.

2. Shad Update

SRBC Water Assessment and Monitoring Chief David Heicher reported on the stocking of shad fry in the New York portion of the basin and on the Spring 2004 shad run.

In a continuing effort to restore runs of American shad to the Susquehanna River system, fishery agencies obtain shad eggs from the Lower Susquehanna, Delaware and Hudson Rivers and transport the eggs to the Pa. Fish and Boat Commission Van Dyke Shad Hatchery, where shad fry are hatched. When they are between 5 and 22 days old, the fry are then stocked at various upstream locations. On June 3, 2004, about 600,000 fry were stocked on the North Branch of the Susquehanna River near Apalachin, N.Y.

With the installation of a fish ladder at the Fabridam at Sunbury, Pa., the last major obstacle to migration will be removed, allowing these stocked shad to return to New York State when they reach spawning age. Fish passage facilities will also be needed at dams in Lock Haven and Williamsport, Pa., and Binghamton and Elmira, N.Y., to open up additional reaches of major tributaries to shad migration.

Unfortunately, high flows and quickly rising temperatures contributed to a relatively poor year for shad migration through the lower Susquehanna fish passage facilities. Problems were particularly evident at Holtwood Hydroelectric Project, where only about 3,000 shad passed upstream. Continuing high flows over Holtwood Dam made it more difficult for shad to find the attraction flow of the fish lift.

Fishery managers will experiment with high frequency sound at the Holtwood project to try to move fish toward the fish lift's attraction flow.

3. Panel Discussion – Managing Groundwater for a Sustainable Future

The Commission convened a panel session on how groundwater should be managed for a sustainable future. Participants in the panel included: Todd Miller, U.S. Geological Survey Hydrologist; Patrick Reidy, Water Quality Specialist with the Cortland County Soil and Water Conservation District; Linda Dickerson Hartsock, Executive Director of the Cortland County Business Development Corporation–IDA; and Sarah McCulloch, Senior Hydrologist with

GeoLogic, N.Y., a consulting firm. SRBC alternate New York Member Ken Lynch served as panel moderator.

The panel focused mainly on issues affecting the Cortland County, N.Y. region, such as protecting the quality of groundwater from pollution sources, intergovernmental coordination in groundwater management, public education and outreach on groundwater issues, and acquisition of management tools. Other topics included loss of recharge areas due to development, problems with confined aquifers, the need for public cooperation and volunteerism, the importance of water for economic development, the relationship between surface water and groundwater, and public awareness of SRBC's functions and authority.

New York Advisor Scott Foti pointed out that SRBC's management of groundwater resources helps to avoid conflicts among users. SRBC's powers are unique in this regard.

SRBC Communications Director Susan Obleski mentioned that Cortland's Greenway and Tioughnioga River Front Enhancement Project would be featured at a "Riverfront Symposium" to be sponsored by SRBC in early July 2005.

ACTION ITEMS

1. Groundwater Management Plan

Mr. Mike Brownell presented an overview of a proposed SRBC Groundwater Management Plan. He noted that 50 percent of the basin's population uses groundwater supplies for drinking water. Groundwater also provides baseflow to all of the surface streams of the basin, keeping them flowing during periods of drought.

The plan has been extensively reviewed by the Commission's Water Resources Management Advisory Committee. It evaluates existing and anticipated groundwater issues and problems and proposes a series of 37 short-term, long-term, and continuing recommendations for action by the Commission, its member jurisdictions, local governments, and the private sector. The plan attempts to balance economic development needs with protection of the environment.

Some of the problems cited in the plan include well interference, loss of recharge areas and baseflow to streams, watershed transfers, vanishing undeveloped resource areas, abandoned mine drainage, and unknown, unregulated water uses. Recommendations include managing water on a watershed basis, reviewing surface and groundwater withdrawals together, use of municipal planning and zoning tools, consideration of cumulative impacts, use of up-to-date science, and more public outreach.

Questions and discussion continued at length with members of the audience. Mr. Tim Weston suggested that the Commission reach out to businesses and industry through their various associations to make them aware of the opportunity for input to the Groundwater Management Plan.

On a motion by Commissioner Pajerowski, seconded by Commissioner Davis, the Commission approved the proposed plan for a 90-day period of public review and comment. Workshops are scheduled for July 15 in Harrisburg, Pa., July 21 in State College, Pa., and July 22 in Owego, N.Y. to receive public input. Comments will be evaluated and a final draft of the plan will be presented to the Commission for final adoption in December 2004 and public availability in January 2005.

2. Minutes of the March 10, 2004 Commission Meeting

On a motion by Commissioner Lynch, seconded by Commissioner Davis, the minutes of the regular business meeting of March 10, 2004, were unanimously adopted as written.

3. Fiscal Year 2006 Budget

The Chief Administrative Officer presented the proposed budget resolution (Exhibit A) for FY-2006, which begins on July 1, 2005. The total amount of the budget is \$4,150,000. The Commission is requesting appropriations of \$300,000 from New York, \$1,300,000 from Pennsylvania, \$400,000 from Maryland, and \$1,000,000 from the federal government in support of the current expense budget. Other funds would come mainly from various grant programs.

He then reviewed some of the budgetary categories where funds are proposed to be spent including watershed coordination \$225,000; public education and outreach \$220,000; work on Pa. Act 220—water resources planning \$300,000; flood forecast and warning \$175,000; water quality monitoring \$350,000; Total Maximum Daily Loads \$225,000; low flow management \$200,000; and regulatory functions \$770,000. The Commission would also target \$150,000 for a water conservation program.

With the approval of the Commission, the budget will be submitted to the member jurisdictions' budgetary processes. If revisions are needed, they will be made next spring and submitted to the Commission for approval.

On a motion by Commissioner Davis, seconded by Commissioner Lynch, the FY-2006 budget proposal was unanimously approved.

4. Grant Approvals

Mr. David Heicher requested that the Commission ratify the signing of a grant agreement with PADEP for development of Total Maximum Daily Loads (TMDLs) for 20 Pennsylvania watersheds, many in the bituminous coal regions of the basin. Under this agreement, PADEP would contribute \$205,500 and SRBC would contribute \$20,000 of in-kind services. The grant scored 10 out of 10 on the SRBC grant evaluation scale.

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

5. Election of Officers

Each year at this time, the Commission elects a chair and vice-chair of the Commission for the next fiscal year. These positions generally rotate among the member jurisdictions.

On a motion by Commissioner Lynch, seconded by Commissioner Davis, the member from the State of Maryland was unanimously elected Chairman of the Commission, and the member from the United States was unanimously elected Vice Chairman.

6. Project Review

a. Project Applications

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

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

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

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

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

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

- Village of Oxford (Exhibit B1)
- Alliance Sanitary Landfill, Inc. (Exhibit B2)
- Pine Hills Country Club (Exhibit B3)
- Balco Development, Inc./Windsor Heights Golf Course (Exhibit B4)
- Hazleton Area Water Company, Inc. (Exhibit B5)
- Turbot Hills Golf Course (Exhibit B6)
- Valspar Coatings (Exhibit B7)
- Penn-Mar Ethanol, LLC (Exhibit B8)
- Compass Quarries, Inc, d.b.a. Independence Construction Materials–Paradise Quarry (Exhibit B9)

Settlements were recommended for two of the projects–Alliance Sanitary Landfill, Inc. (\$100,846.60) and Compass Quarries, Inc. (\$10,000.00) for past instances of non-compliance with the Commission’s consumptive use regulation.

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

b. Eagle Rock Companies–Settlement by Agreement

The Deputy Director presented a settlement agreement with Eagle Rock Companies for certain alleged violations of Commission docket conditions. The Commission had approved Eagle Rock Companies’ consumptive use of water for its ski and golf resort in October 2002 (Docket No. 20021006).

After settlement negotiations failed to resolve the issue, the Commission, at its March 10, 2004 meeting in Harrisburg, Pa., imposed a civil penalty of \$34,000 on Eagle Rock Companies for 17 days of alleged violations set forth in a “Notice to Appear and Show Cause” letter dated January 20, 2004. The Commission postponed the imposition of additional civil penalties for other alleged violations pending further consideration. The Commission detailed the remaining alleged violations in a second “Notice to Appear and Show Cause” dated May 21, 2004 requiring the appearance of Eagle Rock Companies at today’s Commission meeting.

Negotiations then resumed on a settlement that would address all violations alleged in the “Show Cause” notices of January 20 and May 21, 2004. As a result, staff was now able to recommend the terms of a settlement that included payment of the settlement amount of \$60,655. Such settlements are authorized under Commission Regulation §805.27 and are actually encouraged by the Commission’s official “Policy on the Settlement of Civil Penalty/ Enforcement Actions.”

Attorney John Carroll, representing the Eagle Rock Companies, thanked the Commission for its cooperation in amicably resolving this matter. He reaffirmed his clients’ willingness to pay the settlement amount recited above in accordance with the terms of the settlement agreement presented by the Deputy Director. Mr. R. Mike Ward had executed the settlement agreement on behalf of all the Eagle Rock Companies, including Sugarloaf Ski Corp., Eagle

Rock Resort Co., and Eagle Rock Community Association, Inc.² These entities have been clearly identified in the settlement agreement and an anticipated modification of the current docket will contain an accurate identification of each.

Commissioner Gast inquired whether the project sponsor was currently in compliance with all docket requirements. Mr. Carroll responded that, to the best of his knowledge and belief, his clients were currently in compliance with all Commission docket requirements.

The Deputy Director read the following motion and recommended its adoption:

I move that the offer of settlement made by the Eagle Rock Companies for Docket No. 20021006 in the amount of \$60,655 to settle violations contained in the SRBC notices dated January 20 and May 21, 2004, as well as the civil penalty assessment imposed by this Commission on March 10, 2004, be approved.

I further move that the Executive Director be authorized to execute the settlement agreement on behalf of the Commission, subject to the payment of the settlement amount by wire transfer pursuant to banking instructions provided by the Commission.

Commissioner Gast made the motion recommended by the Deputy Director. This motion was seconded by Commissioner Davis and unanimously adopted by the Commission.

c. City of Aberdeen (Extension of Backup Requirement Deadline–APG Docket)

The Deputy Director provided some factual background on this request for an extension. The Commission approved Docket No. 20021210 on December 12, 2002 allowing the City of Aberdeen, Maryland to withdraw and divert up to 3.0 million gallons per day (mgd) from Deer Creek to supply water to Aberdeen Proving Ground.

A passby flow requirement was included to protect Deer Creek during periods of low flow. Because this passby requirement could render the Deer Creek intakes unusable during low flow periods, the Commission further required that, on or before December 31, 2003, the City develop and secure a backup supply or an agreement for backup supply to the Deer Creek withdrawal for the full approved amount of 3.0 mgd.

Upon request by the City in October 2003, the Commission extended the deadline for the acquisition of a backup supply to June 30, 2004, so that the City could coordinate the acquisition with similar requirements anticipated to be imposed upon it by the Maryland Department of the Environment in the issuance of a water appropriations permit.

By letter dated June 1, 2004, the City requested a further extension of the backup supply deadline to September 30, 2004, noting that it was close to execution of an agreement with the

² Two of these entities, Sugarloaf Ski Corp. and Eagle Rock Resort Co. are also subsidiaries of Double Diamond – Delaware, Inc., a holding company.

County of Harford that would supply 1.5 mgd of that 3.0 mgd backup requirement. The City further indicated that it would need to apply for a modification of its December 12, 2002 approval to bring the amount of the approved withdrawal in line with the amount of backup that it can eventually provide.

The Deputy Director then indicated that the staff was prepared to recommend an extension, but not exactly under the terms requested by the City. Under the staff's recommendation, the requirement for a 3 mgd backup supply would be extended to September 8, 2004, the date of the next Commission meeting. This would provide time for the Commission to process the City's application for a modification of its current approval which had already been submitted.

The City would, nonetheless, be required to execute an agreement with the County of Harford for the 1.5 mgd backup supply that the County was able to provide by June 30, 2004. By July 1, 2004, the City would also be required to limit its withdrawals from Deer Creek to the amount of its in-place emergency backup capacity for the Aberdeen Proving Ground up to its current docket limitation of 3.0 mgd. The Deputy Director presented a resolution (Exhibit C) to implement the staff's recommendations. Mr. Don Brand, legal representative for the City, stated that while some financing issues had to be resolved with APG in connection with execution of the agreement with the County, he had no objection to the resolution presented by staff.

Commissioner Davis asked for a clarification of the amount that the City is obliged to provide APG. Commissioner Pajerowski noted that, currently, the City must provide APG up to a peak of 3.0 mgd, but a daily average of 1.8 mgd. Mr. Brand noted that the amount of demand from APG is not expected to actually exceed 1.5 mgd over the next 3-5 years. Commissioner Davis pointed out, however, that due to the possibility of some unforeseen national security requirement, it was important for the City to be able to supply up to a peak of 3.0 mgd as originally contemplated.

The Executive Director noted the second sentence of Resolve No. 4 of the resolution, which states that, "The Executive Director is hereby authorized to make determinations on the adequacy and amount of available emergency backup capacity." He noted for the record that he would not make a favorable determination regarding the use of the City's well field as a backup source unless and until perchlorate treatment facilities were in place. Mr. Brand noted that such treatment facilities were expected to be installed within approximately one month.

Commissioner Pajerowski moved the resolution presented by the Deputy Director, prefacing his motion with a statement indicating how mindful the State of Maryland is of both the need to meet the public health needs of the City and protect the environment, and how arduous a process it was to reconcile these needs. This motion was seconded by Commissioner Lynch and unanimously adopted by the Commission.

7. Retention of Outside Counsel

The Executive Director mentioned that retention of outside counsel had been originally listed as an agenda item because of the possible need for assistance in litigating an enforcement case. With the settlement of that case, there was no longer an immediate need for litigation assistance. However, the staff would like to call on outside counsel for the purpose of improving and strengthening compliance enforcement procedures. Because the Executive Director is now authorized to expend up to \$25,000, there is no need for Commission action to engage outside counsel for this limited purpose. The Director would, however, continue to keep the Commission informed of its progress in developing improved procedures.

8. Recognition of Colonel John P. Carroll

The Executive Director presented a resolution (Exhibit D) honoring in absentia Colonel John P. Carroll on the occasion of his departure as Alternate Member of the Commission for the federal government. Colonel Carroll was also departing as Deputy Commander, U.S. Army Corps of Engineers North Atlantic Division.

On a motion by Commissioner Davis, seconded by Commissioner Pajerowski, the Commission unanimously adopted the resolution. Commissioner Davis was entrusted with the delivery of the framed resolution to Colonel Carroll.

The Director also presented a gavel to Pennsylvania Alternate William Gast in grateful recognition of Pennsylvania's chairmanship of the Commission during the past year.

PUBLIC COMMENTS

Attorney Gus Bauman, representing James Justofin, President and sole stockholder of Hazle Penn, Inc., noted his objections to the approval granted Hazleton Area Water Company. He said his client was the rightful owner of the property on which the water company's well project is located. The Deputy Director pointed out that approvals by the Commission confer no property rights upon the project sponsor as stated in a boiler plate item included in every docket approval. It is still up to the project sponsor to obtain any property rights needed to carry out the project.

ADJOURNMENT

There being no further business before the Commission, Chairman Gast adjourned the meeting at approximately 12:30 p.m.

NEXT MEETING

The next regular meeting of the Commission is tentatively scheduled for September 8, 2004 in Wellsboro, Pennsylvania.

Date Adopted


Richard A. Cairo
General Counsel/Secretary to the Commission

RESOLUTION NO. 2004-04

A RESOLUTION by the Susquehanna River Basin Commission to adopt a proposed Current Expense Budget for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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, 2005, in the amount of \$4,150,000 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, 2005.

<u>Member Jurisdictions</u>	<u>Apportionment</u>
New York	\$300,000
Pennsylvania	\$1,300,000
Maryland	\$400,000
United States	\$1,000,000

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, 2005 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 9, 2004



William A. Gast, Chair
Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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

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

Docket No. 20040601

Approval Date: June 9, 2004

VILLAGE OF OXFORD

**Groundwater Withdrawal (30-Day Average) of 0.500 mgd from Well 3,
and a Total System Groundwater Withdrawal Limit (30-Day Average) of 0.500 mgd,
for Public Water Supply,**

Village of Oxford, 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, 84 Stat. 1509 et seq., and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.43, relating to groundwater withdrawals. The Commission received the application on November 24, 2003.

Description

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

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

Project Features. The project sponsor has requested approval for the withdrawal (30-day average) of 0.500 million gallons per day (mgd) of water from Well 3. The well will be used as the primary source to supply water to a municipal water supply system that currently relies on Wells 1 and 2. Wells 1 and 2 were drilled in 1965 and 1980, respectively. Well 1 currently is used as an emergency backup well to Well 2, and its use predates Commission Regulation §803.43. The Commission previously approved a withdrawal of 0.43 mgd from Well 2 in 1982.

Well 3 was drilled in 1994 as a replacement well for Well 1, which had been pumping sand and experiencing related maintenance problems. The project sponsor proposes to use Well 3 as the primary water supply well, and use Well 2 as an emergency backup well. The use of Well 1 will be discontinued.

Well 3 is located to the south end of the Oxford Middle School property, approximately 245 east and 320 feet north of the Chenango River, in a sand and gravel (glacial outwash) aquifer. Well 3 was constructed with a 12-inch-diameter inner steel casing to a depth of 90 feet below ground surface (bgs), an 18-inch diameter outer casing to a depth of 92 feet bgs, and a 12-inch diameter, gravel-packed stainless steel screen from a depth of 90 feet to 111 feet bgs.

The Commission approved the use of Well 3 in 1995 (Docket No. 19951102), however, that approval expired in 1998. Well 3 has not been used to date due to a petroleum spill related to underground storage tanks at the Oxford Middle School property that impacted the groundwater quality. The petroleum spill since has been remediated and was assigned an “inactive status” by the New York State Department of Environmental Conservation (NYSDEC) in May 2001.

The public water supply system has an existing average daily demand of 0.390 mgd, and an existing maximum daily demand of 0.650 mgd. The average daily demand is projected to grow to 0.500 mgd by 2029. The project sponsor serves the Village of Oxford.

The wastewater generated throughout approximately 10 percent of the water system distribution area is discharged to the sanitary sewer system and treated at the Village of Oxford wastewater treatment facility, which discharges to the Chenango River. Wastewater from the remainder of the distribution area is discharged to individual on-lot sewage treatment facilities.

Pumping Test. A 72-hour constant-rate pumping test was conducted July 7–10, 2003, for Well 3, with prior Commission approval. In addition to the pumping well, four monitoring wells (MW-2, 4, 5 and 6), four test wells (TW-1, 2, 3 and 4), and the Chenango River were monitored during the test. Pumping at an average rate of 700 gallons per minute (gpm), total drawdown at the pumping well was approximately 5.45 feet.

Coordination. Commission staff has coordinated with the NYSDEC Region 7 Office during review of the project. NYSDEC issued a Water Supply Permit on May 8, 1996, and NYSDEC 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 indicate that Well 3 draws water from a highly transmissive valley-fill aquifer. Commission staff recommends approval of a 30-day average withdrawal of 0.500 mgd from Well 3, and a total system 30-day average withdrawal of 0.500 mgd. Although the average pumping rate during the required well testing was 700 gpm, Commission staff recommends approval of a peak instantaneous pumping rate of 400 gpm for Well 3, the pumping rate previously approved by NYSDEC.

Commission staff recommends that the project sponsor install appropriate metering on Well 3 and keep daily records of the metered withdrawal.

The project is subject to the Commission's water conservation requirements, as per Commission Regulation §804.20(a). The water system is 98 percent metered, which is not in compliance with this regulation, and the system had an unaccounted-for water loss of 65 percent in 2003, which exceeds the 20 percent maximum set forth in Commission Regulation §804.20(a)(1). Based on a review of water usage provided by the project sponsor, Commission staff finds that the calculated unaccounted-for water loss is inaccurate, partly because it includes the water usage from several unmetered connections (Fire Station, Department of Public Works Building, Wastewater Treatment Plant, and Fire Hydrants). Commission staff recommends that the project sponsor be required to comply with Commission Regulation §804.20(a) within 5 years, and to report annually on its actions to install additional metering and reduce unaccounted-for water to the required 20 percent or less standard.

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

Decision

The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision. The project's groundwater withdrawal of 0.500 mgd (30-day average) from Well 3 and a total system groundwater withdrawal limit (30-day average) of 0.500 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 groundwater 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 maintain metering on Well 3, accurate to within five (5) percent, to measure its groundwater withdrawal. The project sponsor shall keep daily records of the metered withdrawal and weekly water levels from Well 3. The required reporting data shall be submitted to the Commission annually, and as otherwise required. Monitoring reports are due within sixty (60) days after the close of the preceding year. The project sponsor shall maintain the existing meter, accurate to within five (5) percent, on Well 2. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

c. The maximum instantaneous rate of production from Well 3 shall not exceed 400 gpm.

d. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §804.20(a). The project sponsor shall have installed the necessary meters and achieved 100 percent compliance with the requirements by June 9, 2008. The project sponsor shall report to the Commission annually on the progress made pursuant to this requirement. The project sponsor must petition the Commission for an extension should unforeseen events occur that preclude compliance with the June 9, 2008, deadline.

e. If the Commission determines that the operation of the project's groundwater withdrawal from Well 3 adversely affects any existing groundwater or surface-water withdrawal, the project sponsor shall be required to provide, at its expense, an alternate water supply or other mitigating measure.

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

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

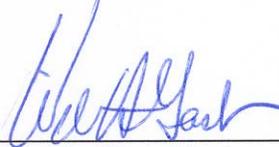
j. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation

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

k. This approval is effective until June 9, 2029. The project sponsor shall submit a renewal application by December 9, 2028, and obtain Commission approval prior to continuing operation beyond June 9, 2029.

l. 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:



William A. Gast, Chair
Pennsylvania Commissioner

Dated: June 9, 2004



SUSQUEHANNA RIVER BASIN COMMISSION

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

Docket No. 20040602

Approval Date: June 9, 2004

ALLIANCE SANITARY LANDFILL, INC.

Surface-Water Withdrawal of Up to 0.489 mgd from On-Site Ponds
and Consumptive Water Use of Up to 0.489 mgd, for Landfill Operations,
Taylor Borough and Ransom Township, Lackawanna 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 application February 14, 2004.

Description

Purpose. The purpose of the application is to request approval for a surface-water withdrawal and the consumptive use of that water for landfill operations.

Location. The project is located in the Middle Susquehanna Subbasin, HUC 02050107, St. Johns Creek Watershed, Taylor Borough and Ransom Township, Lackawanna County, Pennsylvania.

Project Features. The project sponsor has requested approval for a maximum daily withdrawal of up to 0.489 million gallons per day (mgd) of water from ponds and a maximum daily consumptive use of water of up to 0.489 mgd. The project sponsor calculates the current maximum-day consumptive water use to be approximately 0.395 mgd, and current maximum average 30-day consumptive water use to be 0.206 mgd.

The landfill, operated by Waste Management, was originally permitted by the Pennsylvania Department of Environmental Protection (PADEP) in 1987, and has been in continuous operation since that time.

The project consumptively uses water for dust and odor control, irrigation, screening operations, tire washing, and on the operating work face of the landfill. Each area is equipped

with a dedicated water storage tank that is filled, as needed, from the water trucks. Alternatively, water is applied directly to the area of use from the water trucks.

Water is supplied to the trucks from on-site ponds, the municipal water supply system, and effluent from the leachate treatment plant. A total of three ponds (Pine Reservoir, and Sediment Basins 1 and 2) currently are used for water supply, and a fourth pond, the Stoki Pit, is proposed for use as an additional water supply source. All ponds are located in the St. John's Creek Watershed and were in existence prior to January 1, 1971.

Pine Reservoir receives runoff from an area of approximately 28 acres. Prior to 1993, an unnamed stream that drained 260 acres fed the reservoir in addition to the runoff. Discharge from the reservoir entered an abandoned strip mine, and then infiltrated into the underlying deep mines. The stream was relocated in 1993 (PADEP Permit No. E35-276) and, as a result, approximately 90 percent of the drainage area was reconnected to St. Johns Creek.

Sediment Basins 1 and 2 are supplied by stormwater runoff from the landfill. These ponds were constructed prior to 1971 as part of the former mining operation and were expanded by an additional 2.7 acres in 1987.

The Stoki Pit consists of a water-filled strip mine, and has no identifiable channelized surface-water inflow or out flow.

Effluent from the leachate treatment plant is used to wet the workface of the landfill and, on a limited basis, for dust control and irrigation on the lined, but uncapped, portion of the landfill. The maximum size (area) permitted for the workface is 33,000 square feet, and it averages approximately 25,000 square feet. Most of the water applied to the workface evaporates from the waste or is absorbed. Some water infiltrates into the landfill and could be recycled at the leachate treatment plant.

Coordination. Commission staff has coordinated with the PADEP, Bureau of Land Recycling and Waste Management, during review of the project. PADEP approved the project's landfill operation in 1987. PADEP staff has reviewed this docket for consistency with its permits.

Findings

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

All water used in dust and odor control, irrigation, screening operations, tire washing, and evaporated from the landfill workface and 2.7 acres of ponds is considered to be used consumptively.

Water for all consumptive uses (except pond evaporation) is conveyed by truck to the area of consumptive water use. The project sponsor currently maintains a log of the daily number of truckloads of water withdrawn from the ponds, the municipal water supplier, and the

leachate treatment plant. Commission staff recommends that the quantity of water withdrawn from the water sources and used consumptively (except for water applied to the workface) be calculated based on the capacity of the water trucks and the number of truckloads of water.

The project sponsor has requested a withdrawal from four ponds (Pine Reservoir, Sediment Basins 1 and 2, and the Stoki Pit) located on the project site, and which were in existence prior to 1971. Based on information provided from the project sponsor, these ponds occupied a total of 4.8 acres in 1971, and currently have a total surface area of 7.5 acres. Therefore, evaporative loss from the expanded area is subject to the consumptive water use regulation. Water evaporated from 2.7 acres of pond area will be calculated by the project sponsor employing a methodology acceptable to the Commission.

The open workface averages approximately 25,000 square feet. A portion of the water applied to the workface is consumptively used through evaporative loss while the remainder is recaptured within the lined landfill and eventually recycled in the leachate collection system. Commission staff recommends that, to account for the consumptive use occurring on the working face that the evaporative loss from the average size workface should be calculated daily, employing a methodology acceptable to the Commission

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

The project sponsor has requested a consumptive water use approval of up to 0.489 mgd. Based on an analysis of water use records supplied by the project sponsor, Commission staff is recommending approval of the requested amount. Should the project's future consumptive water use exceed or be expected to exceed 0.489 mgd, the project sponsor must apply for a modification to this docket at that time.

The project sponsor has requested a surface water withdrawal of up to 0.489 mgd from the four ponds that are located in St. John's Creek Watershed. These ponds are primarily supplied by runoff. The water is withdrawn using a gasoline-powered centrifugal pumps supplying an overhead swing boom at each pond and trucked to the point of use. Commission staff recommend that the quantity withdrawn from each pond be metered.

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.

The project sponsor operated in violation of Commission Regulations prior to January 1987, when its consumptive water use and surface-water withdrawal exceeded the regulation threshold. The project sponsor voluntarily notified the Commission of its operation, complied with application procedures, and cooperated with Commission staff during its review of the project. The project sponsor has offered a \$100,846.60 settlement to the Commission to compensate for noncompliance in violation of Commission Regulation §803.4 for the period of noncompliance and ending on the date of this approval. Commission staff recommends acceptance of the project sponsor's proposed settlement.

Decision

The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision. The project's surface water withdrawal of up to 0.489 mgd and consumptive water use of up to 0.489 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. 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 used in dust and odor control, irrigation, screening operations, tire washing, and the evaporative loss from the landfill workface and 2.7 acres of ponds. The project sponsor shall maintain metering on withdrawals for landfill operations, accurate to within five (5) percent. The Commission reserves the right to inspect all measurement equipment and audit all measurement records. The project sponsor may propose alternative monitoring to the Commission for staff review and approval.

c. Within sixty (60) days from the date of this approval, the project sponsor shall install and maintain metering on the 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. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

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 quantity used in dust and odor control, irrigation, screening operations, tire washing, and the evaporative loss from the landfill workface and 2.7 acres of ponds. Payments shall be made quarterly and shall be calculated by applying this rate to the daily amount of water

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

e. The project sponsor has offered a settlement by agreement pursuant to Commission Regulation §805.27, in the amount of \$100,846.60, for its consumptive water use found to be in noncompliance with Commission Regulation §803.4, and is hereby accepted. Except where the full amount of same has been tendered to the Commission in advance hereof, this action shall be contingent upon, and shall not be effective until payment of the settlement amount is made to the Commission or arrangements for such payment have been made that are acceptable to the Executive Director of the Commission. Failure to make such payment or payment 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 the provisions of the Compact or any rule, regulation or order of the Commission, or any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

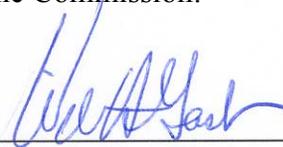
j. The Commission reserves the right to reopen any project docket or issue such additional orders, as may be necessary, to mitigate or avoid adverse impacts or otherwise to protect public health, safety, welfare, or the environment.

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

l. This approval is effective until June 9, 2029. The project sponsor shall submit a renewal application by December 9, 2028, and obtain Commission approval prior to continuing operation beyond June 9, 2029.

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

By the Commission:



William A. Gast, Chair
Pennsylvania Commissioner

Dated: June 9, 2004



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20040603

Approval Date: June 9, 2004

PINE HILLS COUNTRY CLUB

Consumptive Water Use of Up to 0.250 mgd,
for Golf Course Irrigation,
Taylor Borough, Lackawanna County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, 84 Stat. 1509 et seq., and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on March 29, 2004.

Description

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

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

Project Features. The project sponsor has requested approval for a maximum daily consumptive use of water of up to 0.250 million gallons per day (mgd). The project sponsor is replacing its existing irrigation system with a new automatic irrigation system that will provide for full irrigation of all greens, tees, and fairways on the golf course. Installation of the new irrigation system is scheduled to be completed in summer 2004. Based on design requirements of the new irrigation system, the project sponsor estimates that the project's peak-day consumptive water use will be 0.250 mgd, and the maximum average 30-day consumptive water use will be approximately 0.095 mgd.

The project was constructed as a 9-hole golf course in 1961, and has been in continuous operation since that time. The course was expanded to 18 holes in the late 1960s. An irrigation system limited to watering greens and tees of the golf course was installed in 1985. Prior to that time, the project sponsor hand-watered the greens and tees. Water for the existing irrigation system is supplied by the Pennsylvania-American Water Company (PAWC) water supply

system. Use of water from PAWC for golf course irrigation will be discontinued when the new irrigation system begins operation.

The project sponsor intends to use one well to provide water for the new irrigation system. Water will be withdrawn from the well, as needed, to fill one off-stream pond for irrigation water storage at the site. The well was drilled in 2002, and has a reported pumping capacity of 150 gallons per minute (gpm). The project sponsor reports that the withdrawal from the well will be less than 100,000 gallons per day (gpd) on a 30-day average.

The storage pond is being constructed as part of the new irrigation system project. The project sponsor estimates that the storage pond will have a surface area of approximately 1.0 acre, and a usable storage volume of approximately 1.5 million gallons. The project sponsor will have sufficient storage for approximately 16 days of irrigation, based on the estimated maximum average 30-day consumptive use of 0.095 mgd.

Water will be pumped from the storage pond to the golf course's irrigation system using a new pumping station having a maximum rated capacity of 600 gpm. The pumping station will contain two 30-horsepower pumps, and will be equipped with a meter to measure the water pumped through the irrigation system.

Findings

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

All water evaporated from the storage pond, as well as all water used for golf course irrigation, is considered to be used consumptively. The irrigation system will be equipped with a meter that measures the quantity of water pumped to the irrigation system. Water evaporated from the pond will be calculated by the project sponsor employing a methodology acceptable to the Commission. Commission staff recommends that the project sponsor submit documentation to the Commission of the actual surface area and usable volume of the storage pond prior to its use.

The project sponsor has requested a consumptive water use approval of up to 0.250 mgd. Based on data supplied by the project sponsor regarding the proposed irrigation system, Commission staff is recommending approval of the requested amount. Should the project's future consumptive water use exceed or be expected to exceed 0.250 mgd, the project sponsor must apply for a modification to this docket at that time.

Based on the information supplied by the project sponsor, Commission staff estimates the pre-1971 30-day average consumptive water use for this project to be 0.007 mgd. For purposes of this docket, 0.007 mgd is considered "grandfathered" and is exempt from water compensation requirements.

The project's consumptive use of water in excess of the grandfathered quantity is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these

requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water. The payment will be based on the daily quantity of water used for irrigation, plus the evaporative loss from the storage pond, minus the pre-1971 consumptive use of 0.007 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.

The project sponsor reports that the on-site well will be 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, relating to groundwater withdrawals. However, since the well is capable of producing approximately 216,000 gpd, Commission staff recommends that the project sponsor install the appropriate metering to provide to the Commission documentation of the well's usage. If the groundwater withdrawal from the well exceeds or is expected to exceed 100,000 gpd on a 30-day average (3,000,000 gallons in any consecutive 30-day period), the project sponsor must submit a groundwater withdrawal application to the Commission.

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 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 foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision. The project's consumptive water use of up to 0.250 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 pond plus the quantity pumped to the irrigation system. Prior to operation of the new irrigation system, the project sponsor shall install and maintain metering on the irrigation system, accurate to within five (5) percent, and also shall provide the Commission with documentation of the actual surface area of the storage pond and its useable volume. Commission staff shall review and approve the method of calculation of evaporative loss from the pond. The

Commission reserves the right to inspect all measurement equipment and audit all measurement records.

c. Prior to operation of the new irrigation system, the project sponsor shall install and maintain metering on the on-site well, accurate to within five (5) percent, to measure its groundwater withdrawal and shall provide the Commission with documentation that the metering has been installed. The project sponsor shall keep daily records of the project's groundwater withdrawal, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. 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 groundwater withdrawal exceeds the threshold specified in Commission Regulation §803.43, the project sponsor shall submit the appropriate application for review and approval by the Commission.

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 quantity of evaporative loss from the storage pond plus 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 7,000 gpd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

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

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

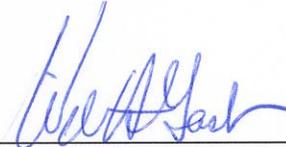
j. The Commission reserves the right to reopen any project docket or issue such additional orders, as may be necessary, to mitigate or avoid adverse impacts or otherwise to protect public health, safety, welfare, or the environment.

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

l. This approval is effective until June 9, 2029. The project sponsor shall submit a renewal application by December 9, 2028, and obtain Commission approval prior to continuing operation beyond June 9, 2029.

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

By the Commission:



William A. Gast, Chair
Pennsylvania Commissioner

Dated: June 9, 2004



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20040604

Approval Date: June 9, 2004

BALCO DEVELOPMENT, INC./ WINDSOR HEIGHTS GOLF COURSE

Groundwater Withdrawal of 0.135 (30-Day Average) mgd from
Wells 1, 2, and 3 and the pond, and a
Consumptive Water Use of Up to 0.244 mgd, for Golf Course Irrigation,
Hemlock 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, 84 Stat. 1509 et seq., and Commission Regulations §803.4, relating to projects requiring review and approval, §803.42, relating to the consumptive use of water, and §803.43, relating to groundwater withdrawals. The Commission received the applications on October 26, 2001, and subsequent revisions on March 8, 2004.

Description

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

Location. The project is located in the Middle Susquehanna Subbasin, HUC 02050107, Hemlock Creek Watershed, Hemlock Township, Columbia County, Pennsylvania.

Project Features. The project sponsor has requested approval for a 30-day average withdrawal of 0.216 million gallons per day (mgd) of groundwater from Wells 1, 2, and 3, and the consumptive use of water of up to 0.223 mgd. Based on data submitted by the project sponsor, Commission staff calculates the project's maximum average 30-day consumptive water use to be 0.124 mgd, and a peak-day consumptive water use to be 0.341 mgd. The project sponsor identified the primary water source to be three wells.

The fully-irrigated 18-hole golf course began operation in 2000. The project sponsor currently uses two wells, Wells 1 and 2, to provide water for the irrigation system. Water is withdrawn from the wells, as needed, to fill an off-stream pond.

Wells 1 and 2 were drilled in 1999, and Well 3 was drilled in 2002. The three wells and the pond are located within approximately 150 feet of Hemlock Creek. To date, Well 3 has not been used, but the project sponsor intends to use this source in the future to provide additional capacity.

Wells 1 and 2 are 6-inch diameter open rock wells, drilled to depths of 340 feet and 343 feet, respectively, and each having 41 feet of casing. Well 3 has a similar construction and a depth of 363 feet. The wells presumably penetrate lower Devonian and upper Silurian age limestones and calcareous shales, although there are no hydrogeologic well logs for any of the production wells. The groundwater withdrawal from the wells for the irrigation system currently is not metered.

The project sponsor estimates that the off-stream pond has a surface area of 1.3 acres, and has presumed a usable storage volume of approximately 1.7 million gallons.

Water is pumped from the off-stream pond to the golf course's irrigation system using a pumping station having a reported maximum rate capacity of 1,180 gallons per minute (gpm). The project is equipped with a meter to measure water pumped through the irrigation system.

Pumping Test. A 72-hour constant-rate pumping test was conducted May 14–21, 2004, for Wells 1, 2, and 3, with prior Commission approval. The wells were tested as a well field because they are close together and are drilled in the same aquifer. In addition to the pumping wells, local groundwater conditions, nearby wetlands, and Hemlock Creek were monitored during the testing using five bedrock wells and four piezometers. Two springs also were monitored. The combined average pumping rate for Wells 1, 2, and 3 was 81 gpm. During the testing, there were four short duration precipitation events (0.35, 0.40, 0.44, and 0.30 inches), two of which occurred during the pumping phase. The pumping phase was extended from 48 hours to 72 hours in consultation with Commission staff because of the rainfall.

Findings

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

All water evaporated from the off-stream pond, as well as water withdrawn from the pond and used for golf course irrigation, is considered to be used consumptively. Water evaporated from the pond 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 used for irrigation.

The project sponsor has requested approval of a consumptive water use of up to 0.223 mgd and a groundwater withdrawal of 0.216 mgd (30-day average). Based on an analysis of irrigation records supplied by the project sponsor, Commission staff is recommending approval of a consumptive use of up to 0.244 mgd, approximately 10 percent above the requested amounts. This will allow for an anticipated increase in water usage over the 25-year duration of this approval. Although this amount is less than the current maximum daily

consumptive water use of 0.341 mgd, the project sponsor has determined that a lower maximum daily consumptive use would meet the operational needs of Windsor Heights Golf Course and will operate the system within the 0.244 mgd limit. Should the project's future consumptive water use exceed or be expected to exceed 0.244 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 the water compensation requirements specified in Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water.

The project sponsor requested a groundwater withdrawal from Wells 1, 2, and 3. After analysis of the pumping test results, and an evaluation of impacts to existing users, springs, wetlands and streams, based on the project's hydrogeologic report and other information in the groundwater withdrawal application, Commission staff concludes the following:

- ◆ Although there were precipitation-induced water level changes in all of the piezometer data and in that for Well 3, the usefulness of the pumping test data was not impaired. Therefore, Commission staff finds the test to be acceptable.
- ◆ Maximum drawdown occurs northeast and southwest of the well field, parallel to the strike of the bedrock.
- ◆ The maximum drawdown observed in the groundwater monitoring points was 4.1 feet, recorded in the project sponsor's Pro Shop well, located approximately 750 feet northeast of the well field. Therefore, no existing wells are expected to be impaired by operation of the well field.
- ◆ There was between 0.05 and 0.08 feet of drawdown in a wetland piezometer, located approximately 1,000 feet southwest of the well field. This indicates that operation of the well field will reduce the amount of water available to the wetland. Given the small amount of drawdown, Commission staff finds that the impact to the wetland will only be significant during periods of severe drought.
- ◆ The off-stream pond is essentially a closed depression excavated to a depth of about 4 feet below creek level into the flood plain of Hemlock Creek that has filled with water to approximately the same level as the creek. The pond is not lined, and the pond's water level did not respond to the rain events. Anecdotal evidence provided by the project sponsor and the hydrogeological consultant indicates that the pond quickly refills on its own after being pumped down, and when filled above its 'normal' level, the water level in the pond quickly drops to its 'normal' level. Considering these observations, Commission staff concludes that the pond is directly fed by groundwater, and as such, provides only limited water storage for irrigation needs.
- ◆ The groundwater withdrawal from the pond may potentially impact the local surface-water resources and groundwater. However, Commission staff recommends that the constant-rate

pumping test requirement, specified in Commission Regulation §803.43, be waived for the pond. As an alternative to the pumping test, Commission staff recommends that the project sponsor prepare and implement a plan to demonstrate that the water withdrawals from the pond do not adversely impact surface waters.

- ◆ Wells 1, 2, and 3 encountered a recharge boundary during the first 16 hours of the pumping test, indicating a hydrologic connection with a nearby water source. The drawdown in the streamside and wetland piezometers strongly suggests that this water is from surface water bodies in the vicinity of the well field, including Hemlock Creek, the wetlands, and the pond.
- ◆ The recharge boundary limited drawdown in the wells essentially to that at 16 hours into the 72-hour test, with the exception of pumping rate corrections.
- ◆ A safe-yield estimate was developed based on the drawdown produced after 90 days of constant pumping with no recharge, which is a conservative estimate of performance during a severe drought. Maximum drawdown during testing in Wells 1, 2, and 3 was 158, 155 and 162 feet, respectively. The projections indicate up to an additional 10 feet of drawdown beyond that produced during the 72-hour test. This is due to the recharge boundary encountered in all three wells. Commission staff concludes that all three wells will likely perform with minimal loss of capacity during a severe drought, unless a major water-bearing zone is encountered. The depth and yield of individual water-bearing zones in the three wells is unknown.
- ◆ The groundwater availability analysis provided by the project sponsor indicates that recharge to the well field and pond is sufficient to meet the water needs of the project as herein approved.

The project sponsor has requested approval of a 30-day average groundwater withdrawal of 0.216 mgd. Based on the findings above, Commission staff is recommending approval of a total 30-day average groundwater withdrawal of 0.135 mgd from Wells 1, 2, and 3 and the pond, combined. This will allow for an anticipated increase in groundwater withdrawal over the 25-year duration of this approval. Should the project's future 30-day average groundwater withdrawal exceed or be expected to exceed 0.135 mgd, the project sponsor must apply for a modification to this docket at that time.

Currently, the groundwater sources are not metered. Commission staff recommends that the project sponsor install appropriate separate metering on each of the existing wells and the pond withdrawal, and provide monitoring data to the Commission, as required by the regulation.

Commission staff recommends approval of an instantaneous withdrawal rate of 24, 30, and 27 gpm for Wells 1, 2, and 3, respectively, which reflects the pumping rates, as tested. Commission staff recommends approval of an instantaneous withdrawal rate of 1,180 gpm for the off-stream pond, which represents the current capacity of the pumping station.

Hemlock Creek, a Class D cold-water fishery (CWF) (Title 25, Chapter 93, Pennsylvania Code), is located within approximately 150 feet from the three wells and the pond. Commission

staff has calculated the Q7-10 flow of Hemlock Creek be 0.137 cfs (61.5 gpm), and the average daily flow (ADF) to be 13.9 cfs (6,252 gpm). Although an impact to the stream was not quantified during the pumping test, the recharge boundary encountered during the first 16 hours of testing, as well as the drawdown in streamside piezometers, provides strong evidence of the potential for adverse impacts to the stream from pumping of the wells. Further, by its proximity alone, pumping from the pond at a rate of 1,180 gpm is likely to impact Hemlock Creek at a rate exceeding 10 percent of the Q7-10 flow (6.2 gpm). Therefore, a passby flow is required.

Based on the stream's classification, its geographic location in the watershed, and the anticipated associated fishery of trout and combined species of fish, Commission staff used the Instream Flow Incremental Methodology (SRBC Publication No. 191, May 1998) to determine the appropriate passby flow requirement. Commission staff has determined a minimum flow of 3 percent ADF, or 0.418 cfs (188 gpm), is required at the point immediately down stream from the well field and pond to prevent loss of aquatic habitat. Commission staff recommends that a flow measurement device be installed, and that the project sponsor measure and record daily flows of Hemlock Creek. The passby also will protect the wetland during periods of severe drought, by limiting pumping impacts.

Staff recommends that the project sponsor allow a passby flow of 3 percent ADF (188 gpm), pass the site at all times when water is being withdrawn from the wells and/or the off-stream pond.

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.

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

Decision

The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision. The project's groundwater withdrawal from Wells 1, 2, and 3 and the off-stream pond of 0.135 mgd (30-day average), when available, and the consumptive use of water of up to 0.244 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 ground-water withdrawal reporting requirements, as per Commission Regulation §803.43.

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

c. Within sixty (60) days from the date of this approval, the project sponsor shall install and maintain separate metering on each of the three wells and the withdrawal from the off-stream pond, accurate to within five (5) percent, to measure its groundwater withdrawal and shall provide the Commission with documentation that the metering has been installed. The project sponsor shall keep daily records of the project's groundwater withdrawal and weekly records of water level in each well, 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. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

d. The maximum instantaneous rates of production from Wells 1, 2, and 3, and the pond shall not exceed 24 gpm, 30 gpm, 27 gpm, and 1,180 gpm, respectively.

e. The project sponsor shall assess the impact of withdrawals from the pond to Hemlock Creek within a period of one (1) year. A plan for the assessment of impact, including any additional data, calculations, or interpretations pertinent to the monitoring plan or to the issue of impact to flow in the adjacent stream, shall be submitted to the Commission within thirty (30) days of docket approval. This plan shall include a schedule for implementation; and shall be executed upon Commission approval. The results shall be documented in an interpretive report due sixty (60) days after the one-year period, or otherwise as directed by Commission staff.

f. The project sponsor shall allow a flow to pass in Hemlock Creek directly below the well field and pond of not less than 0.148 cfs (188 gpm). When the streamflow below the well field and pond is less than this amount, the withdrawal shall be reduced to maintain 0.148 cfs (188 gpm), in the stream channel below the well field and pond. When the natural flow is equal to or less than 0.148 cfs (188 gpm), no water may be withdrawn, and the entire natural flow shall be allowed to pass the well field and pond to maintain such natural flow in the channel below the well field and pond as may prevail above.

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

h. To satisfy the Commission's current compensation requirements for consumptive

water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project. The daily quantity of water consumptively used shall be the quantity of evaporative loss from the off-stream pond plus the quantity pumped to the irrigation system. Payments shall be made quarterly and shall be calculated by applying this rate to the daily amount of water consumptively used by the project during the preceding calendar quarter. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

j. The constant-rate pumping test requirement for the off-stream pond specified in Commission Regulation §803.43 (b) is hereby waived.

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

l. 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.

m. 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.

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

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

o. 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.

p. 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.

q. This approval is effective until June 9, 2029. The project sponsor shall submit a renewal application by December 9, 2028, and obtain Commission approval prior to continuing operation beyond June 9, 2029.

r. 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 9, 2004



William A. Gast, Chair
Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20040605

Approval Date: June 9, 2004

HAZLETON AREA WATER COMPANY, INC.

Consumptive Water Use of Up to 0.101 mgd, for Bulk Water Hauling,
Sugarloaf and Black Creek Townships, Luzerne County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, 84 Stat. 1509 et seq., and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on March 14, 2004, and an amended application on March 26, 2004.

Description

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

Location. The project is located in the Middle Susquehanna Subbasin, HUC 02050107, Black Creek Watershed, Sugarloaf and Black Creek Townships, Luzerne County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.115 million gallons per day (mgd). The project sponsor calculates that the project's maximum average 30-day consumptive water use will be 0.094 mgd, and its peak-day consumptive water use will be 0.115 mgd.

The source of the water is two wells; Wells 1 and 4. Both wells were drilled in 2003. Well 1 is 140 feet deep, and will be equipped with a pump capable of producing 80 gallons per minute (gpm). Well 4 is 140 feet deep, and will be equipped with a pump capable of producing 50 gpm. Water from the wells will be pumped through two 8-inch diameter polyethylene lines to the on-site treatment system and stored in two 30,000-gallon stainless steel tank. Water will be periodically removed from the storage tank and transported from the site for sale as drinking water.

The wells are located immediately upgradient from two spring-fed wetlands that ultimately discharge to an abandoned flooded mine pit. Based on data provided by the project

sponsor, the drainage areas of Springs 1 and 2 and associated wetlands occupy 17.4 and 8.26 acres, respectively.

Pumping Test. Constant-rate pumping tests (48-hour duration) were performed on Wells 1 and 4, as required by Pennsylvania Department of Environmental Protection (PADEP) regulations. The pumping test plans were reviewed and approved by PADEP staff, and included monitoring in response to comments provided by Commission staff. The well testing was performed between September 30 and October 8, 2003. Nearby wetlands and springs were monitored during the testing.

Coordination. Commission staff has coordinated with the PADEP Northeast Region Office during review of the project. In its permit, PADEP has required a passby flow to protect the springs and associated wetlands. The PADEP permit will limit the current system by the maximum capacity of 70 gpm from Well 1 and 40 gpm from Well 4. PADEP staff has reviewed this docket for consistency with its requirements. PADEP issued its construction permit (PADEP Permit No. 4004502) to approve the facilities on May 21, 2004, and operations permit (PADEP Permit No. 2406524) on May 28, 2004, allowing the project to withdraw water at a rate limited to 20,000 gallons per day (mgd) until Commission action approves the increased production.

Findings

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

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

The project sponsor requested approval for a consumptive water use of up to 0.115 mgd. Based on the pending PADEP permit, the current system will be limited by the maximum capacity of 70 gpm from Well 1 and 40 gpm from Well 4. The wells will not be permitted to operate concurrently; therefore, the peak-day withdrawal is limited to 0.101 mgd. Commission staff is recommending approval of a quantity up to 0.101 mgd. Should the project wish to increase its consumptive water use, the project sponsor must apply to the PADEP for a revision of its permit 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 specified in Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water. The payment will be based on the daily quantity of water pumped to the loading station.

A groundwater availability analysis performed by the project's consultant indicates that aquifer recharge available to the wells during a 1-in-10 year average annual drought is adequate to meet the needs of the project. There are no existing wells or surface-water intakes within the recharge area for Wells 1 and 4, or within the local watershed that could potentially be impacted by the requested withdrawals.

During the testing of Wells 1 and 4, 13 of the 14 wetland and spring piezometers were impacted, indicating a relatively efficient hydraulic connection between the wells, and the springs and wetlands.

Streams within the Black Creek Watershed are classified a cold-water fishery (CWF) (Title 25, Chapter 93, Pennsylvania Code). Based on the stream's classification, its geographic location in the watershed, and a habitat evaluation conducted by PADEP staff of the springs and wetlands, the Pennsylvania Fish and Boat Commission staff concluded that these resources were of sufficient value to warrant protection and recommended a minimum passby flow of 20 percent of the annual average daily flow (ADF). Commission staff concurs with this recommendation. Commission staff has calculated average daily flows of 18.13 gpm and 8.61 gpm at the outlets from Springs 1 and 2, respectively. The corresponding passby flows are 3.6 gpm for Spring 1 and 1.7 gpm for Spring 2.

Commission staff recommends that the project sponsor should install and maintain passby flow devices and an automated system to ensure that the minimum flows from Springs 1 and 2 are allowed to pass at all times withdrawals are being made from Wells 1 and 4.

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 foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision. The project's consumptive water use of up to 0.101 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 the loading station. Within sixty (60) days from the date of this approval, the project sponsor shall install and maintain metering at the loading station, accurate to within five (5) percent. 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.

c. The maximum instantaneous rates of production from Wells 1 and 4 shall not exceed 70 gpm and 40 gpm, respectively.

d. Prior to operation of the bulk water hauling operation, the project sponsor shall install and maintain metering on the two on-site wells, accurate to within five (5) percent, to measure its groundwater withdrawal. The project sponsor shall keep daily records of the withdrawal from each well and the project's total groundwater withdrawal and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. 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 groundwater withdrawal exceeds the threshold specified in Commission Regulation §803.43, the project sponsor shall submit the appropriate application for review and approval by the Commission.

e. The project sponsor shall allow a flow at the outlets from Springs 1 and 2 (passby flows) of not less than twenty (20) percent of annual average daily flow (ADF), which equals 3.6 gpm for Spring 1 and 1.7 gpm for Spring 2, at all times when water is being withdrawn from Wells 1 and 4. The project sponsor shall install devices to measure passby flows and regulate the amount of withdrawal from the Wells 1 and 4 to meet the passby flow requirement.

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

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. The daily quantity of water consumptively used shall be the quantity pumped to 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.

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

i. If the Commission determines that the operation of the project's groundwater withdrawal from Wells 1 or 4 adversely affects any existing groundwater or surface-water withdrawal, the project sponsor shall be required to provide, at its expense, an alternate water supply or other mitigating measure.

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

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

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

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

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

o. This approval is effective until June 9, 2029. The project sponsor shall submit a renewal application by December 9, 2028, and obtain Commission approval prior to continuing operation beyond June 9, 2029.

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

By the Commission:

Dated: June 9, 2004



William A. Gast, Chair
Pennsylvania Commissioner



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Docket No. 20020808-1

Approval Date: August 15, 2002

Modification Date: June 9, 2004

TURBOT HILLS GOLF COURSE

Consumptive Water Use of Up to 0.217 mgd, for Golf Course Irrigation,
Turbot Township, Northumberland County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, 84 Stat. 1509 et seq, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The current modification request was received by the Commission on November 14, 2003.

Description

Purpose. The Commission originally approved the project on August 15, 2002, as Docket No. 20020808. As approved, the project sponsor was authorized to consumptively use up to 0.117 million gallons per day (mgd) of water for the irrigation of greens, tees, and fairways at the 18-hole golf course, subject to conditions enumerated in the docket. The project sponsor has requested approval for an increase in the consumptive use of water from 0.117 mgd to a maximum daily use of 0.217 mgd. This docket modification approves the requested increase.

Project Features. The project sponsor is installing a new automatic irrigation system that will provide for full irrigation of all greens, tees, and fairways on the golf course. Based on past irrigation practices and design requirements of the new irrigation system, the project sponsor estimates that the project's peak-day consumptive water use will be 0.217 mgd and the maximum average 30-day consumptive water use will be 0.120 mgd over the duration of the approval.

Installation of the new irrigation system is scheduled to be completed in summer 2004. As part of the project, the project sponsor plans to construct off-stream ponds to provide for irrigation water storage at the site to satisfy condition (d) of the original docket approval. The storage ponds will contain sufficient storage to meet the project's irrigation demands, while allowing the required passby flow in Muddy Run.

Water will be withdrawn from Muddy Run, when available, to fill the storage ponds. A pumping station will be constructed to pump water from the storage ponds to the irrigation system.

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 storage ponds will be calculated by the project sponsor employing a methodology acceptable to the Commission. In accordance with the Commission's consumptive water use reporting requirements, Commission staff recommends that the project sponsor install and maintain a meter to measure the quantity of water pumped from the storage ponds to the irrigation system.

The project sponsor has requested approval for a consumptive water use of up to 0.217 mgd. Commission staff recommends approval of the requested quantity. Should the project's future consumptive water use exceed or be expected to exceed 0.217 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 proposes to continue to make quarterly payments to the Commission in-lieu-of providing actual compensation water.

The project's maximum withdrawal from Muddy Run was 0.040 mgd (30-day average) prior to November 11, 1995, the effective date of Commission Regulation §803.44, relating to surface-water withdrawals. Commission staff finds that the surface-water withdrawal is not subject to review and approval as a result of this modification. If the surface-water withdrawal exceeds, or is expected to exceed, the thresholds set in Commission Regulation §803.44, the project sponsor must submit a surface-water withdrawal application to the Commission.

Condition (d) of the original Commission docket approval required the project sponsor to investigate alternative water supply options for the site to meet the project's irrigation demands, while allowing for a passby of at least 20 percent of average daily flow (ADF) in Muddy Run, which equals 2.29 cubic feet per second (cfs), or 1,030 gallons per minute (gpm). To satisfy the requirements of the original docket, the project sponsor proposes to construct on-site storage ponds. Commission staff recommends that the project sponsor submit documentation to the Commission that the storage ponds contain adequate storage to meet the project's irrigation demands, while allowing the required passby flow in Muddy Run.

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.

Commission staff recommends that all conditions in Commission Docket No. 20020808 that are not inconsistent with this docket remain effective.

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.

Decision

The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision. Commission Docket No. 20020808, as approved August 15, 2002, is hereby modified, and the project's consumptive water use of up to 0.217 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. Prior to operation of the storage ponds and pumping station, the project sponsor shall install and then maintain a meter, accurate to within five (5) percent, to measure the quantity of water pumped from the storage ponds to the irrigation system.

c. Condition (c) is hereby rescinded and replaced by the following condition (d).

d. The project sponsor shall continue to 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. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

e. The project sponsor shall submit documentation to the Commission of the total size in acres of the storage ponds and that the storage ponds contain adequate storage to meet the project's irrigation demands, while allowing the required passby flow of at least 20 percent of average daily flow (ADF) in Muddy Run, which equals 2.29 cubic feet per second (cfs) or 1,030 gallons per minute (gpm). The project sponsor shall submit the required documentation for Commission staff review and approval no later than February 15, 2006.

f. Condition (f) is hereby rescinded and replaced by the following condition (g).

g. 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 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 evaporative loss from the storage

ponds plus 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 17,000 gpd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

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

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

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

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

m. All other conditions in Commission Docket No. 20020808 not inconsistent herewith shall remain effective.

n. 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.

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:



William A. Gast, Chair
Pennsylvania Commissioner

Dated: June 9, 2004



SUSQUEHANNA RIVER BASIN COMMISSION

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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

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

Docket No. 20040606

Approval Date: June 9, 2004

VALSPAR COATINGS

Consumptive Water Use of Up to 0.048 mgd, for Manufacture of Coatings,
North Lebanon Township, Lebanon County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, 84 Stat. 1509 et seq., and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on March 24, 2004.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water associated with the manufacture of coatings (latex paint).

Location. The project is located in the Lower Susquehanna Subbasin, HUC 0250305, Susquehanna River Watershed, North Lebanon Township, Lebanon County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.048 million gallons per day (mgd) for the manufacture of latex paint at a new facility. The project sponsor anticipates that the project's maximum average 30-day consumptive water use will be 0.048 mgd, and its anticipated peak-day consumptive water use will be 0.048 mgd.

The project sponsor intends to construct a new facility and begin the manufacturing of latex paint in June 2005. The City of Lebanon Water Authority (LWA) water supply system will provide water to the facility. The water will be metered at two separate locations as it enters the facility; one meter measuring water used for sanitary purposes, and the other measuring water used in the manufacturing process. Water will be used for processing, incorporation into the product, and sanitary purposes.

Sanitary wastewater and stormwater will be discharged to the publicly-owned treatment works (POTW). The project sponsor indicated that aside from the sanitary and stormwater discharges, there will be no direct discharges to receiving streams or indirect discharges to a

POTW from the manufacturing process. The sanitary wastewater will be measured by a parshall flume.

Findings

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

All water used in the various manufacturing processes and included into the latex paint is considered to be used consumptively.

The project sponsor obtains water from a public water supplier. The process water will be metered separately from sanitary water supply at the facility and monitored on a daily basis. The project sponsor proposes that the facility's consumptive water use be calculated as the total metered process water supplied to the facility from the public water supplier. Commission staff concurs with this proposed accounting procedure, and recommends that the project sponsor record the metered inflow to the facility on a daily basis to determine the project's daily consumptive water use. All measurements should be recorded at approximately the same time each day.

The project sponsor indicated that there are no direct discharges to receiving streams or indirect discharges to a POTW from the manufacturing process. Should the proposed accounting procedure utilizing daily metered inflow of process water not accurately measure the consumptive water use, the Commission reserves the right to modify the accounting procedure. Commission staff will direct the project sponsor by written notice of any required change in the accounting procedure. Any alternative monitoring/accounting procedure will be reviewed and approved by Commission staff.

The project sponsor has not begun construction of the facility. Commission staff recommends that project sponsor contact the Commission when construction is complete, and that Commission staff inspects the facility after the latex paint manufacturing has commenced.

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 0.048 mgd, based on an analysis of water use records for a similar existing facility. Commission staff is recommending approval of the requested amount. Should the project's future consumptive water use exceed or be expected to exceed 0.048 mgd, the project sponsor must apply for a modification to this docket at that time.

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.

Decision

The foregoing findings are hereby incorporated into and made a part of this decision. The project's consumptive water use of up to 0.048 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 used in the various manufacturing processes and included into the latex paint (total metered process water). The project sponsor shall maintain meters and measurement devices to monitor the process water entering the facility, accurate to within five (5) percent. The Commission reserves the right to inspect all measurement equipment and audit all measurement records. The project sponsor may propose alternatives to the accounting procedure, which shall be reviewed and approved by Commission staff.

c. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project. The daily quantity of water consumptively used shall be the quantity of water used in the various manufacturing processes and included into the latex paint (total metered process water). Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

d. The project sponsor shall contact the Commission when construction of the facility is complete, and Commission staff shall inspect the facility after the latex paint manufacturing has commenced.

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

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

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

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

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

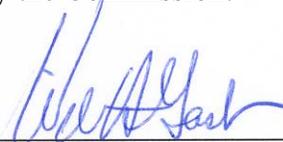
j. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

k. This approval is effective until June 9, 2029. The project sponsor shall submit a renewal application by December 9, 2028, and obtain Commission approval prior to continuing operation beyond June 9, 2029.

l. 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 9, 2004



William A. Gast, Chair
Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20040607

Approval Date: June 9, 2004

PENN-MAR ETHANOL, LLC

Surface-Water Withdrawal of Up to 0.925 mgd from the Susquehanna River,
and a Consumptive Water Use of Up to 0.622 mgd,
for Manufacture of Fuel Ethanol and Carbon Dioxide,
Conoy 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, 84 Stat. 1509 et seq., 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 consumptive water use application on August 27, 2003, and the surface-water withdrawal application on February 26, 2004. The applications were subsequently revised and received by the Commission on May 20, 2004.

Description

Purpose. The purpose of the application is to request approval for a surface-water withdrawal and consumptive use of water associated with the production of fuel ethanol and the bottling of carbon dioxide.

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

Project Features. The project sponsor has requested approval for a maximum daily withdrawal of up to 0.925 million gallons per day (mgd) of water from the Susquehanna River, and a consumptive use of water of up to 0.622 mgd. The project sponsor calculates that the project's maximum average 30-day consumptive water use will be approximately 0.516 mgd, and peak-day consumptive water use will be 0.622 mgd.

Operations at the facility are anticipated to begin in 2006 and will include the production of up to 60 million gallons per year of fuel ethanol and the bottling of carbon dioxide.

The primary source of water for the facility will be a withdrawal from the Susquehanna River. Water will be withdrawn directly from the river and used, either treated or untreated, for one or more of the following: fire protection; noncontact process cooling; processing, and incorporation into product. Water will be consumptively used at the facility for processing, noncontact process cooling, incorporation into product, and from evaporation.

Process wastewater generated at the facility, including water from air purification devices, water purification backwash water and cooling tower blowdown water, will be measured and discharged to the river. The project sponsor is required to obtain a National Pollution Discharge Elimination System (NPDES) Permit from the Pennsylvania Department of Environmental Protection (PADEP) for the proposed discharge to the Susquehanna River. The PADEP will specify in the NPDES Permit any treatment of the process wastewater required prior to its discharge to the river.

Water also will be withdrawn from two on-site wells and used for sanitary purposes at the facility. The wells will provide up to 2,000 gallons per day (gpd) of water. Sanitary wastewater from the facility will be discharged to an on-lot septic system.

Findings

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

All water evaporated by the facility's cooling towers, from holding ponds and from various manufacturing processes, and incorporated into products is considered to be used consumptively.

The project sponsor will withdraw water from the Susquehanna River for its process operations. Water withdrawn from the Susquehanna River will be metered prior to being used at the facility, and process wastewater discharged from the facility also will be metered. The project sponsor proposes that the facility's consumptive water use be calculated as the total metered water withdrawn from the Susquehanna River, minus the metered process wastewater discharged from the facility to the Susquehanna River.

Commission staff recommends the project sponsor submit a proposed metering plan to the Commission for review and approval at the completion of the final facility design and six months prior to the startup of the facility. 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 any water entering the waste stream.

The project sponsor should propose a methodology based on metering, rather than estimation, and locations of all proposed meters should be provided. Commission staff recommends that the project sponsor plan to record both the metered inflow to the facility and measured outflow from the facility, and any other required meter readings, on a daily basis to determine the project's daily consumptive water use. All measurements should be recorded at approximately the same time each day.

Should the proposed metering plan and accounting procedure consistently result in negative or otherwise inaccurate values, the Commission reserves the right to modify the metering and accounting procedure. Commission staff will direct the project sponsor by written notice of any required change in the metering and accounting procedure. Any alternative metering and accounting procedure will be reviewed and approved by Commission staff.

The project sponsor has requested a consumptive water use approval of up to 0.622 mgd. Based on the facility's design calculations provided by the project sponsor, Commission staff is recommending approval of the requested quantity. Should the project's future consumptive water use exceed or be expected to exceed 0.622 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 proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water.

The project sponsor will operate a surface-water intake on the Susquehanna River. Commission staff recommends that a meter(s) be installed on the surface-water intake in accordance with Commission Regulation §803.44, and that the project sponsor keep daily records of the withdrawal.

Based on the design submitted by the project sponsor, the maximum instantaneous rate of withdrawal from the Susquehanna River is 3 mgd, or 2,083 gallons per minute (gpm). The requested maximum withdrawal of 2,083 gpm is less than 10 percent of the 7-day, 10-year low flow (Q7-10 flow) of 2,710 cubic feet per second (cfs), or 1,216,329 gpm, for the Susquehanna River at the point of withdrawal. Therefore, no passby flow requirement is required to protect aquatic resources and downstream users.

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.

Decision

The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision. The project's surface-water withdrawal from the Susquehanna River of up to

0.925 mgd and the consumptive use of water of up to 0.622 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. 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 evaporated by the facility's cooling towers, from holding ponds and from various manufacturing processes, and incorporated into products. As described below, the project sponsor shall install and maintain the required metering at the facility, accurate to within five (5) percent. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

c. The project sponsor shall submit a proposed metering plan to the Commission for review and approval at the completion of the final facility design and six (6) months prior to the startup of the facility. This plan shall 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 any water entering the waste stream. The plan also shall include a schedule for meter installation. 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.

d. Prior to operation, 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. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

e. The maximum instantaneous rate of withdrawal from the Susquehanna River shall not exceed 3 mgd, or 2,083 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 of water evaporated by the facility's cooling towers, from holding ponds and from various manufacturing processes, and incorporated into products. 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 the provisions of the Compact or any rule, regulation or order of the Commission, or any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor shall have thirty (30) days to correct such noncompliance, unless an alternate period is specified in the notice. Nothing herein shall preclude the Commission from exercising its authority to immediately modify, suspend, or revoke this approval where it determines exigent circumstances warrant such action, or from imposing fines and penalties, regardless of the period of noncompliance.

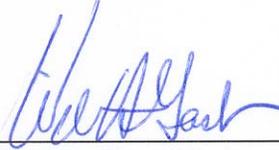
k. The Commission reserves the right to reopen any project docket or issue such additional orders, as may be necessary, to mitigate or avoid adverse impacts or otherwise to protect public health, safety, welfare, or the environment.

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

m. This approval is effective until June 9, 2029. The project sponsor shall submit a renewal application by December 9, 2028, and obtain Commission approval prior to continuing operation beyond June 9, 2029.

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 9, 2004

William A. Gast, Chair
Pennsylvania Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20040608

Approval Date: June 9, 2004

**COMPASS QUARRIES, INC. d.b.a.
INDEPENDENCE CONSTRUCTION MATERIALS
PARADISE QUARRY**

Consumptive Water Use of Up to 0.082 mgd,
for Quarrying of Limestone and Processing of Aggregate,
Paradise 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 March 9, 2001.

Description

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

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050306, Landonland Run watershed, Paradise Township, Lancaster County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.082 million gallons per day (mgd). The project sponsor has calculated its maximum-average 30-day consumptive water use to be 0.049 mgd, and current peak-day consumptive water use to be approximately 0.069 mgd.

The project sponsor excavates limestone from the middle Cambrian-age Kinzers and Vintage formations in an open pit for the production of aggregate. Quarry operations began at the site prior to 1971.

Water for the quarry's operation is withdrawn from the quarry sump and one well (the crushing plant well). A second well is used as a potable supply at the office. The project consumptively uses water for aggregate washing, and for dust control on haul roads and in its crushing operation.

Water that collects in the quarry sump is directed through three settling ponds (Nos. 3, 4 and 5) and then discharged to an unnamed tributary to Londonland Run.

Water from settling pond No. 4 is pumped to the wash plant pond for use at the wash plant. The withdrawal is not metered. Excess water from the wash plant is returned to the wash plant pond, the overflow from which is pumped via two discharges to settling ponds Nos. 1 and 2.

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

The crushing plant well, drilled in 1993, is used for dust control at the crushing plant and is not metered. Consumptive water use for the stone crushing operation currently is estimated by the project sponsor, based on the design capacity of the dust control system and the number of hours of operation.

The well that supplies potable water for the office is not equipped with a meter.

The total surface area of the five settling ponds, the wash plant pond and the quarry sump is 4.05 acres. Based on information provided from the project sponsor, the quarry sump and a portion of the wash plant pond existed prior to 1971, and occupied a total of 0.32 acre.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (PADEP), Bureau of District Mining Operations, during review of the project. PADEP approved the project's withdrawal of groundwater for dewatering at the quarry sump during its review of the quarry operation, which meets the requirements of Commission Regulation §803.43 pursuant to the Memorandum of Understanding executed between PADEP and the Commission.. PADEP staff has reviewed this docket for consistency with its Noncoal Surface Mining Permit No. 8275SM5 and NPDES Permit No. PA0595381

Findings

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

All water used in aggregate production and retained in the aggregate, used for equipment washing, trucked off site, used for dust control, evaporated at the dryer plant, and evaporated from settling ponds 1, 2, 3, 4, 5, and 2.2 acres of the wash plant pond is considered to be used consumptively. Commission staff recommends that the project's total daily consumptive water use be calculated by summing the daily consumptive water use from these categories of use.

Water supplied from the crushing plant well to the crushing plant is not metered. Commission staff recommends that the project sponsor install meters to measure the daily quantity of water used at the crushing plant.

The total quantity of water pumped from the wash plant pond to the wash plant, minus the quantity of water returned to the pond from the wash plant (density compensated), is consumptively lost either through evaporation or retention in the aggregate product at the wash plant. Commission staff recommends that the project sponsor install meters to measure the daily quantity of water entering and leaving the wash plant system.

The total quantity of water withdrawn from the quarry sump for dust control on haul roads and evaporated by dryer plant operations is not metered. Commission staff recommends that the daily quantity of water used for dust control on haul roads and at the dryer plant be calculated based on the capacity of the water trucks and the number of truckloads of water. The project sponsor maintains a log of the daily number of truckloads of water withdrawn.

The project sponsor will calculate the evaporative loss from the ponds (minus 0.32 acres), using a methodology acceptable to the Commission.

Commission staff and the project sponsor have agreed to a pre-1971 consumptive water use of 12,000 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 in excess of the grandfathered quantity is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water.

The project sponsor has requested a consumptive water use approval of up to 0.082 mgd. Commission staff is recommending approval of the requested amount. Should the project’s future consumptive water use exceed or be expected to exceed 0.082 mgd, the project sponsor must apply for a modification to this docket at that time.

Commission staff finds that the two on-site wells are utilized at less than 100,000 gpd on a 30-day average and, therefore, this withdrawal is less than the threshold specified in Commission Regulation §803.43, relating to groundwater withdrawals. If the combined groundwater withdrawal from the wells exceeds or is expected to exceed 100,000 gpd on a 30-day average, the project sponsor must submit a groundwater withdrawal application to the Commission.

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

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

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

The project sponsor has operated in violation of Commission Regulations since January 1, 1993, when its consumptive water use exceeded 32,000 gpd as a maximum 30-day average. The project sponsor voluntarily notified the Commission of its operation, complied with application procedures, and cooperated with Commission staff during its review of the project. The project sponsor has offered a \$10,000.00 settlement to the Commission to compensate for noncompliance in violation of Commission Regulation §803.4 for the period of noncompliance beginning on January 1, 1993, and ending on the date of this approval. Commission staff recommends acceptance of the project sponsor's proposed settlement.

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

Decision

The foregoing findings are hereby incorporated into and made a part of this decision. The project's consumptive water use of up to 0.082 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 well at the crushing plant to measure the quantity of water used for dust control and processing. The project sponsor may propose alternative accounting procedures to the Commission for staff review and approval.
- c. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain a meter(s), accurate to within five (5) percent, to measure the daily quantity of water entering and leaving the wash plant system. The project sponsor may propose alternative accounting procedures 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 used for aggregate production and retained in the aggregate, used for equipment washing, trucked off site, used for dust control, evaporated at the dryer plant, and evaporated from settling ponds 1, 2, 3, 4, 5, and 2.2 acres of the wash plant pond. Commission staff shall review and approve the method of calculation for evaporative loss from the ponds. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

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

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

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 of water used for aggregate production and retained in the aggregate, used for equipment washing, trucked off site, used for dust control, evaporated at the dryer plant, and evaporated from settling ponds 1,2,3, 4, and 5, and 2.2 acres of the wash plant pond. 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 12,000 gpd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

h. The project sponsor has offered a settlement by agreement pursuant to Commission Regulation §805.27, in the amount of \$10,000.00, 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.

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

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

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

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

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

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

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

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

p. This approval is effective until June 9, 2029. The project sponsor shall submit a renewal application by December 9, 2028, and obtain Commission approval prior to continuing operation beyond June 9, 2029.

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

By the Commission:

William A. Gast, Chair
Pennsylvania Commissioner

Dated: June 9, 2004

RESOLUTION NO. 2004-06

A RESOLUTION of the Susquehanna River Basin Commission extending the deadline imposed on the City of Aberdeen, Maryland, to develop and secure a backup supply to its Deer Creek withdrawal for Aberdeen Proving Ground.

WHEREAS, the Susquehanna River Basin Commission (“Commission”) approved Docket No. 20021210 (“Docket”) on December 12, 2002 allowing the City of Aberdeen, Maryland (“City”) to withdraw and divert up to 3.0 million gallons per day (“mgd”) from Deer Creek to supply water to Aberdeen Proving Ground (“APG”), Harford County, Maryland; and

WHEREAS, Docket Condition (f) requires that the City, on or before December 31, 2003, develop and secure a backup supply or an agreement for backup supply to the Deer Creek withdrawal for the full approved amount of 3.0 mgd; and

WHEREAS, the City, by letter dated October 17, 2003, requested an extension of the December 31, 2003 deadline to June 30, 2004 so that it might coordinate the acquisition of such backup supply with similar requirements that are anticipated to be imposed upon it by the Maryland Department of the Environment (MDE) in the issuance of a contemplated water appropriations permit, currently under review; and

WHEREAS, the Commission, by Resolution 2003-09 of December 11, 2003, did grant the requested extension to June 30, 2004; and

WHEREAS, the City, by letter dated June 1, 2004, has requested a further extension to September 30, 2004 and provided the Commission with a copy of its proposed agreement with the County of Harford to supply a portion of the required backup amount of 3.0 mgd; and

WHEREAS, the City and MDE have indicated that issuance of the contemplated water appropriations permit is contingent upon the City securing an adequate backup supply agreement; and

WHEREAS, the City and MDE have provided information which indicates that certain terms and conditions of the contemplated water appropriations permit related to emergency backup requirements would necessitate a modification of Docket Condition (f) to make both approvals consistent; and

WHEREAS, the Commission finds that issuance of a second and final extension to September 8, 2004, the date of the next Commission business meeting, will provide a sufficient period of time within which to review a timely request by the City to modify Docket Condition (f); and

WHEREAS, the Commission also finds that issuance of such an extension to be acceptable provided (1) that the City has executed an agreement on or before June 30, 2004 to make a backup supply of 1.5 mgd immediately available for the exclusive or primary use in

serving Aberdeen Proving Ground, and (2) that commencing July 1, 2004, the City limits its withdrawals from Deer Creek to 1.5 mgd until such time as additional backup capacity is provided.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Commission hereby conditionally grants a second and final extension of the deadline set forth in Docket Condition (f) to September 8, 2004, subject to satisfaction of the conditions set forth below.

2. The City shall cause an agreement to be executed on or before June 30, 2004, providing for an emergency backup supply of not less than 1.5 mgd for use at the Aberdeen Proving Ground, which supply shall be immediately available and which agreement shall be in a form satisfactory to the Commission. In the event the agreement does not dedicate such backup supply for the exclusive use of the Aberdeen Proving Ground, the City shall certify to the Commission that it will nonetheless dedicate such supply first to meet the needs of Aberdeen Proving Ground, up to the entire amount of such supply, prior to its use for any other purpose. The Executive Director is hereby authorized to make the determination on the form of the agreement on behalf of the Commission.

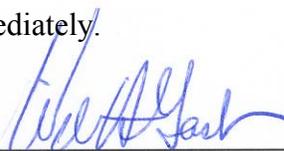
3. The City shall submit an administratively complete application requesting a modification of the Docket on or before June 30, 2004. The modification requested in such application should seek to provide consistency between the Docket and the terms and conditions contained, or contemplated to be contained, in the approved or anticipated water appropriations permit from the Maryland Department of the Environment.

4. Effective July 1, 2004, the City shall limit its withdrawals from Deer Creek to the amount of its in-place emergency backup capacity for the Aberdeen Proving Ground as approved by the Commission, up to its Docket limitation of 3.0 mgd. The Executive Director is hereby authorized to make determinations on the adequacy and amount of available emergency backup capacity.

5. In accordance with Docket Condition (f), the City of Aberdeen shall continue to report to the Commission quarterly on its progress in acquiring a backup supply for the Deer Creek withdrawal.

6. This Resolution shall be effective immediately.

Date: June 9, 2004



William A. Gast, Chair
Pennsylvania Commissioner

RESOLUTION NO. 2004-05

A RESOLUTION of the Susquehanna River Basin Commission recognizing and honoring Colonel John P. Carroll on the occasion of his departure as an Alternate Member of the Commission.

WHEREAS, Colonel John P. Carroll, Deputy Commander, U.S. Army Corps of Engineers North Atlantic Division, has most ably served as the alternate member of the Commission for the United States of America; and

WHEREAS, Colonel Carroll has assisted the Commission on such important matters as completion of the Commission's Compliance Incentive Program, the adoption of several important policies, and the implementation of drought management actions; and

WHEREAS, Colonel Carroll often provided wise counsel to the Commission on a variety of water resource management issues thereby improving and strengthening a host of Commission programs and policies, and advancing the purposes of the Susquehanna River Basin Compact.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Commission recognizes and honors Colonel John P. Carroll for his faithful and dedicated service to the Commission and extends its very best wishes for a happy and fulfilling future.
2. The Executive Director and the Chief Administrative Officer are directed to present an originally-signed copy of this Resolution to Colonel Carroll.
3. This Resolution shall be effective immediately.

June 9, 2004
Date

/s/ William A. Gast
William A. Gast
Pennsylvania

/s/ Robert M. Summers
Dr. Robert M. Summers
Maryland

/s/ Robert J. Davis, Jr.
Colonel Robert J. Davis, Jr.
U.S. Government

/s/ Kenneth P. Lynch
Kenneth P. Lynch
New York

/s/ Paul O. Swartz
Paul O. Swartz
Executive Director